

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
First Regular Session

House Bill No. **3112**



Introduced by Hon. Feliciano Belmonte, Jr. and Hon. Nelson P. Collantes

EXPLANATORY NOTE

In 1993, the Philippine Congress enacted Republic Act (R.A.) No. 7653 (The New Central Bank Act) creating the *Bangko Sentral ng Pilipinas* (BSP) pursuant to the directive in the 1987 Constitution mandating the establishment of an independent central monetary authority (Section 20, Article XII). 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 exercises in performing its mandates, supplement the mechanisms in protecting savings of depositors and in ensuring the smooth flow of transactions in the financial system, as well as to enhance the corporate viability of the BSP. The proposed amendments in this bill are three-fold and the salient features thereof include:

1. Strengthening BSP's Monetary Stability Function

- a. Restoration of authority to obtain data from private persons or entities, and authority to issue negotiable certificates of indebtedness even during normal times, both of which were powers 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. Enhancing BSP's supervisory authority by expanding the entities it supervises to include other categories of financial institutions; granting authority to impose sanctions on transfers and acquisitions of substantial shares of banks and quasi-banks without BSP approval; allowing full flexibility to conduct risk-based supervision of financial institutions; strengthening of administrative and criminal sanctions to include, among other things, forfeiture of profits unauthorized financial transactions; and improve resolution mechanisms to deal with problem 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.

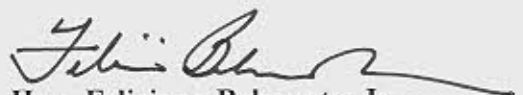
3. Strengthening BSP's Corporate and Financial Viability

- a. Additional BSP capitalization of P150 billion, payable in 3 years;
- b. Similar to other central banks, flexibility to establish adequate loss allowances and create reserve buffers against future risks and contingencies, and restoration of tax exemption;
- c. Enhancement to 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 effectively respond to challenges and innovations of a globalized economy; and, more significantly, in performing its constitutional mandates. Indeed, an empowered BSP is indispensable in ensuring a competitive, robust and inclusive economy, and a financial system that delivers a high quality of life for Filipinos.

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

Hon. Nelson P. Collantes


Hon. Feliciano Belmonte, Jr.

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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 corporate
6 known as the *Bangko Sentral ng Pilipinas*, hereafter referred to as the
7 *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. [Ten
11 billion pesos (P10,000,000,000) of which] **THE UNPAID SUBSCRIPTION** shall
12 be fully paid for by the Government **IN THREE (3) CONSECUTIVE ANNUAL**
13 **INSTALLMENTS UNTIL 2017.** [upon the effectivity of this Act and the balance
14 to be paid for within a period of two (2) years from the effectivity of this Act

1 in such manner and form as the Government, through the Secretary of
2 Finance and the Secretary of Budget and Management, may thereafter
3 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. It
9 shall have supervision over the operations of banks and exercise such
10 regulatory powers as provided in this Act and other pertinent laws over the
11 operations of finance companies and non-bank financial institutions
12 performing quasi-banking functions, [~~hereafter referred to as quasi-banks,~~]
13 **CREDIT CARD COMPANIES, MONEY CHANGERS, E-MONEY ISSUERS,**
14 **REMITTANCE AGENTS, PAYMENT AND SETTLEMENT SYSTEM OPERATORS**
15 and **OTHER** institutions performing similar functions **AS MAY BE**
16 **DETERMINED BY THE MONETARY BOARD.**

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

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

24
25 **SEC. 3.** Section 11 of the same Act is hereby amended to read as follows:

26
27 “SEC. 11. *Meetings.* — The Monetary Board shall meet at least once a
28 week. The Board may be called to a meeting by the Governor of the *Bangko*
29 *Sentral* or by two (2) other members of the Board.

