

FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

HOUSE OF REPRESENTATIVES

H. No. **5174**

Introduced by **Representative TEODORICO HARESCO JR.**

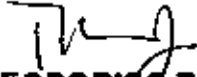
EXPLANATORY NOTE

The Securities Regulation Code states that one of the powers and functions of the Securities and Exchange Commission is to "formulate policies and recommendations on issues concerning the securities market." (Chapter II, Sec. 5, Let b) On the other hand, the General Banking Law of 2000 (RA 8791) states that universal and commercial banks have the inherent banking power to deal in marketable bonds and other debt securities (Sec. 23 and 29). The same law along with the New Central Bank Act (RA 7653) placed banks under the regulatory supervision of the Bangko Sentral ng Pilipinas (BSP).

In 2005, the SEC granted Self Regulatory Organization (SRO) status to the Philippine Dealing and Exchange Corporation (PDEX) over all transactions involving government securities as part of capital market reforms instituted after the 1997 financial crisis. It was envisioned that PDEX would transform into a Fixed Income Exchange (FIE)

Since it is but natural for Banks to trade in securities (government securities included), this created problems as to which jurisdiction the regulation of Banks fall. This amounted to overlap in regulatory functions between the BSP and the SEC through the PDEX.

This Bill seeks to correct this ambiguity and reaffirm the BSP's regulatory powers over banks removing them from the SEC.


TEODORICO T. HARESCO
Ang Kasangga Partylist

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AN ACT AMENDING SECTION 5 OF REPUBLIC ACT 8799, OTHERWISE KNOWN AS THE SECURITIES REGULATION CODE, HARMONIZING THE SAME WITH SECTION 29 OF REPUBLIC ACT 8791, OTHERWISE KNOWN AS THE GERNERAL BANKING LAW OF 2000.

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

SECTION 1. Section 5 of Republic Act. No. 8799 is hereby amended to read, as follows:

SEC. 5. Powers and Functions of the Commission. - 5.1. The Commission shall act with transparency and shall have the powers and functions provided by this Code, residential Decree No. 902-A, the Corporation Code, the Investment Houses Law, the Financing Company Act and other existing laws. Pursuant thereto the Commission shall have, among others, the following powers and functions:

(a) Have jurisdiction and Supervision over all corporations, partnerships or associations who are the grantees of primary franchises and/or a license or permit issued by the Government;

(b) Formulate policies and recommendations on issues concerning the securities market, advise Congress and other government agencies on all aspects of the securities market and propose legislation and amendments thereto;

(c) Approve, reject, suspend, revoke or require amendments to registration statements, and registration and licensing applications;

(d) Regulate, investigate or supervise the activities of persons to ensure compliance;

(e) Supervise, monitor, suspend or take over the activities of exchanges, clearing agencies and other SROs;

(f) Impose sanctions for the violation of laws and the rules, regulations and orders issued pursuant thereto;

(g) Prepare, approve, amend or repeal rules, regulations and orders, and issue opinions and provide guidance on and supervise compliance with such rules, regulations and orders;

(h) Enlist the aid and support of and/or deputize any and all enforcement agencies of the Government, civil or military as well as any private institution, corporation, firm, association or person in the implementation of its powers and functions under this Code;

(i) Issue cease and desist orders to prevent fraud or injury to the investing public;

(j) Punish for contempt of the Commission, both direct and indirect, in accordance with the pertinent provisions of and penalties prescribed by the Rules of Court;

(k) Compel the officers of any registered corporation or association to call meetings of stockholders or members thereof under its supervision;

(l) Issue subpoena duces tecum and summon witnesses to appear in any proceedings of the Commission and in appropriate cases, order the examination, search and seizure of all documents, papers, files and records, tax returns, and books of accounts of any entity or person under investigation as may be necessary for the proper disposition of the cases before it, subject to the provisions of existing laws;

(m) Suspend, or revoke, after proper notice and hearing the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law; and

(n) Exercise such other powers as may be provided by law as well as those which may be implied from, or which are necessary or incidental to the carrying out of, the express powers granted the Commission to achieve the objectives and purposes of these laws.

(A new section will be inserted to be numbered as "Section 5.2")

5.2 THE POWERS AND FUNCTIONS GRANTED TO THE COMMISSION UNDER THIS LAW DOES NOT ENCOMPASS REGULATION OVER THE ACQUISITION OF MARKETABLE BONDS AND OTHER DEBT SECURITIES GRANTED TO UNIVERSAL AND COMMERCIAL BANKS UNDER SECTION 29 OF REPUBLIC ACT 8791, OTHERWISE KNOWN AS THE GENERAL BANKING LAW OF 2000.

(All subsequent sections shall be re-numbered accordingly)

5.2. The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: Provided, that the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The commission shall retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed.

SECTION 2. *Repealing Clause* - All laws, decrees, executive orders, proclamations, rules and regulations, or parts thereof inconsistent herewith are hereby repealed or modified accordingly

SECTION 3. *Separability Clause*. - If any provision of this Act is held invalid or unconstitutional, the other provisions not affected hereby shall remain valid and subsisting.

SECTION 4. *Effectivity Clause* - This Act shall take effect fifteen (15) days after its publication in the official gazette or in at least two (2) national newspapers of general circulation.

Approved.