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SENATE

S. B. No. 1865

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INTRODUCED BY SENATOR FRANKLIN M. DRILON

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In 1993, the Congress enacted Republic Act No. 7653 (The New Central Bank Act) creating the *Bangko Sentral ng Pilipinas* (BSP) pursuant to Article XII, Section 20 of the Constitution mandating the establishment of an independent central monetary authority. Twenty years hence, the economic milieu in the Philippines has changed. Globalization has increased the integration of financial markets and the scope of operations of financial institutions has evolved. In light of these, there is, undoubtedly, a need to respond to contemporary challenges by amending R.A. No. 7653 in order that the BSP remains effective in its conduct of monetary policy and supervision of entities within the financial system.

Towards this end, this bill proposes to strengthen the tools which the BSP utilizes in performing its policy-making and regulatory functions. The improvements sought to be incorporated in the BSP charter shall supplement the existing mechanisms in protecting the savings of depositors, ensure the smooth flow of transactions in the financial system, and enhance the corporate viability of the BSP. The proposed amendments in this bill are three-fold:

1. Strengthening BSP's Monetary Stability Function
  - a. Restoration of authority to issue negotiable certificates of indebtedness even during normal times, a power granted to the old Central Bank of the Philippines;
  - b. Removal of thresholds in the growth of monetary aggregates, credit and prices as guiding principles in monetary administration, in view of current international trends in monetary policy frameworks adopting inflation targeting.
2. Strengthening BSP's Financial Stability Function
  - a. Formal recognition of financial stability in BSP's statutory mandate, as well as providing statutory oversight of payment and settlement systems;


- b. Enhancement of BSP's supervisory authority by expanding the coverage of regulated entities to include other categories of financial institutions; grant of authority to impose sanctions on transfers and acquisitions of substantial shares of banks and quasi-banks without BSP approval; grant of full flexibility to conduct risk-based supervision of financial institutions; strengthening of administrative and criminal sanctions to include, among other things, forfeiture of profits from unauthorized financial transactions; and improvement of resolution mechanisms to deal with distressed financial institutions; and
- c. Legal protection for BSP officials and staff when performing official duties similar to that provided to officers and employees of the Philippine Deposit Insurance Corporation.

### 3. Strengthening BSP's Corporate and Financial Viability

- a. Additional BSP capitalization of P150 billion, payable in 3 years;
- b. Flexibility to establish adequate loss allowances and create reserve buffers against future risks and contingencies, and restoration of tax exemption;
- c. Enhancement of credit operations by granting exemption from court processes relating to collateral obtained from banks similar to that enjoyed by Land Bank of the Philippines (LBP); and authority to deputize legal staff in extrajudicial foreclosure of mortgaged properties in the same manner that legal staff of LBP and Development Bank of the Philippines (DBP) are authorized to do so.

These amendments, once enacted into law, will empower the BSP to aptly respond to challenges and innovations of a globalized economy and, more significantly, to *effectively perform its constitutional mandates*. Indeed, an empowered BSP is indispensable in ensuring a competitive, robust and inclusive economy. It likewise fosters a financial system that delivers a high quality of life for Filipinos.

In view of the foregoing, approval of this bill is earnestly sought.

  
FRANKLIN M. DRILON



CONGRESS OF THE PHILIPPINES  
SIXTEENTH CONGRESS  
*First Regular Session*

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INTRODUCED BY SENATOR FRANKLIN M. DRILON

**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 House of Representatives of the Philippines in Congress assembled:*

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

3  
4                   "SEC. 2. *Creation of the Bangko Sentral.* - There is hereby established  
5 an independent central monetary authority, which shall be a body  
6 corporate known as the *Bangko Sentral ng Pilipinas*, hereafter referred to as  
7 the *Bangko Sentral*.

8                   "The capital of the *Bangko Sentral* shall be **TWO HUNDRED** [Fifty]  
9 billion pesos (P[50,]200,000,000,000), to be fully subscribed by the  
10 Government of the Republic, hereafter referred to as the Government.  
11 [Ten billion pesos (P10,000,000,000) of which] **THE UNPAID**  
12 **SUBSCRIPTION** shall be fully paid for by the Government **IN THREE**  
13 **(3) CONSECUTIVE ANNUAL INSTALLMENTS UNTIL 2017.** [upon the  
14 effectivity of this Act and the balance to be paid for within a period of two

1 (2) years from the effectivity of this Act in such manner and form as the  
2 Government, through the Secretary of Finance and the Secretary of  
3 Budget and Management, may thereafter determine.]”  
4

5 **SEC. 2.** Section 3 of the same Act is hereby amended to read as follows:  
6

7 “SEC. 3. *Responsibility and Primary Objective.* — The *Bangko Sentral*  
8 shall provide policy directions in the areas of money, banking, and credit.  
9 It shall have supervision over the operations of banks and exercise such  
10 regulatory powers as provided in this Act and other pertinent laws over  
11 the operations of finance companies and non-bank financial institutions  
12 performing quasi-banking functions, [hereafter referred to as quasi-  
13 banks,] **CREDIT CARD COMPANIES; MONEY CHANGERS, E-**  
14 **MONEY ISSUERS, REMITTANCE AGENTS, PAYMENT AND**  
15 **SETTLEMENT SYSTEM OPERATORS** and **OTHER** institutions  
16 performing similar functions **AS MAY BE DETERMINED BY THE**  
17 **MONETARY BOARD.**

18 “The primary objective of the *Bangko Sentral* is to maintain price  
19 stability conducive to a balanced and sustainable growth of the economy.  
20 It shall also promote and maintain monetary **AND FINANCIAL** stability  
21 and the convertibility of the peso.

22 “**THE BANGKO SENTRAL SHALL OVERSEE THE PAYMENTS**  
23 **AND SETTLEMENTS SYSTEMS IN THE PHILIPPINES IN**  
24 **ACCORDANCE WITH SOUND AND PRUDENT PRACTICES.**”  
25

26 **SEC. 3.** Section 11 of the same Act is hereby amended to read as follows:  
27

1           “SEC. 11. *Meetings.* — The Monetary Board shall meet at least once  
2 a week. The Board may be called to a meeting by the Governor of the  
3 *Bangko Sentral* or by two (2) other members of the Board.

4           “The presence of four (4) members shall constitute a quorum:  
5 *Provided,* That in all cases the Governor or his duly designated alternate  
6 shall be among the four (4).

7           “Unless otherwise provided in this Act, all decisions of the  
8 Monetary Board shall require the concurrence of at least four (4)  
9 members.

10           “The *Bangko Sentral* shall maintain and preserve a complete record  
11 of the proceedings and deliberations of the Monetary Board, including the  
12 tapes and transcripts of the stenographic notes, either in their original  
13 form or in microfilm.

14           **“THE MEETINGS OF THE MONETARY BOARD MAY BE  
15 CONDUCTED THROUGH MODERN TECHNOLOGIES SUCH AS,  
16 BUT NOT LIMITED TO, TELECONFERENCING AND  
17 VIDEOCONFERENCING.”**

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

20  
21           “SEC. 16. *Responsibility.* — Members of the Monetary Board,  
22 officials, examiners, and employees of the *Bangko Sentral* who willfully  
23 violate this act or who are guilty of negligence, abuses or acts of  
24 malfeasance or misfeasance [or fail to exercise extraordinary diligence] in  
25 the performance of [his] **THEIR** duties shall be held liable for any loss or  
26 injury suffered by the *Bangko Sentral* or other banking institutions as a  
27 result of such violation, negligence, abuse, malfeasance[,] **OR** misfeasance  
28 [or failure to exercise extraordinary diligence].

1           "Similar responsibility shall apply to members, officers, and  
2 employees of the *Bangko Sentral* for: (1) the disclosure of any information  
3 of a confidential nature, or any information on the discussions or  
4 resolutions of the Monetary Board, or about the confidential operations of  
5 the *Bangko Sentral*, unless the disclosure is in connection with the  
6 performance of official functions with the *Bangko Sentral*, or is with prior  
7 authorization of the Monetary Board or the Governor; or (2) the use of  
8 such information for personal gain or to the detriment of the government,  
9 the *Bangko Sentral* or third parties: *Provided, however,* that any data or  
10 information required to be submitted to the President and/or the  
11 Congress, or to be published under the provisions of this act shall not be  
12 considered confidential.