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

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

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

10 **“THE MEETINGS OF THE MONETARY BOARD MAY BE CONDUCTED**
11 **THROUGH MODERN TECHNOLOGIES SUCH AS, BUT NOT LIMITED TO,**
12 **TELECONFERENCING AND VIDEOCONFERENCING.”**

13
14 **SEC. 4.** Section 16 of the same Act is hereby amended to read as follows:

15
16 “SEC. 16. *Responsibility.* — Members of the Monetary Board, officials,
17 examiners, and employees of the *Bangko Sentral* who willfully violate this act
18 or who are guilty of negligence, abuses or acts of malfeasance or
19 misfeasance [~~or fail to exercise extraordinary diligence~~] in the performance
20 of [~~his~~] **THEIR** duties shall be held liable for any loss or injury suffered by the
21 *Bangko Sentral* or other banking institutions as a result of such violation,
22 negligence, abuse, malfeasance[,] **OR** misfeasance [~~or failure to exercise~~
23 ~~extraordinary diligence~~].

24 “Similar responsibility shall apply to members, officers, and
25 employees of the *Bangko Sentral* for: (1) the disclosure of any information of
26 a confidential nature, or any information on the discussions or resolutions of
27 the Monetary Board, or about the confidential operations of the *Bangko*
28 *Sentral*, unless the disclosure is in connection with the performance of
29 official functions with the *Bangko Sentral*, or is with prior authorization of the
30 Monetary Board or the Governor; or (2) the use of such information for
31 personal gain or to the detriment of the government, the *Bangko Sentral* or

1 third parties: *Provided, however,* that any data or information required to be
2 submitted to the President and/or the Congress, or to be published under
3 the provisions of this act shall not be considered confidential.

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

16
17 **SEC. 5.** Section 21 of the same Act is hereby amended to read as follows:

18
19 "SEC. 21. *Deputy Governors.* — The Governor of the *Bangko Sentral*,
20 with the approval of the Monetary Board, shall appoint not more than [~~three~~
21 **(3)] FIVE (5)** Deputy Governors who shall perform duties as may be assigned
22 to them by the Governor and the Board.

23 "In the absence of the Governor, a Deputy Governor designated by
24 the Governor shall act as chief executive of the *Bangko Sentral* and shall
25 exercise the powers and perform the duties of the Governor. Whenever the
26 Government is unable to attend meetings of government boards or councils
27 in which he is an ex officio member pursuant to provisions of special laws, a
28 Deputy Governor as may be designated by the Governor shall be vested with
29 authority to participate and exercise the right to vote in such meetings."

30
31 **SEC. 6.** Section 23 of the same Act is hereby amended to read as follows:

1
2 “SEC. 23. *Authority to Obtain Data and Information.* — The *Bangko*
3 *Sentral* shall have the authority to **REQUIRE** ~~[request]~~ from **ANY PERSON OR**
4 **ENTITY, INCLUDING** government offices and instrumentalities, or
5 government-owned or -controlled corporations, any data which it may
6 require for the proper discharge of its functions and responsibilities. The
7 *Bangko Sentral* through the Governor or in his absence, a duly authorized
8 representative shall have the power to issue a subpoena for the production
9 of the books and records for the aforesaid purpose. Those who refuse the
10 subpoena without justifiable cause, or who refuse to supply the ~~[bank]~~
11 **BANGKO SENTRAL** with data ~~[requested or]~~ required, shall be subject to
12 punishment for contempt in accordance with the provisions of the Rules of
13 Court.

14 “Data on individuals **AND** firms, other than banks, gathered by the
15 ~~[Department of Economic Research and other departments or units of the]~~
16 *Bangko Sentral* shall not be made available to any person or entity outside of
17 the *Bangko Sentral* whether public or private except under order of the court
18 or under such conditions as may be prescribed by the Monetary Board:
19 *Provided, however,* That the collective data on firms may be released to
20 interested persons or entities: *Provided, finally,* That in the case of data on
21 banks, the provisions of Section 27 of this Act shall apply.”

22
23 **SEC. 7.** Section 25 of the same Act is hereby amended to read as follows:

24
25 “SEC. 25. *Supervision and Examination.* — The *Bangko Sentral* shall
26 have supervision over, and conduct **REGULAR** or special examinations of,
27 banking institutions and quasi-banks, including their subsidiaries and
28 affiliates engaged in allied activities.