13           **"THE ABOVE NOTWITHSTANDING, UNLESS THE**  
14 **ACTIONS OF THE BANGKO SENTRAL OR ANY OF ITS OFFICERS**  
15 **AND EMPLOYEES ARE FOUND TO BE IN WILLFUL VIOLATION OF**  
16 **THIS ACT, PERFORMED IN BAD FAITH, WITH MALICE AND/OR**  
17 **GROSS NEGLIGENCE, THE BANGKO SENTRAL, MEMBERS OF THE**  
18 **MONETARY BOARD, ITS OFFICERS AND EMPLOYEES, ARE HELD**  
19 **FREE AND HARMLESS TO THE FULLEST EXTENT PERMITTED BY**  
20 **LAW FROM ANY LIABILITY, AND THEY SHALL BE INDEMNIFIED**  
21 **FOR ANY AND ALL LIABILITIES, LOSSES, CLAIMS, DEMANDS,**  
22 **DAMAGES, DEFICIENCIES, COSTS AND EXPENSES OF**  
23 **WHATSOEVER KIND AND NATURE THAT MAY ARISE IN**  
24 **CONNECTION WITH THE PERFORMANCE OF THEIR DUTIES**  
25 **DONE IN GOOD FAITH AND CONSISTENT WITH THE POWERS**  
26 **AND FUNCTIONS AUTHORIZED BY LAW."**

27  
28       **SEC. 5.** Section 21 of the same Act is hereby amended to read as follows:  
29

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

5           “In the absence of the Governor, a Deputy Governor designated by  
6 the Governor shall act as chief executive of the *Bangko Sentral* and shall  
7 exercise the powers and perform the duties of the Governor. Whenever  
8 the Government is unable to attend meetings of government boards or  
9 councils in which he is an ex officio member pursuant to provisions of  
10 special laws, a Deputy Governor as may be designated by the Governor  
11 shall be vested with authority to participate and exercise the right to vote  
12 in such meetings.”

13  
14 **SEC. 6.** Section 23 of the same Act is hereby amended to read as follows:

15  
16           “SEC. 23. *Authority to Obtain Data and Information.* — The *Bangko*  
17 *Sentral* shall have the authority to **REQUIRE** [request] from government  
18 offices and instrumentalities, or government-owned or -controlled  
19 corporations, any data which it may require for the proper discharge of its  
20 functions and responsibilities. The *Bangko Sentral* through the Governor  
21 or in his absence, a duly authorized representative shall have the power to  
22 issue a subpoena for the production of the books and records for the  
23 aforesaid purpose. Those who refuse the subpoena without justifiable  
24 cause, or who refuse to supply the [bank] **BANGKO SENTRAL** with data  
25 [requested or] required, shall be subject to punishment for contempt in  
26 accordance with the provisions of the Rules of Court.

27           “Data on individual firms, other than banks, gathered by the  
28 [Department of Economic Research and other departments or units of the]  
29 *Bangko Sentral* shall not be made available to any person or entity outside

1 of the *Bangko Sentral* whether public or private except under order of the  
2 court or under such conditions as may be prescribed by the Monetary  
3 Board: *Provided, however,* That the collective data on firms may be released  
4 to interested persons or entities: *Provided, finally,* That in the case of data  
5 on banks, the provisions of Section 27 of this Act shall apply.”  
6

7 **SEC. 7.** Section 25 of the same Act is hereby amended to read as follows:  
8

9 “**SEC. 25. *Supervision and Examination.*** — The *Bangko Sentral* shall  
10 have supervision over, and conduct [periodic] **REGULAR** or special  
11 examinations of, banking institutions and quasi-banks, including their  
12 subsidiaries and affiliates engaged in allied activities.

13 “**THE BANGKO SENTRAL SHALL HAVE REGULATORY**  
14 **AUTHORITY OVER, AND CONDUCT REGULAR OR SPECIAL**  
15 **EXAMINATIONS OF, ENTITIES WHICH UNDER THIS ACT OR BY**  
16 **SPECIAL LAWS ARE SUBJECT TO ITS JURISDICTION.**

17 “**THE BANGKO SENTRAL SHALL ALSO HAVE THE POWER**  
18 **TO OBTAIN INFORMATION FOR SUPERVISORY PURPOSES ON**  
19 **TRANSACTIONS BETWEEN A SUPERVISED INSTITUTION AND**  
20 **ITS PARENT OR OTHER AFFILIATE COMPANIES, AND EXAMINE**  
21 **THESE TRANSACTIONS. THIS POWER INCLUDES THE**  
22 **AUTHORITY OF THE BANGKO SENTRAL TO LOOK INTO THE**  
23 **MAIN ACTIVITIES OF COMPANIES AFFILIATED WITH THE**  
24 **PARENT COMPANIES THAT HAVE A MATERIAL IMPACT ON THE**  
25 **SAFETY AND SOUNDNESS OF THE BANK AND THE BANKING**  
26 **GROUP.**

27 “**A PARENT COMPANY MEANS A CORPORATION WHICH**  
28 **OWNS DIRECTLY OR INDIRECTLY VOTING STOCK OF A**  
29 **SUPERVISED INSTITUTION OF THE BANGKO SENTRAL**



1 SUFFICIENT TO CONTROL ITS MANAGEMENT AND  
2 OPERATIONS, SUBJECT TO THE GUIDELINES ISSUED BY THE  
3 MONETARY BOARD.

4 "AS USED IN THIS SECTION AND SECTION 25-A, AND  
5 SUBJECT TO THE GUIDELINES ISSUED BY THE MONETARY  
6 BOARD, CONTROL EXISTS WHEN THE PARENT OWNS DIRECTLY  
7 OR INDIRECTLY MORE THAN ONE HALF OF THE STOCK OF A  
8 SUPERVISED INSTITUTION. CONTROL ALSO EXISTS EVEN  
9 WHEN THE PARENT OWNS ONE HALF OR LESS OF THE VOTING  
10 STOCK OF THE SUPERVISED INSTITUTION WHEN THERE IS  
11 POWER OVER MORE THAN ONE HALF OF THE VOTING RIGHTS  
12 BY PROXY OR BY VIRTUE OF AN AGREEMENT WITH OTHER  
13 INVESTORS, OR OTHER SIMILAR ARRANGEMENTS, WHICH  
14 THEREBY ENABLES THE PARENT COMPANY TO CAST THE  
15 MAJORITY OF VOTES AT MEETINGS OF THE STOCKHOLDERS OF  
16 THE SUPERVISED INSTITUTION, OR TO ELECT THE MAJORITY  
17 OF MEMBERS OF THE BOARD OF DIRECTORS OF THE  
18 SUPERVISED INSTITUTION OR TO APPOINT KEY EXECUTIVE  
19 OFFICERS WHO SHALL DIRECTLY OR INDIRECTLY CONTROL  
20 THE MANAGEMENT AND OPERATIONS OF THE SUPERVISED  
21 INSTITUTION.

22 "For purposes of this section, a subsidiary means a corporation  
23 more than fifty percent (50%) of the voting stock of which is owned by a  
24 bank or quasi-bank and an affiliate means a corporation the voting stock  
25 of which, to the extent of fifty percent (50%) or less, is owned by a bank or  
26 quasi-bank or which is related or linked to such institution or  
27 intermediary through common stockholders or such other factors as may  
28 be determined by the Monetary Board.

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

13           “No restraining order or injunction shall be issued by the court  
14 enjoining the *Bangko Sentral* from examining any institution subject to  
15 supervision or examination by the *Bangko Sentral*, unless there is  
16 convincing proof that the action of the *Bangko Sentral* is plainly arbitrary  
17 and made in bad faith and the petitioner or plaintiff files with the clerk or  
18 judge of the court in which the action is pending a bond executed in favor  
19 of the *Bangko Sentral*, in an amount to be fixed by the court. The  
20 provisions of Rule 58 of the New Rules of Court insofar as they are  
21 applicable and not inconsistent with the provisions of this section shall  
22 govern the issuance and dissolution of the restraining order or injunction  
23 contemplated in this section.”

24  
25           **SEC. 8.** A new section entitled Section 25-A is hereby inserted in the same Act to  
26 read as follows:

27  
28           **“SEC. 25-A. AUTHORITY TO APPROVE TRANSFER OF**  
29 **SHARES - TRANSFERS OR ACQUISITIONS, OR A SERIES**

1           THEREOF, OF TEN PERCENT (10%) OF VOTING RIGHTS IN BANKS  
2           OR QUASI-BANKS SHALL REQUIRE THE PRIOR APPROVAL OF  
3           THE *BANGKO SENTRAL*. THE SELLING OR CONVEYING  
4           STOCKHOLDER SHALL SUBMIT SUCH TRANSFER OR  
5           ACQUISITION FOR APPROVAL BY THE *BANGKO SENTRAL*  
6           WITHIN SUCH PERIOD, AS MAY BE PRESCRIBED BY THE  
7           MONETARY BOARD. IN APPROVING SUCH TRANSFERS OR  
8           ACQUISITIONS, REGARD SHALL BE GIVEN BY THE *BANGKO*  
9           *SENTRAL* TO THE FITNESS OF THE INCOMING STOCKHOLDERS  
10          AS MAY BE INDICATED IN THEIR INTEGRITY, REPUTATION  
11          AND FINANCIAL CAPACITY. WITHOUT *BANGKO SENTRAL*  
12          APPROVAL, NO SUCH TRANSFER OR ACQUISITION SHALL  
13          HAVE LEGAL EFFECT NOR SHALL THE SAME BE RECOGNIZED IN  
14          THE BOOKS OF THE INSTITUTION OR BY ANY GOVERNMENT  
15          AGENCY, AND THE TRANSFEROR-STOCKHOLDERS SHALL  
16          REMAIN ACCOUNTABLE AND RESPONSIBLE THEREFOR.  
17          TRANSFER OF ACTUAL CONTROL OR MANAGEMENT OF THE  
18          INSTITUTION TO THE NEW STOCKHOLDERS OR THEIR  
19          REPRESENTATIVES PRIOR TO *BANGKO SENTRAL* APPROVAL  
20          SHALL MAKE THE TRANSFEROR, THE TRANSFEREE AND ANY  
21          PERSON RESPONSIBLE THEREFOR LIABLE UNDER SECTIONS 36  
22          AND 37 OF THIS ACT. NOTWITHSTANDING ANY PROVISION OF  
23          LAW TO THE CONTRARY, THE *BANGKO SENTRAL* MAY SHARE  
24          WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION  
25          ANY INFORMATION THAT THE *BANGKO SENTRAL* MAY OBTAIN  
26          PERTAINING TO TRANSFER OR ACQUISITION OF SHARES OR  
27          SERIES OF TRANSFERS OR ACQUISITION OF SHARES IN BANKS  
28          AND QUASI-BANKS.”