29 **“THE BANGKO SENTRAL SHALL HAVE REGULATORY AUTHORITY**
30 **OVER, AND CONDUCT REGULAR OR SPECIAL EXAMINATIONS OF, ENTITIES**

1 WHICH UNDER THIS ACT OR BY SPECIAL LAWS ARE SUBJECT TO ITS
2 JURISDICTION.

3 "THE *BANGKO SENTRAL* SHALL ALSO HAVE THE POWER TO OBTAIN
4 INFORMATION FOR SUPERVISORY PURPOSES ON TRANSACTIONS BETWEEN
5 A SUPERVISED INSTITUTION AND ITS PARENT OR OTHER AFFILIATE
6 COMPANIES, AND EXAMINE THESE TRANSACTIONS. THIS POWER INCLUDES
7 THE AUTHORITY OF THE *BANGKO SENTRAL* TO LOOK INTO THE MAIN
8 ACTIVITIES OF COMPANIES AFFILIATED WITH THE PARENT COMPANIES
9 THAT HAVE A MATERIAL IMPACT ON THE SAFETY AND SOUNDNESS OF THE
10 BANK AND THE BANKING GROUP.

11 "A PARENT COMPANY MEANS A CORPORATION WHICH OWNS
12 DIRECTLY OR INDIRECTLY VOTING STOCK OF A SUPERVISED INSTITUTION
13 OF THE *BANGKO SENTRAL* SUFFICIENT TO CONTROL ITS MANAGEMENT
14 AND OPERATIONS, SUBJECT TO THE GUIDELINES ISSUED BY THE MONETARY
15 BOARD.

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

1 “For purposes of this section, a subsidiary means a corporation more
2 than fifty percent (50%) of the voting stock of which is owned by a bank or
3 quasi-bank and an affiliate means a corporation the voting stock of which, to
4 the extent of fifty percent (50%) or less, is owned by a bank or quasi-bank or
5 which is related or linked to such institution or intermediary through
6 common stockholders or such other factors as may be determined by the
7 Monetary Board.

8 “The department heads and the examiners of the supervising and/or
9 examining departments are hereby authorized to administer oaths to any
10 director, officer, or employee of any institution under their respective
11 supervision or subject to their examination, [and] to compel the presentation
12 of all books, documents, papers or records necessary in their judgment to
13 ascertain the facts relative to the true condition of any institution as well as
14 the books and records of persons and entities relative to or in connection
15 with the operations, activities or transactions of the institution under
16 examination, **AND TO INQUIRE INTO BANK DEPOSITS AND INVESTMENT**
17 **ACCOUNTS FOR EXAMINATION PURPOSES ONLY,** [~~subject to the provision~~
18 ~~of]~~ **NOTWITHSTANDING REPUBLIC ACT NOS. 1405 AND 6426.** [~~existing laws~~
19 ~~protecting or safeguarding the secrecy or confidentiality of bank deposits as~~
20 ~~well as investments of private persons, natural or juridical, in debt~~
21 ~~instruments issued by the Government.]~~

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

1
2 SEC. 8. A new section entitled Section 25-A is hereby inserted in the same Act to read
3 as follows:
4

5 "SEC. 25-A. *AUTHORITY TO APPROVE TRANSFER OF SHARES -*
6 *TRANSFERS OR ACQUISITIONS, OR A SERIES THEREOF, OF TEN PERCENT*
7 *(10%) OF VOTING RIGHTS IN BANKS OR QUASI-BANKS SHALL REQUIRE THE*
8 *PRIOR APPROVAL OF THE BANGKO SENTRAL. THE SELLING OR CONVEYING*
9 *STOCKHOLDER SHALL SUBMIT SUCH TRANSFER OR ACQUISITION FOR*
10 *APPROVAL BY THE BANGKO SENTRAL WITHIN SUCH PERIOD AS MAY BE*
11 *PRESCRIBED BY THE MONETARY BOARD. IN APPROVING SUCH TRANSFERS*
12 *OR ACQUISITIONS, REGARD SHALL BE GIVEN BY THE BANGKO SENTRAL TO*
13 *THE FITNESS OF THE INCOMING STOCKHOLDERS AS MAY BE INDICATED IN*
14 *THEIR INTEGRITY, REPUTATION AND FINANCIAL CAPACITY. WITHOUT*
15 *BANGKO SENTRAL APPROVAL, NO SUCH TRANSFER OR ACQUISITION SHALL*
16 *HAVE LEGAL EFFECT NOR SHALL THE SAME BE RECOGNIZED IN THE BOOKS*
17 *OF THE INSTITUTION OR BY ANY GOVERNMENT AGENCY, AND THE*
18 *TRANSFEROR-STOCKHOLDERS SHALL REMAIN ACCOUNTABLE AND*
19 *RESPONSIBLE THEREFOR. TRANSFER OF ACTUAL CONTROL OR*
20 *MANAGEMENT OF THE INSTITUTION TO THE NEW STOCKHOLDERS OR*
21 *THEIR REPRESENTATIVES PRIOR TO BANGKO SENTRAL APPROVAL SHALL*
22 *MAKE THE TRANSFEROR, THE TRANSFEREE AND ANY PERSON RESPONSIBLE*
23 *THEREFOR LIABLE UNDER SECTIONS 36 AND 37 OF THIS ACT.*
24 *NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE*
25 *BANGKO SENTRAL MAY SHARE WITH THE PHILIPPINE DEPOSIT INSURANCE*
26 *CORPORATION ANY INFORMATION THAT THE BANGKO SENTRAL MAY*
27 *OBTAIN PERTAINING TO TRANSFER OR ACQUISITION OF SHARES OR SERIES*
28 *OF TRANSFERS OR ACQUISITION OF SHARES IN BANKS AND QUASI-BANKS."*
29