29

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

2  
3 "SEC. 28. *Examination and Fees.* — The supervising and examining  
4 department head, personally or by deputy, shall examine the [books]  
5 **OPERATIONS** of every bank[ing] **AND QUASI-BANK, INCLUDING**  
6 **THEIR SUBSIDIARIES AND AFFILIATES ENGAGED IN ALLIED**  
7 **ACTIVITIES, AND OTHER ENTITIES WHICH UNDER THIS ACT OR**  
8 **SPECIAL LAWS ARE SUBJECT TO BANGKO SENTRAL**  
9 **SUPERVISION, IN ACCORDANCE WITH THE GUIDELINES SET BY**  
10 **THE MONETARY BOARD TAKING INTO CONSIDERATION**  
11 **SOUND AND PRUDENT PRACTICES.** [once in every twelve (12)  
12 months, and at such other times as the Monetary Board by an affirmative  
13 vote of five (5) members, may deem expedient and to make a report on  
14 the same to the Monetary Board:] *Provided,* That there shall be an interval  
15 of at least twelve (12) months between [annual] **REGULAR** examinations;  
16 **PROVIDED, FURTHER, THAT THE MONETARY BOARD, BY AN**  
17 **AFFIRMATIVE VOTE OF AT LEAST FIVE (5) MEMBERS, MAY**  
18 **AUTHORIZE A SPECIAL EXAMINATION IF THE CIRCUMSTANCES**  
19 **WARRANT.**

20 "The **INSTITUTION** [bank] concerned shall afford to the head of  
21 the appropriate supervising and examining departments and to his  
22 authorized deputies full opportunity to examine its books **AND**  
23 **RECORDS,** cash and [available] assets and general condition **AND**  
24 **REVIEW ITS SYSTEMS AND PROCEDURES** at any time during  
25 **BUSINESS** [banking] hours when requested to do so by the *Bangko*  
26 *Sentral: Provided, however,* That none of the reports and other papers  
27 relative to such examinations shall be open to inspection by the public  
28 except insofar as such publicity is incidental to the proceedings

1 hereinafter authorized or is necessary for the prosecution of violations in  
2 connection with the business of such institutions.

3 "[Banking and quasi-banking institutions which are subject to  
4 examination by the *Bangko Sentral*] SUPERVISED INSTITUTIONS shall  
5 pay to the *Bangko Sentral*, NO LATER THAN MAY 31 OF EACH YEAR  
6 [within the first thirty (30) days of each year], an annual SUPERVISION  
7 fee [in an amount equal to a percentage,] as may be prescribed by the  
8 Monetary Board.[,of its average total assets during the preceding year as  
9 shown on its end-of-month balance sheets, after deducting cash on hand  
10 and amounts due from banks, including the *Bangko Sentral* and banks  
11 abroad.] IN DETERMINING THE ANNUAL SUPERVISION FEE, THE  
12 MONETARY BOARD SHALL CONSIDER THE COST OF  
13 SUPERVISION."

14  
15 SEC. 10. A new section entitled Section 28-A is hereby inserted in the same Act to  
16 read as follows:

17  
18 "SEC. 28-A. BANGKO SENTRAL COORDINATION. - THE  
19 SUSPENSION OR REVOCATION OF ANY GOVERNMENT LICENSE  
20 NECESSARY FOR THE OPERATION OF A BANGKO SENTRAL-  
21 SUPERVISED ENTITY MUST BE DONE ONLY WITH PRIOR  
22 CONSULTATION WITH THE BANGKO SENTRAL."

23  
24 SEC. 11. Section 30 of the same Act is hereby amended to read as follows:

25  
26 "SEC. 30. *Proceedings in Receivership and Liquidation.* - Whenever,  
27 upon report of the head of the supervising or examining department, the  
28 Monetary Board finds that a bank or quasi-bank:

1           “(a) is unable to pay its liabilities as they become due in the  
2 ordinary course of business: *Provided*, That this shall not include inability  
3 to pay caused by extraordinary demands induced by financial panic in the  
4 banking community;

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

7           “(c) cannot continue in business without involving probable losses  
8 to its depositors or creditors; or

9           “(d) has willfully violated a cease and desist order under Section  
10 37 that has become final, involving acts or transactions which amount to  
11 fraud or a dissipation of the assets of the institution; in which cases, the  
12 Monetary Board may summarily and without need for prior hearing  
13 forbid the institution from doing business in the Philippines and  
14 designate the Philippine Deposit Insurance Corporation as receiver of the  
15 banking institution.

16           “[For a quasi-bank, any person of recognized competence in  
17 banking or finance may be designated as receiver.]

18           “The receiver shall immediately gather and take charge of all the  
19 assets and liabilities of the institution, administer the same for the benefit  
20 of its creditors, and exercise the general powers of a receiver under the  
21 Revised Rules of Court but shall not, with the exception of administrative  
22 expenditures, pay or commit any act that will involve the transfer or  
23 disposition of any asset of the institution: *Provided*, That the receiver may  
24 deposit or place the funds of the institution in nonspeculative  
25 investments. The receiver shall determine as soon as possible, but not  
26 later than ninety (90) days from takeover, whether the institution may be  
27 rehabilitated or otherwise placed in such a condition so that it may be  
28 permitted to resume business with safety to its depositors and creditors  
29 and the general public: *Provided*, That any determination for the

1 resumption of business of the institution shall be subject to prior approval  
2 of the Monetary Board.

3 **"IN ORDER TO REHABILITATE THE CLOSED INSTITUTION**  
4 **OR TO RESTORE ITS OPERATIONS WITH SAFETY TO ITS**  
5 **DEPOSITORS, CREDITORS AND THE GENERAL PUBLIC, OR TO**  
6 **MERGE OR CONSOLIDATE THE CLOSED INSTITUTION WITH**  
7 **ANOTHER QUALIFIED INSTITUTION, THE RECEIVER MAY**  
8 **IMMEDIATELY TRANSFER OR DISPOSE OF ANY OR ALL OF THE**  
9 **ASSETS OF THE CLOSED INSTITUTION, CAUSE QUASI-**  
10 **REORGANIZATION OF THE INSTITUTION, AND SUCH OTHER**  
11 **ACTS AS MAY BE AUTHORIZED BY LAW.**

12 "If the receiver determines that the institution cannot be  
13 rehabilitated or permitted to resume business in accordance with the next  
14 preceding paragraph, the Monetary Board shall notify in writing the  
15 board of directors of **THE RECEIVER'S** [its] findings and direct the  
16 receiver to proceed with the liquidation of the institution. The receiver  
17 shall:

18 "1. file *ex parte* with the proper regional trial court, and without  
19 requirement of prior notice or any other action, a petition for assistance in  
20 the liquidation of the institution pursuant to a liquidation plan adopted  
21 by the Philippine Deposit Insurance Corporation for general application  
22 to all closed banks. In case of quasi-banks, the liquidation plan shall be  
23 adopted by the Monetary Board. Upon acquiring jurisdiction, the court  
24 shall, upon motion by the receiver after due notice, adjudicate disputed  
25 claims against the institution, assist the enforcement of individual  
26 liabilities of the stockholders, directors and officers, and decide on other  
27 issues as may be material to implement the liquidation plan adopted. The  
28 receiver shall pay the cost of the proceedings from the assets of the  
29 institution.

1           "2. convert the assets of the institutions to money, dispose of the  
2 same to creditors and other parties, for the purpose of paying the debts of  
3 such institution in accordance with the rules on concurrence and  
4 preference of credit under the Civil Code of the Philippines and he may,  
5 in the name of the institution, and with the assistance of counsel as he  
6 may retain, institute such actions as may be necessary to collect and  
7 recover accounts and assets of, or defend any action against, the  
8 institution. The assets of an institution under receivership or liquidation  
9 shall be deemed in *custodia legis* in the hands of the receiver and shall,  
10 from the moment the institution was placed under such receivership or  
11 liquidation, be exempt from any order of garnishment, levy, attachment,  
12 or execution.