30 SEC. 9. Section 28 of the same Act is hereby amended to read as follows:
31

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

16 “The **INSTITUTION** [~~bank~~] concerned shall afford to the head of the
17 appropriate supervising and examining departments and to his authorized
18 deputies full opportunity to examine its books **AND RECORDS**, cash and
19 [~~available~~] assets and general condition **AND REVIEW ITS SYSTEMS AND**
20 **PROCEDURES** at any time during **BUSINESS** [~~banking~~] hours when requested
21 to do so by the *Bangko Sentral*: *Provided, however,* That none of the reports
22 and other papers relative to such examinations shall be open to inspection by
23 the public except insofar as such publicity is incidental to the proceedings
24 hereinafter authorized or is necessary for the prosecution of violations in
25 connection with the business of such institutions.

26 “[~~Banking and quasi-banking institutions which are subject to~~
27 ~~examination by the Bangko Sentral~~] **SUPERVISED INSTITUTIONS** shall pay to
28 the *Bangko Sentral*, **NO LATER THAN MAY 31 OF EACH YEAR** [~~within the first~~
29 ~~thirty (30) days of each year~~], an annual **SUPERVISION** fee [~~in an amount~~
30 ~~equal to a percentage,~~] as may be prescribed by the Monetary Board.[~~of its~~
31 ~~average total assets during the preceding year as shown on its end-of-month~~

1 ~~balance sheets, after deducting cash on hand and amounts due from banks,~~
2 ~~including the *Bangko Sentral* and banks abroad.] IN DETERMINING THE~~
3 ~~ANNUAL SUPERVISION FEE, THE MONETARY BOARD SHALL CONSIDER THE~~
4 ~~COST OF SUPERVISION."~~

5
6 **SEC. 10.** A new section entitled Section 28-A is hereby inserted in the same Act to
7 read as follows:

8
9 **"SEC. 28-A. BANGKO SENTRAL COORDINATION. – THE SUSPENSION**
10 **OR REVOCATION OF ANY GOVERNMENT LICENSE NECESSARY FOR THE**
11 **OPERATION OF A BANGKO SENTRAL-SUPERVISED ENTITY MUST BE DONE**
12 **ONLY WITH PRIOR CONSULTATION WITH THE BANGKO SENTRAL."**

13
14 **SEC. 11.** Section 30 of the same Act is hereby amended to read as follows:

15
16 **"SEC. 30. *Proceedings in Receivership and Liquidation.*** - Whenever,
17 upon report of the head of the supervising or examining department, the
18 Monetary Board finds that a bank or quasi-bank:

19 "(a) is unable to pay its liabilities as they become due in the ordinary
20 course of business: *Provided*, That this shall not include inability to pay
21 caused by extraordinary demands induced by financial panic in the banking
22 community;

23 "(b) has insufficient realizable assets, as determined by the *Bangko*
24 *Sentral*, to meet its liabilities; or

25 "(c) cannot continue in business without involving probable losses to
26 its depositors or creditors; or

27 "(d) has willfully violated a cease and desist order under Section 37
28 that has become final, involving acts or transactions which amount to fraud
29 or a dissipation of the assets of the institution; in which cases, the Monetary
30 Board may summarily and without need for prior hearing forbid the
31 institution from doing business in the Philippines and designate the