13           "The actions of the Monetary Board taken under this section or  
14 under Section 29 of this Act shall be final and executory, and may not be  
15 restrained or set aside by the court except on petition for *certiorari* on the  
16 ground that the action taken was in excess of jurisdiction or with such  
17 grave abuse of discretion as to amount to lack or excess of jurisdiction.  
18 The petition for *certiorari* may only be filed by the stockholders of record  
19 representing the majority of the capital stock within ten (10) days from  
20 receipt by the board of directors of the institution of the order directing  
21 receivership, liquidation or conservatorship. The designation of a  
22 conservator under Section 29 of this Act or the appointment of a receiver  
23 under this section shall be vested exclusively with the Monetary Board.  
24 Furthermore, the designation of a conservator is not a precondition to the  
25 designation of a receiver.

26           **"THE AUTHORITY OF THE MONETARY BOARD TO PLACE**  
27 **A BANK OR QUASI-BANK UNDER RECEIVERSHIP AS PROVIDED**  
28 **ABOVE MAY ALSO BE EXERCISED OVER NON-STOCK SAVINGS**  
29 **AND LOAN ASSOCIATIONS, BASED ON THE SAME APPLICABLE**



1           **FOUNDATIONS FOR QUASI-BANKS AND NON-STOCK SAVINGS AND**  
2           **LOAN ASSOCIATIONS, ANY PERSON OF RECOGNIZED**  
3           **COMPETENCE IN BANKING, CREDIT OR FINANCE MAY BE**  
4           **DESIGNATED AS A RECEIVER."**

5  
6           **SEC. 12.** Section 31 of the same Act is hereby amended to read as follows:

7  
8           "SEC. 31. *Distribution of Assets.* — In case of liquidation of a bank,  
9           quasi-bank **OR NON-STOCK SAVINGS AND LOAN ASSOCIATION,**  
10          after payment of the cost of proceedings, including reasonable expenses  
11          and fees of the receiver to be allowed by the court, the receiver shall pay  
12          the debts of such institution, under order of the court, in accordance with  
13          the rules on concurrence and preference of credit as provided in the Civil  
14          Code."

15  
16          **SEC. 13.** Section 32 of the same Act is hereby amended to read as follows:

17  
18          "SEC. 32. *Disposition of Revenues and Earnings.* — All revenues and  
19          earnings realized by the receiver in winding up the affairs and  
20          administering the assets of any bank, quasi-bank **OR NON-STOCK**  
21          **SAVINGS AND LOAN ASSOCIATION** within the purview of this Act  
22          shall be used to pay the costs, fees and expenses mentioned in the  
23          preceding section, salaries of such personnel whose employment is  
24          rendered necessary in the discharge of the liquidation together with other  
25          additional expenses caused thereby. The balance of revenues and  
26          earnings, after the payment of all said expenses, shall form part of the  
27          assets available for payment to creditors."

28  
29          **SEC. 14.** Section 34 of the same Act is hereby amended to read as follows:

1  
2           "SEC. 34. *Refusal to Make Reports or Permit Examination.* — Any  
3 officer, owner, agent, manager, director or officer-in-charge of any  
4 institution subject to the supervision or examination by the *Bangko Sentral*  
5 within the purview of this act who, being required in writing by the  
6 Monetary Board or by the head of the supervising and examining  
7 department willfully refuses to file the required report or permit any  
8 lawful examination into the affairs of such institution shall be punished  
9 by a fine of not less than fifty thousand pesos (P50,000) nor more than  
10 [one hundred thousand pesos (P100,000)] **TWO MILLION PESOS**  
11 **(P2,000,000)** or by imprisonment of not less than one (1) year nor more  
12 than five (5) years, or both, [in] **AT** the discretion of the court.

13           **"THIS SHALL ALSO APPLY TO THE OFFICER, OWNER,**  
14 **AGENT, MANAGER, DIRECTOR OR OFFICER-IN-CHARGE OF THE**  
15 **AFFILIATE COMPANY/IES AND PARENT COMPANY OF A BANK**  
16 **OR QUASI-BANK, AS WELL AS THE AFFILIATES OF SUCH**  
17 **PARENT COMPANY, WHOSE TRANSACTIONS ARE SUBJECT TO**  
18 **EXAMINATION UNDER THIS LAW."**

19  
20       **SEC. 15.** Section 35 of the same Act is hereby amended to read as follows"  
21

22           "SEC. 35. *False Statement.* — The willful making of a false or  
23 misleading statement on a material fact to the Monetary Board or to the  
24 examiners of the *Bangko Sentral* shall be punished by a fine of not less than  
25 One hundred thousand pesos (P100,000) nor more than [Two hundred  
26 thousand pesos (P200,000)] **TWO MILLION PESOS (P2,000,000)**, or by  
27 imprisonment of not more than (5) years, or both, at the discretion of the  
28 court."  
29

1           **SEC. 16.** Section 36 of the same Act is hereby amended to read as follows:

2  
3           *"SEC. 36. Proceedings Upon Violation of This Act and Other Banking*  
4 *Laws, Rules, Regulations, Orders or Instructions. —* Whenever a bank, [or]  
5 quasi-bank, **OR OTHER ENTITY WHICH UNDER THIS ACT OR**  
6 **SPECIAL LAWS IS SUBJECT TO BANGKO SENTRAL SUPERVISION**  
7 or whenever any person or entity willfully violates this Act or other  
8 pertinent banking laws being enforced or implemented by the *Bangko*  
9 *Sentral* or any order, instruction, rule or regulation issued by the  
10 Monetary Board, the person or persons responsible for such violation  
11 shall unless otherwise provided in this Act be punished by a fine of not  
12 less than Fifty thousand pesos (P50,000) nor more than [Two hundred  
13 thousand pesos (P200,000)] **TWO MILLION PESOS (P2,000,000.00)** or by  
14 imprisonment of not less than two (2) years nor more than ten (10) years,  
15 or both, at the discretion of the court.

16           *"Whenever* **AN ENTITY UNDER BANGKO SENTRAL**  
17 **SUPERVISION** [a bank or quasi-bank] persists in carrying on its business  
18 in an unlawful or unsafe manner, the Board may, without prejudice to the  
19 penalties provided in the preceding paragraph of this Section and the  
20 administrative sanctions provided in Section 37 of this Act, take action  
21 under Section 30 of this Act."

22  
23           **SEC. 17.** Section 37 of the same Act is hereby amended to read as follows:

24  
25           *"SEC. 37. Administrative Sanctions on Banks and Quasi-Banks. —*  
26 Without prejudice to the criminal sanctions against the culpable persons  
27 provided in Sections 34, 35, and 36 of this Act, the Monetary Board may,  
28 at its discretion, impose upon any bank or quasi-bank, **INCLUDING**  
29 **THEIR SUBSIDIARIES AND AFFILIATES ENGAGED IN ALLIED**

1           ACTIVITIES, OR OTHER ENTITIES WHICH UNDER THIS ACT OR  
2           SPECIAL LAWS ARE SUBJECT TO THE *BANGKO SENTRAL*  
3           SUPERVISION, AND/OR their directors, officers and/or EMPLOYEES,  
4           for any willful violation of its charter or by-laws, willful delay in the  
5           submission of reports or publications thereof as required by law, rules  
6           and regulations; any refusal to permit examination into the affairs of the  
7           institution; any willful making of a false or misleading statement to the  
8           Board or the appropriate supervising and examining department or its  
9           examiners; any willful failure or refusal to comply with, or violation of,  
10          any banking law or any order, instruction or regulation issued by the  
11          Monetary Board, or any order, instruction or ruling by the Governor; or  
12          any commission of irregularities, and/or conducting business in an unsafe  
13          or unsound manner as may be determined by the Monetary Board, the  
14          following administrative sanctions, whenever applicable:

15               “(a) fines in amounts as may be determined by the Monetary  
16          Board to be appropriate, but in no case to exceed [Thirty thousand pesos  
17          (P30,000)] **ONE MILLION PESOS (P1,000,000.00) FOR EACH**  
18          **TRANSACTIONAL VIOLATION OR ONE HUNDRED THOUSAND**  
19          **PESOS (P100,000.00) PER BANKING [a]day for each CONTINUING**  
20          violation, taking into consideration the attendant circumstances, such as  
21          the nature and gravity of the violation or irregularity and the size of the  
22          INSTITUTION, [bank or quasi-bank] **PROVIDED: THAT IN CASE**  
23          **PROFIT IS GAINED OR LOSS IS AVOIDED AS A RESULT OF THE**  
24          **VIOLATION, A FINE OF NO MORE THAN THREE (3) TIMES THE**  
25          **PROFIT GAINED OR LOSS AVOIDED MAY BE IMPOSED;**

26               “(b) suspension of rediscounting privileges or access to *Bangko*  
27          *Sentral* credit facilities;

28               “(c) suspension of lending or foreign exchange operations or  
29          authority to accept new deposits or make new investments;

1                   “(d) suspension of interbank clearing privileges; and/or

2                   “(e) **SUSPENSION OR** revocation of quasi-banking **OR OTHER**  
3 **SPECIAL** licenseS.

4                   “Resignation or termination from office shall not exempt such  
5 director, officer, **OR EMPLOYEE** from administrative or criminal  
6 sanctions.

7                   “The Monetary Board may, whenever warranted by circumstances,  
8 preventively suspend any director or officer of [a bank or quasi-bank]  
9 **THE INSTITUTION** pending an investigation: *Provided*, That should the  
10 case 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  
15 in 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, officers and/or **EMPLOYEES** concerned  
20 continue with or otherwise persist in the commission of the indicated  
21 practice or violation, the Monetary Board may issue an order requiring  
22 the institution and/or the directors, officers and/or **EMPLOYEES**  
23 concerned to cease and desist from the indicated practice or violation, and  
24 may further order that immediate action be taken to correct the conditions  
25 resulting from such practice or violation. The cease and desist order shall  
26 be immediately effective upon service on the respondents.

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  
3 be final. If a hearing is conducted, all issues shall be determined on the  
4 basis of records, after which the Monetary Board may either reconsider or  
5 make final its order.

6 "The Governor is hereby authorized, at his discretion, to impose  
7 upon [banking institutions], **BANKS AND QUASI-BANKS,**  
8 **INCLUDING THEIR SUBSIDIARIES AND AFFILIATES ENGAGED**  
9 **IN ALLIED ACTIVITIES, AND OTHER ENTITIES WHICH UNDER**  
10 **SPECIAL LAWS ARE SUBJECT TO BANGKO SENTRAL**  
11 **SUPERVISION** for any failure to comply with the requirements of law,  
12 Monetary Board regulations and policies, and/or instructions issued by  
13 the Monetary Board or by the Governor, fines not in excess of [Ten  
14 thousand pesos (P10,000)] **ONE HUNDRED THOUSAND PESOS**  
15 **(P100,000.00) FOR EACH TRANSACTIONAL VIOLATION OR**  
16 **THIRTY THOUSAND PESOS (P30,000.00) PER BANKING [a] day** for  
17 each **CONTINUING** violation, the imposition of which shall be final and  
18 executory until reversed, modified or lifted by the Monetary Board on  
19 appeal."

20  
21 **SEC. 18.** A new section entitled Section 38-A is hereby inserted in the same Act to  
22 read as follows:

23  
24 **"SEC. 38-A. ISSUANCE OF PROVISIONAL REMEDIES**  
25 **AGAINST BANGKO SENTRAL ACTIONS. - NO COURT, OTHER**  
26 **THAN THE COURT OF APPEALS AND THE SUPREME COURT,**  
27 **SHALL ISSUE ANY TEMPORARY RESTRAINING ORDER,**  
28 **PRELIMINARY INJUNCTION OR PRELIMINARY MANDATORY**

1 INJUNCTION AGAINST THE *BANGKO SENTRAL* FOR ANY  
2 ACTION UNDER THIS ACT.

3 "ANY RESTRAINING ORDER OR INJUNCTION ISSUED IN  
4 VIOLATION OF THIS SECTION IS VOID AND OF NO FORCE AND  
5 EFFECT.

6 "THE PROVISIONS OF RULE 58 OF THE 1997 RULES ON  
7 CIVIL PROCEDURE IN SO FAR AS THEY ARE APPLICABLE AND  
8 NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT  
9 SHALL GOVERN THE ISSUANCE AND DISSOLUTION OF THE  
10 RESTRAINING ORDER OR INJUNCTION AGAINST THE *BANGKO*  
11 *SENTRAL*."

12  
13 SEC. 19. Section 43 of the same Act is hereby amended as follows:

14  
15 "SEC. 43. *Computation of Profits and Losses.* — Within the first thirty  
16 (30) days following the end of each year, the *Bangko Sentral* shall  
17 determine its net profits or losses. [In the calculation of net profits, the  
18 *Bangko Sentral* shall make adequate allowance or establish adequate  
19 reserves for bad and doubtful accounts]. NOTWITHSTANDING ANY  
20 PROVISION OF LAW TO THE CONTRARY, THE NET PROFIT OF  
21 THE *BANGKO SENTRAL* SHALL BE DETERMINED AFTER  
22 ALLOWING FOR EXPENSES OF OPERATION ADEQUATE  
23 ALLOWANCES AND PROVISIONS FOR BAD AND DOUBTFUL  
24 DEBTS, DEPRECIATION IN ASSETS, AND SUCH OTHER  
25 ALLOWANCES AND CONTINGENCIES OR PURPOSES AS THE  
26 MONETARY BOARD MAY DETERMINE IN ACCORDANCE WITH  
27 PRUDENT FINANCIAL MANAGEMENT."

28

1           SEC. 20. A new section entitled Section 43-A is hereby inserted in the same Act to  
2 read as follows:

3  
4           "SEC. 43-A. *BANGKO SENTRAL RESERVE FUND.* - THE  
5 *BANGKO SENTRAL* SHALL ESTABLISH A RESERVE FUND TO  
6 MITIGATE FUTURE RISKS AND CONTINGENCIES INHERENT IN  
7 CARRYING OUT THE *BANGKO SENTRAL*-MANDATED  
8 FUNCTIONS AS CENTRAL MONETARY AUTHORITY. THE  
9 RESERVE FUND SHALL CONSIST OF FLUCTUATION RESERVE,  
10 CONTINGENCY RESERVE AND SUCH OTHER RESERVES AS THE  
11 MONETARY BOARD DEEMS PRUDENT OR NECESSARY.

12           "THE FLUCTUATION RESERVE SHALL COVER LOSSES  
13 FROM EXCHANGE RATE AND PRICE VOLATILITY AND SHALL BE  
14 DERIVED FROM THE NET PROFITS BEFORE DISTRIBUTION, AS  
15 PROVIDED UNDER SECTION 44 OF THIS ACT. ALL OTHER  
16 RESERVE FUNDS SHALL BE SOURCED FROM SURPLUS."

17  
18           SEC. 21. Section 45 of the same Act is hereby amended to read as follows:

19  
20           "SEC. 45. *Revaluation Profits and Losses.* — **UNREALIZED** profits or  
21 losses arising from any revaluation of the *Bangko Sentral's* [net] assets [or],  
22 liabilities **OR DERIVATIVE INSTRUMENTS DENOMINATED** in [gold  
23 or] foreign currencies with respect to the **MOVEMENTS OF PRICES**  
24 **AND EXCHANGE RATES FROM THIRD CURRENCIES TO** Philippine  
25 peso shall not be included in the computation of the annual profits and  
26 losses of the *Bangko Sentral*. Any profits or losses arising in this manner  
27 shall be offset by any amounts which, as a consequence of such  
28 revaluations, are owed by the Philippines to any international or regional  
29 intergovernmental financial institution of which the Philippines is a



1 member or are owed by these institutions to the Philippines. Any  
2 remaining UNREALIZED profit or loss shall be carried in a special frozen  
3 account which shall be named "Revaluation of International Reserve  
4 (RIR)", and the net balance of which shall appear either among the  
5 liabilities or among the assets of the *Bangko Sentral*, depending on whether  
6 the revaluations have produced net profits or net losses.

7 "The [Revaluation of International Reserve] RIR account shall be  
8 [neither] credited [nor] OR debited ONLY FOR THE PERIODIC  
9 REVALUATION AS AUTHORIZED IN THIS SECTION AND TO  
10 REFLECT THE CORRESPONDING ADJUSTMENT RESULTING TO  
11 REDUCTION IN THE BANGKO SENTRAL'S NET FOREIGN ASSETS,  
12 LIABILITIES AND FOREIGN CURRENCY-DENOMINATED  
13 DERIVATIVE INSTRUMENTS. THE RIR SHALL BE ADJUSTED AND  
14 RECOGNIZED IN THE INCOME STATEMENT UPON SALE OF  
15 GOLD AND FOREIGN SECURITIES, OR WHEN THE FOREIGN  
16 CURRENCY IS REPATRIATED TO LOCAL CURRENCY OR IS USED  
17 TO PAY FOREIGN OBLIGATIONS OR UPON MATURITY OF A  
18 FOREIGN CURRENCY-DENOMINATED FORWARD OR OPTION  
19 CONTRACT INVOLVING THE PHILIPPINE PESO. [for any purposes  
20 other than those specifically authorized in this section.]"

21  
22 SEC. 22. Section 61 of the same Act is hereby amended to read as follows:

23  
24 "SEC. 61. *Guiding Principle.* — THE MONETARY BOARD SHALL  
25 REGULARLY ASSESS PRICE DEVELOPMENTS AND OUTLOOK  
26 AND, BASED ON ITS ANALYSIS AND EVALUATION OF  
27 INFLATIONARY PRESSURES, USE ITS POLICY INSTRUMENTS TO  
28 ATTAIN AND MAINTAIN PRICE STABILITY. [The Monetary Board  
29 shall endeavor to control any expansion or contraction in monetary

1 aggregates which is prejudicial to the attainment or maintenance of price  
2 stability.]”

3  
4 SEC. 23. Section 63 of the same Act is hereby amended to read as follows:

5  
6 “SEC. 63. *Action when Abnormal Movements Occur in the [Monetary*  
7 *Aggregates, Credit, Or] Price Level.* — Whenever abnormal movements in  
8 the [monetary aggregates, in credit, or in] prices endanger the stability of  
9 the Philippine economy or important sectors thereof, the Monetary Board  
10 shall:

11 “(a) take such remedial measures as are appropriate and within the  
12 powers granted to the Monetary Board and the *Bangko Sentral* under the  
13 provisions of this Act; and

14 “(b) submit to the President of the Philippines and the Congress,  
15 and make public, a detailed report which shall include, as a minimum, a  
16 description and analysis of:

17 “(1) the causes of the rise or fall of [the monetary  
18 aggregates, of credit or of] prices;

19 “(2) the extent to which the changes in [the monetary  
20 aggregates, in credit, or in] prices have been reflected in changes in  
21 the level of domestic output, employment, wages and economic  
22 activity in general, and the nature and significance of any [such]  
23 changes; and

24 “(3) the measures which the Monetary Board has taken and  
25 the other monetary, fiscal or administrative measures which it  
26 recommends to be adopted.

27 “Whenever the [monetary aggregates, or the level of credit,  
28 increases or decreases by more than fifteen percent (15%), or the] cost of  
29 living index increases by more than ten percent (10%), in relation to the

1 level existing at the end of the corresponding month of the preceding  
2 year, or even though [any of these] **THIS** quantitative guideline[s have]  
3 **HAS** not been reached when in its judgment the circumstances so  
4 warrant, the Monetary Board shall submit the reports mentioned in this  
5 Section, and shall state therein whether, in the opinion of the Board, said  
6 changes in the [monetary aggregates, credit or] cost of living represent a  
7 threat to the stability of the Philippine economy or of important sectors  
8 thereof.

9 "The Monetary Board shall continue to submit periodic reports to  
10 the President of the Philippines and to Congress until it considers that the  
11 [monetary, credit or] price disturbances have disappeared or have been  
12 adequately controlled."

13  
14 **SEC. 24.** Section 81 of the same Act is hereby amended to read as follows:

15  
16 "SEC. 81. *Guiding Principles.* — The rediscounts, discounts, loans  
17 and advances which the *Bangko Sentral* is authorized to extend to banking  
18 institutions, under the provisions of the present article of this Act shall be  
19 used to influence the volume of credit consistent with the objective of  
20 price stability **AND MAINTENANCE OF FINANCIAL STABILITY.**"

21  
22 **SEC. 25.** Section 84 of the same Act is hereby amended to read as follows:

23  
24 "SEC. 84. *Emergency Loans and Advances.* - In periods of national  
25 and/or local emergency or of imminent financial panic which directly  
26 threaten monetary and **FINANCIAL** [banking] stability, the Monetary  
27 Board may, by a vote of at least five (5) of its members, authorize the  
28 *Bangko Sentral* to grant extraordinary loans or advances to banking  
29 institutions, secured by assets as defined hereunder: *Provided, That while*

1 such loans or advances are outstanding, the debtor institution shall not,  
2 except upon prior authorization by the Monetary Board, expand the total  
3 volume of its loans or investments.

4 "The Monetary Board may, at its discretion, likewise authorize the  
5 *Bangko Sentral* to grant emergency loans or advances to banking  
6 institutions, even during normal periods, for the purpose of assisting a  
7 bank in a precarious financial condition or under serious financial  
8 pressures brought by unforeseen events, or events which, though  
9 foreseeable, could not be prevented by the bank concerned: *Provided,*  
10 *however,* That the Monetary Board has ascertained that the bank is not  
11 insolvent and has the assets defined hereunder to secure the advances:  
12 *Provided, further,* That a concurrent vote of at least five (5) members of the  
13 Monetary Board is obtained.

14 "The amount of any emergency loan or advance shall not exceed  
15 the sum of fifty percent (50%) of total deposits and deposit substitutes of  
16 the banking institution, and shall be disbursed in two (2) or more  
17 tranches. The amount of the first tranche shall be limited to twenty-five  
18 percent (25%) of the total deposit and deposit substitutes of the institution  
19 and shall be secured by (A) government securities, (B) **ACCEPTABLE**  
20 **GUARANTEES BACKED UP BY THE NATIONAL GOVERNMENT**  
21 **OR ITS SECURITIES;** (C) [to the extent of their applicable loan values  
22 and] other unencumbered first class collaterals and (D) **OTHER KINDS**  
23 **OF COLLATERALS AS MAY BE AUTHORIZED BY THE MONETARY**  
24 **BOARD IN ACCORDANCE\*WITH SOUND RISK MANAGEMENT**  
25 **PRINCIPLES** [which the Monetary Board may approve]: *Provided,* That if  
26 as determined by the Monetary Board, the circumstances surrounding the  
27 emergency warrant a loan or advance greater than the amount provided  
28 hereinabove, the amount of the first tranche may exceed twenty-five  
29 percent (25%) of the bank's total deposit and deposit substitutes if the

1 same is adequately secured by applicable loan values of government  
2 securities and unencumbered first class collaterals approved by the  
3 Monetary Board, and the principal stockholders of the institution furnish  
4 an acceptable undertaking to indemnify and hold harmless from suit a  
5 conservator whose appointment the Monetary Board may find necessary  
6 at any time.

7 "Prior to the release of the first tranche, the banking institution  
8 shall submit to the *Bangko Sentral* a resolution of its board of directors  
9 authorizing the *Bangko Sentral* to evaluate other assets of the banking  
10 institution certified by its external auditor to be good and available for  
11 collateral purposes should the release of the subsequent tranche be  
12 thereafter applied for.

13 "The Monetary Board may, by a vote of at least five (5) of its  
14 members, authorize the release of a subsequent tranche on condition that  
15 the principal stockholders of the institution:

16 "(a) furnish an acceptable undertaking to indemnify and hold  
17 harmless from suit a conservator whose appointment the Monetary Board  
18 may find necessary at any time; and

19 "(b) provide acceptable security which, in the judgment of the  
20 Monetary Board, would be adequate to supplement, where necessary, the  
21 assets tendered by the banking institution to collateralize the subsequent  
22 tranche.

23 "In connection with the exercise of these powers, the prohibitions  
24 in Section 128 of this Act shall not apply insofar as it refers to acceptance  
25 as collateral of shares and their acquisition as a result of foreclosure  
26 proceedings, including the exercise of voting rights pertaining to said  
27 shares: *Provided, however,* That should the *Bangko Sentral* acquire any of  
28 the shares it has accepted as collateral as a result of foreclosure  
29 proceedings, the *Bangko Sentral* shall dispose of said shares by public

1 bidding within one (1) year from the date of consolidation of title by the  
2 *Bangko Sentral*.

3 "Whenever a financial institution incurs an overdraft in its account  
4 with the *Bangko Sentral*, the same shall be eliminated within the period  
5 prescribed in Section 102 of this Act."

6  
7 SEC. 26. A new section entitled Section 88-A is hereby inserted in the same Act to  
8 read as follows:

9  
10 "SEC. 88-A. EXEMPTION FROM ATTACHMENT. -  
11 COLLATERALS ON LOANS AND ADVANCES GRANTED BY THE  
12 BANGKO SENTRAL, WHETHER OR NOT THE INTEREST OF THE  
13 BANGKO SENTRAL IS REGISTERED, SHALL NOT BE SUBJECT TO  
14 ATTACHMENT, EXECUTION OR ANY OTHER COURT PROCESS  
15 OR ADMINISTRATIVE RESTRICTIONS ON LAND USE, NOR  
16 SHALL THEY BE INCLUDED IN THE PROPERTY OF INSOLVENT  
17 PERSONS OR INSTITUTIONS."

18  
19 SEC. 27. A new section entitled Section 88-B is hereby inserted in the same Act to  
20 read as follows:

21  
22 "SEC. 88-B. DEPUTIZATION OF LEGAL STAFF. - IN CASE OF  
23 AN EXTRAJUDICIAL FORECLOSURE OF MORTGAGE, THE  
24 BANGKO SENTRAL MAY DEPUTIZE ANY OF ITS LAWYERS TO  
25 CONDUCT THE PUBLIC AUCTION PURSUANT TO ACT NO. 3135,  
26 AS AMENDED. IN CASE OF A JUDICIAL FORECLOSURE, THE  
27 BANGKO SENTRAL MAY, WITH THE APPROVAL OF THE COURT,  
28 LIKewise DEPUTIZE ANY OF ITS LAWYERS TO ACT AS SPECIAL  
29 SHERIFF IN THE SALE OF A DEBTOR'S PROPERTIES AND IN THE

1 ENFORCEMENT OF COURT WRITS AND PROCESSES RELATED  
2 THERETO. THE SPECIAL SHERIFF OF THE *BANGKO SENTRAL*  
3 SHALL MAKE A REPORT TO THE PROPER COURT AFTER ANY  
4 ACTION HAS BEEN TAKEN BY HIM, WHICH COURT SHALL  
5 TREAT SUCH ACTION AS IF IT WERE AN ACT OF ITS OWN  
6 SHERIFF IN ALL RESPECTS.

7 "NO RESTRAINING ORDER OR INJUNCTION SHALL BE  
8 ISSUED BY THE COURT ENJOINING THE *BANGKO SENTRAL*  
9 FROM PROCEEDING WITH THE FORECLOSURE OF THE  
10 MORTGAGE UNLESS A BOND IS POSTED IN FAVOR OF THE  
11 *BANGKO SENTRAL* IN AN AMOUNT EQUIVALENT TO THE TOTAL  
12 CLAIM OF THE *BANGKO SENTRAL*. THE RESTRAINING ORDER  
13 OR INJUNCTION SHALL BE REFUSED OR, IF GRANTED, SHALL BE  
14 DISSOLVED UPON FILING BY THE *BANGKO SENTRAL* OF A  
15 BOND, WHICH SHALL BE IN THE FORM OF A *BANGKO SENTRAL*  
16 CHECK, IN AN AMOUNT TWICE THE AMOUNT OF THE  
17 ORIGINAL BOND POSTED. CONDITIONED THAT THE *BANGKO*  
18 *SENTRAL* WILL PAY THE DAMAGES WHICH THE PARTY MAY  
19 SUFFER BY THE REFUSAL OR DISSOLUTION OF THE  
20 INJUNCTION. THE PROVISIONS OF RULE 58 OF THE NEW RULES  
21 OF COURT INsofar AS THEY ARE APPLICABLE AND NOT  
22 INCONSISTENT WITH THE PROVISIONS OF THIS SECTION  
23 SHALL GOVERN THE ISSUANCE AND DISSOLUTION OF THE  
24 RESTRAINING ORDER OR INJUNCTION CONTEMPLATED IN  
25 THIS SECTION."

26  
27 SEC. 28. A new section entitled Section 88-C is hereby inserted in the same Act to  
28 read as follows:  
29

1                   "SEC. 88-C. RIGHT OF REDEMPTION OF FORECLOSED REAL  
2                   PROPERTY; RIGHT OF POSSESSION DURING REDEMPTION  
3                   PERIOD. - THE MORTGAGOR SHALL HAVE THE RIGHT TO  
4                   REDEEM THE PROPERTY WITHIN ONE (1) YEAR FROM THE DATE  
5                   OF FORECLOSURE SALE OF THE REAL ESTATE, IN CASE THE  
6                   MORTGAGOR IS A NATURAL PERSON, AND WITHIN NINETY (90)  
7                   DAYS BUT NOT LATER THAN THE DATE OF REGISTRATION OF  
8                   THE CERTIFICATE OF FORECLOSURE SALE, IN CASE THE  
9                   MORTGAGOR IS A JURIDICAL PERSON; PROVIDED HOWEVER,  
10                  THAT FORECLOSED REAL PROPERTIES IN THE NAME OF A  
11                  BORROWER BANK, OR OTHER CORPORATE THIRD PARTY  
12                  MORTGAGOR, WHOSE PROPERTIES ARE DIRECTLY  
13                  MORTGAGED TO THE BANGKO SENTRAL, PURSUANT TO ACT  
14                  NO. 3135, THE APPLICABLE REDEMPTION PERIOD IS ONE (1)  
15                  YEAR. REDEMPTION SHALL BE EFFECTED BY PAYING THE  
16                  PRINCIPAL, INTERESTS, CHARGES, COMMISSIONS AND ALL  
17                  CLAIMS OF WHATEVER NATURE OF THE BANGKO SENTRAL  
18                  OUTSTANDING AND DUE AS OF THE DATE OF FORECLOSURE  
19                  SALE, INCLUDING ALL COSTS AND OTHER EXPENSES  
20                  INCURRED BY REASON OF THE FORECLOSURE SALE AND  
21                  CUSTODY OF THE PROPERTY.

22                  "THE BANGKO SENTRAL, AS PURCHASER IN THE  
23                  FORECLOSURE SALE AND WITHOUT NEED OF POSTING A  
24                  BOND, MAY TAKE POSSESSION OF THE FORECLOSED PROPERTY  
25                  DURING THE REDEMPTION PERIOD. THE BANGKO SENTRAL  
26                  SHALL BE ENTITLED TO THE FRUITS OF THE PROPERTY, THE  
27                  SAME TO BE APPLIED AGAINST THE REDEMPTION PRICE."  
28



1           **SEC. 29.** A new section entitled Section 88-D is hereby inserted in the same Act to  
2 read as follows:

3  
4           **"SEC. 88-D. UNSECURED BANGKO SENTRAL CLAIMS. - ALL**  
5 **UNSECURED CLAIMS OF THE BANGKO SENTRAL SHALL BE**  
6 **CONSIDERED PREFERRED CREDITS SIMILAR TO TAXES DUE TO**  
7 **THE NATIONAL GOVERNMENT IN THE ORDER OF PREFERENCE**  
8 **UNDER ARTICLE 2244 OF THE NEW CIVIL CODE."**

9  
10           **SEC. 30.** A new section entitled Section 89-A is hereby inserted in the same Act to  
11 read as follows:

12  
13           **"SEC. 89-A. FINANCIAL FACILITIES FOR ISLAMIC BANKS. -**  
14 **THE BANGKO SENTRAL MAY, TAKING INTO CONSIDERATION**  
15 **THE PECULIAR CHARACTERISTICS OF ISLAMIC BANKING,**  
16 **FORMULATE RULES AND REGULATIONS FOR THE EXTENSION**  
17 **OF FINANCIAL FACILITIES TO ISLAMIC BANKS PROVIDED**  
18 **SUCH EXPOSURES SHALL BE PROPERLY SECURED."**

19  
20           **SEC. 31.** A new section entitled Section 89-B is hereby inserted in the same Act to  
21 read as follows:

22  
23           **"SEC. 89-B. LOANS TO THE PHILIPPINE DEPOSIT**  
24 **INSURANCE CORPORATION. - THE BANGKO SENTRAL,**  
25 **PURSUANT TO ITS MANDATE OF MAINTAINING FINANCIAL**  
26 **STABILITY, MAY LEND TO THE PHILIPPINE DEPOSIT**  
27 **INSURANCE CORPORATION FUNDS FOR INSURANCE PURPOSE**  
28 **AND FOR FINANCIAL ASSISTANCE THAT THE LATTER IS**  
29 **AUTHORIZED TO EXTEND UNDER SECTION 17(D) OF REPUBLIC**

1           ACT NO. 3591, AS AMENDED, TO AN INSURED BANK IN DANGER  
2           OF CLOSING IN ORDER TO MINIMIZE LOSSES TO ITS  
3           DEPOSITORS AND CREDITORS. NOTWITHSTANDING SECTION  
4           18 OF REPUBLIC ACT NO. 3591, AS AMENDED, THE MONETARY  
5           BOARD SHALL PRESCRIBE INTEREST RATES AND SUCH OTHER  
6           TERMS AND CONDITIONS OF THE LOAN.”

7  
8           SEC. 32. Section 92 of the same Act is hereby amended to read as follows:

9  
10           “SEC. 92. *Issue and Negotiation of Bangko Sentral Obligations.* — In  
11           order to provide the *Bangko Sentral* with effective instruments for open  
12           market operations, the *Bangko Sentral* may, subject to such rules and  
13           regulations as the Monetary Board may prescribe and in accordance with  
14           the principles stated in Section 90 of this Act, issue, place, buy and sell  
15           freely negotiable evidences of indebtedness of the *Bangko Sentral*.  
16           [*Provided, That issuance of such certificates of indebtedness shall be made*  
17           *only in cases of extraordinary movement in price levels.*] Said evidences  
18           of indebtedness may be issued directly against the international reserve of  
19           the *Bangko Sentral* or against the securities which it has acquired under the  
20           provisions of Section 91 of this Act, or may be issued without relation to  
21           specific types of assets of the *Bangko Sentral*.

22           “The Monetary Board shall determine the interest rates, maturities  
23           and other characteristics of said obligations of the *Bangko Sentral*, and  
24           may, if it deems it advisable, denominate the obligations in gold or  
25           foreign currencies.

26           “Subject to the principles stated in Section 90 of this Act, the  
27           evidences of indebtedness of the *Bangko Sentral* to which this section refers  
28           may be acquired by the *Bangko Sentral* before their maturity, either  
29           through purchases in the open market or through redemptions at par and

1 by lot if the *Bangko Sentral* has reserved the right to make such  
2 redemptions. The evidences of indebtedness acquired or redeemed by the  
3 *Bangko Sentral* shall not be included among its assets, and shall be  
4 immediately retired and cancelled.”

5  
6 **SEC. 33.** Section 95 of the same Act is hereby amended to read as follows:

7  
8 *“SEC. 95. Definition of Deposit Substitutes. — The term "deposit*  
9 *substitutes" is defined as an alternative form of obtaining funds from the*  
10 *public, other than deposits, through the issuance, endorsement, or*  
11 *acceptance of debt instruments for the borrower's own account, for the*  
12 *purpose of relending or purchasing of receivables and other obligations.*  
13 *These instruments may include, but need not be limited to, bankers*  
14 *acceptances, promissory notes, participations, certificates of assignment*  
15 *and similar instruments with recourse, and repurchase agreements. THE*  
16 *TERM 'PUBLIC' MEANS BORROWING FROM TWENTY (20) OR*  
17 *MORE LENDERS AT ANY ONE TIME. FOR THIS PURPOSE,*  
18 *“LENDERS” SHALL REFER TO INDIVIDUALS AND CORPORATE*  
19 *ENTITIES THAT ARE NOT ACTING AS FINANCIAL*  
20 *INTERMEDIARIES, SUBJECT TO THE SAFEGUAR DS AND*  
21 *REGULATIONS ISSUED BY THE MONETARY BOARD. The Monetary*  
22 *Board shall determine what specific instruments shall be considered as*  
23 *deposit substitutes for the purposes of SECTION 94 of this Act[:].*  
24 *Provided, however, That deposit substitutes of commercial, industrial and*  
25 *other non-financial companies for the limited purpose of financing their*  
26 *own needs or the needs of their agents or dealers shall not be covered by*  
27 *the provisions of Section 94 of this Act.”*

28  
29 **SEC. 34.** Section 101 of the same Act is hereby amended to read as follows:

1  
2           "SEC. 101. *Reserve Deficiencies.* - Whenever the reserve position of  
3 any bank or quasi-bank, computed in the manner specified in the  
4 preceding section of this Act, is below the required minimum, the bank or  
5 quasi-bank shall pay the *Bangko Sentral* one-tenth of one percent (1/10 of  
6 1%) per day on the amount of the deficiency or the prevailing ninety-one-  
7 day treasury bill rate plus three percentage points, whichever is higher:  
8 *Provided, however,* That banks and quasi-banks shall ordinarily be  
9 permitted to offset any reserve deficiency occurring on one or more days  
10 of the week with any excess reserves which they may hold on other days  
11 of the same week and shall be required to pay the penalty only on the  
12 average daily deficiency during the week. In cases of abuse, the Monetary  
13 Board may deny any bank or quasi-bank the privilege of offsetting  
14 reserve deficiencies in the aforesaid manner.

15           "If a bank or quasi-bank chronically has a reserve deficiency, the  
16 Monetary Board may limit or prohibit the making of new loans or  
17 investments by the institution and may require that part or all of the net  
18 profits of the institution be assigned to surplus.

19           "The Monetary Board may modify or set aside the reserve  
20 deficiency penalties provided in this section, for part or the entire period  
21 of a strike or lockout affecting a bank or a quasi-bank as defined in the  
22 Labor Code, or of a national emergency affecting operations of banks or  
23 quasi-banks **OR IN SUCH OTHER INSTANCES WHERE THE GRANT**  
24 **OF WAIVER IS DETERMINED BY THE MONETARY BOARD TO BE**  
25 **JUSTIFIABLE.** The Monetary Board may also modify or set aside reserve  
26 deficiency penalties for rehabilitation program of a bank."

27  
28           **SEC. 35.** Section 104 of the same Act is hereby amended to read as follows:  
29

1           “SEC. 104. *Guiding Principle.* — The Monetary Board shall use the  
2 powers granted to it under this Act to ensure that the supply, availability  
3 and cost of money are in accord with the needs of the Philippine economy  
4 and that bank credit is not granted for speculative purposes prejudicial to  
5 the national interests. Regulations on bank operations shall be applied to  
6 all banks of the same category **AS MAY BE DEFINED BY THE**  
7 **MONETARY BOARD** uniformly and without discrimination.”

8  
9           **SEC. 36.** Section 108 of the same Act is hereby amended to read as follows:

10  
11           “SEC. 108. *Minimum Capital Ratios.* — The Monetary Board may  
12 prescribe minimum **RISK-BASED CAPITAL ADEQUACY** ratios **BASED**  
13 **ON INTERNATIONALLY ACCEPTED STANDARDS** [which the  
14 capital and surplus of the banks must bear to the volume of their assets,  
15 or to specific categories thereof,] and may alter said ratios whenever it  
16 deems necessary. **IN THE EXERCISE OF ITS AUTHORITY UNDER**  
17 **THIS SECTION, THE MONETARY BOARD MAY PRESCRIBE A**  
18 **HIGHER MINIMUM CAPITAL ADEQUACY RATIO FOR**  
19 **DIFFERENT BANK CATEGORIES AS MAY BE WARRANTED BY**  
20 **THEIR RISK PROFILE.”**

21  
22           **SEC. 37.** Section 113 of the same Act is hereby amended to read as follows:

23  
24           “SEC. 113. *Official Deposits.* — The *Bangko Sentral* shall be the  
25 official depository of the Government, its political subdivisions and  
26 instrumentalities as well as of government-owned or -controlled  
27 corporations and, as a general policy, their cash balances should be  
28 deposited with the *Bangko Sentral*, with only minimum working balances  
29 to be held by government-owned banks and such other banks

1 incorporated in the Philippines as the Monetary Board may designate,  
2 subject to such rules and regulations as the Board may prescribe:  
3 *Provided*, That such banks may hold deposits of the political subdivisions  
4 and instrumentalities of the Government beyond their minimum working  
5 balances whenever such subdivisions and instrumentalities have  
6 outstanding loans with said banks.

7 "The *Bangko Sentral* may **ACCEPT DEPOSITS AND** pay interest  
8 on **SUCH** deposits **AND OTHER SIMILAR PLACEMENTS** of the  
9 Government or of its political subdivisions and instrumentalities, banks  
10 **AND OTHER BANGKO SENTRAL-SUPERVISED INSTITUTIONS."**

11  
12 **SEC. 38.** Section 125 of the same Act is hereby amended to read as follows:

13  
14 "SEC. 125. TAX EXEMPTIONS. -- The *Bangko Sentral* shall be  
15 exempt [for a period of five (5) years from the approval of this Act] from  
16 all national, provincial, municipal and city taxes, fees, charges and  
17 assessments.

18 "The exemption authorized in the preceding paragraph of this  
19 section shall apply to all property of the *Bangko Sentral*, to the resources,  
20 receipts, expenditures, profits and income of the *Bangko Sentral*, as well as  
21 to all contracts, deeds, documents and transactions related to the conduct  
22 of the business of the *Bangko Sentral*: *Provided, however*, That said  
23 exemptions shall apply only to such taxes, fees, charges and assessments  
24 for which the *Bangko Sentral* itself would otherwise be liable, and shall not  
25 apply to taxes, fees, charges, or assessments payable by persons or other  
26 entities doing business with the *Bangko Sentral*: *Provided, further*, That  
27 foreign loans and other obligations of the *Bangko Sentral* shall be exempt,  
28 both as to principal and interest, from any and all taxes if the payment of  
29 such taxes has been assumed by the *Bangko Sentral*."

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SEC. 39. Section 128 of the same Act is hereby amended to read as follows:

“SEC. 128. *Prohibitions.* — The *Bangko Sentral* shall not acquire shares of any kind or accept them as collateral, and shall not participate in the ownership or management of any enterprise, either directly or indirectly; [.] **PROVIDED, THAT THIS PROHIBITION SHALL NOT APPLY WHENEVER THE MONETARY BOARD, BY A VOTE OF AT LEAST FIVE (5) OF ITS MEMBERS, DEEMS AN ACQUISITION OR INVESTMENT TO BE NECESSARY TO QUALIFY OR AS REQUIRED FOR MEMBERSHIP IN INTERNATIONAL AND REGIONAL ORGANIZATIONS.**

“The *Bangko Sentral* shall not engage in development banking or financing; *Provided, however,* That outstanding loans obtained or extended for development financing shall not be affected by the prohibition of this section.”

SEC. 40. *Repealing Clause.* All provisions of existing laws, orders, rules and regulations, or parts thereof which are in conflict or inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 41. *Separability Clause.* If any provision or section of this Act is held to be unconstitutional or invalid, the other provisions or sections hereof, which are not affected thereby shall continue to be in full force and effect.

SEC. 42. *Effectivity.* This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or in a newspaper of general circulation in the Philippines.