1 Philippine Deposit Insurance Corporation as receiver of the banking
2 institution.

3 ~~"[For a quasi bank, any person of recognized competence in banking~~
4 ~~or finance may be designated as receiver.]~~

5 "The receiver shall immediately gather and take charge of all the
6 assets and liabilities of the institution, administer the same for the benefit of
7 its creditors, and exercise the general powers of a receiver under the Revised
8 Rules of Court but shall not, with the exception of administrative
9 expenditures, pay or commit any act that will involve the transfer or
10 disposition of any asset of the institution: *Provided*, That the receiver may
11 deposit or place the funds of the institution in nonspeculative investments.
12 The receiver shall determine as soon as possible, but not later than ninety
13 (90) days from takeover, whether the institution may be rehabilitated or
14 otherwise placed in such a condition so that it may be permitted to resume
15 business with safety to its depositors and creditors and the general public:
16 *Provided*, That any determination for the resumption of business of the
17 institution shall be subject to prior approval of the Monetary Board.

18 **"IN ORDER TO REHABILITATE THE CLOSED INSTITUTION OR TO**
19 **RESTORE ITS OPERATIONS WITH SAFETY TO ITS DEPOSITORS, CREDITORS**
20 **AND THE GENERAL PUBLIC, OR TO MERGE OR CONSOLIDATE THE CLOSED**
21 **INSTITUTION WITH ANOTHER QUALIFIED INSTITUTION, THE RECEIVER MAY**
22 **IMMEDIATELY TRANSFER OR DISPOSE OF ANY OR ALL OF THE ASSETS OF**
23 **THE CLOSED INSTITUTION, CAUSE QUASI-REORGANIZATION OF THE**
24 **INSTITUTION, AND SUCH OTHER ACTS AS MAY BE AUTHORIZED BY LAW.**

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

30 "1. file *ex parte* with the proper regional trial court, and without
31 requirement of prior notice or any other action, a petition for assistance in

1 the liquidation of the institution pursuant to a liquidation plan adopted by
2 the Philippine Deposit Insurance Corporation for general application to all
3 closed banks. In case of quasi-banks, the liquidation plan shall be adopted by
4 the Monetary Board. Upon acquiring jurisdiction, the court shall, upon
5 motion by the receiver after due notice, adjudicate disputed claims against
6 the institution, assist the enforcement of individual liabilities of the
7 stockholders, directors and officers, and decide on other issues as may be
8 material to implement the liquidation plan adopted. The receiver shall pay
9 the cost of the proceedings from the assets of the institution.

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

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

1 exclusively with the Monetary Board. Furthermore, the designation of a
2 conservator is not a precondition to the designation of a receiver.

3 "THE AUTHORITY OF THE MONETARY BOARD TO PLACE A BANK OR
4 QUASI-BANK UNDER RECEIVERSHIP AS PROVIDED ABOVE MAY ALSO BE
5 EXERCISED OVER NON-STOCK SAVINGS AND LOAN ASSOCIATIONS, BASED
6 ON THE SAME APPLICABLE GROUNDS. FOR QUASI-BANKS AND NON-STOCK
7 SAVINGS AND LOAN ASSOCIATIONS, ANY PERSON OF RECOGNIZED
8 COMPETENCE IN BANKING, CREDIT OR FINANCE MAY BE DESIGNATED AS A
9 RECEIVER."

10
11 **SEC. 12.** Section 31 of the same Act is hereby amended to read as follows:

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

19
20 **SEC. 13.** Section 32 of the same Act is hereby amended to read as follows:

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

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

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

14 **“THIS SHALL ALSO APPLY TO THE OFFICER, OWNER, AGENT,**
15 **MANAGER, DIRECTOR OR OFFICER-IN-CHARGE OF THE AFFILIATE**
16 **COMPANY/IES AND PARENT COMPANY OF A BANK OR QUASI-BANK, AS**
17 **WELL AS THE AFFILIATES OF SUCH PARENT COMPANY, WHOSE**
18 **TRANSACTIONS ARE SUBJECT TO 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
30 **SEC. 16.** Section 36 of the same Act is hereby amended to read as follows:

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

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

19 **SEC. 17.** Section 37 of the same Act is hereby amended to read as follows:
20

21 “SEC. 37. *Administrative Sanctions on Banks and Quasi-Banks.* —
22 Without prejudice to the criminal sanctions against the culpable persons
23 provided in Sections 34, 35, and 36 of this Act, the Monetary Board may, at
24 its discretion, impose upon any bank or quasi-bank, **INCLUDING THEIR**
25 **SUBSIDIARIES AND AFFILIATES ENGAGED IN ALLIED ACTIVITIES, OR OTHER**
26 **ENTITIES WHICH UNDER THIS ACT OR SPECIAL LAWS ARE SUBJECT TO THE**
27 **BANGKO SENTRAL SUPERVISION, AND/OR** their directors, officers and/or
28 **EMPLOYEES**, for any willful violation of its charter or by-laws, willful delay in
29 the submission of reports or publications thereof as required by law, rules
30 and regulations; any refusal to permit examination into the affairs of the
31 institution; any willful making of a false or misleading statement to the Board

1 or the appropriate supervising and examining department or its examiners;
2 any willful failure or refusal to comply with, or violation of, any banking law
3 or any order, instruction or regulation issued by the Monetary Board, or any
4 order, instruction or ruling by the Governor; or any commission of
5 irregularities, and/or conducting business in an unsafe or unsound manner as
6 may be determined by the Monetary Board, the following administrative
7 sanctions, whenever applicable:

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

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

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

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

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

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

27 “The Monetary Board may, whenever warranted by circumstances,
28 preventively suspend any director or officer of [~~a bank or quasi-bank~~] **THE**
29 **INSTITUTION** pending an investigation: *Provided*, That should the case be not
30 finally decided by the *Bangko Sentral* within a period of one hundred twenty
31 (120) days after the date of suspension, said director or officer shall be

1 reinstated in his position: *Provided, further,* That when the delay in the
2 disposition of the case is due to the fault, negligence or petition of the
3 director or officer, the period of delay shall not be counted in computing the
4 period of suspension herein provided.

5 "The above administrative sanctions need not be applied in the order
6 of their severity.

7 "Whether or not there is an administrative proceeding, if the
8 institution and/or the directors, officers and/or **EMPLOYEES** concerned
9 continue with or otherwise persist in the commission of the indicated
10 practice or violation, the Monetary Board may issue an order requiring the
11 institution and/or the directors, officers and/or **EMPLOYEES** concerned to
12 cease and desist from the indicated practice or violation, and may further
13 order that immediate action be taken to correct the conditions resulting
14 from such practice or violation. The cease and desist order shall be
15 immediately effective upon service on the respondents.

16 "The respondents shall be afforded an opportunity to defend their
17 action in a hearing before the Monetary Board or any committee chaired by
18 any Monetary Board member created for the purpose, upon request made
19 by the respondents within five (5) days from their receipt of the order. If no
20 such hearing is requested within said period, the order shall be final. If a
21 hearing is conducted, all issues shall be determined on the basis of records,
22 after which the Monetary Board may either reconsider or make final its
23 order.

24 "The Governor is hereby authorized, at his discretion, to impose upon
25 [~~banking institutions~~], **BANKS AND QUASI-BANKS, INCLUDING THEIR**
26 **SUBSIDIARIES AND AFFILIATES ENGAGED IN ALLIED ACTIVITIES, AND OTHER**
27 **ENTITIES WHICH UNDER SPECIAL LAWS ARE SUBJECT TO BANGKO SENTRAL**
28 **SUPERVISION** for any failure to comply with the requirements of law,
29 Monetary Board regulations and policies, and/or instructions issued by the
30 Monetary Board or by the Governor, fines not in excess of [~~Ten thousand~~
31 ~~pesos (P10,000)] **ONE HUNDRED THOUSAND PESOS (P100,000.00) FOR**~~

1 EACH TRANSACTIONAL VIOLATION OR THIRTY THOUSAND PESOS
2 (P30,000.00) PER BANKING [a] day for each CONTINUING violation, the
3 imposition of which shall be final and executory until reversed, modified or
4 lifted by the Monetary Board on appeal.”

5
6 SEC. 18. A new section entitled Section 38-A is hereby inserted in the same Act to
7 read as follows:

8
9 “SEC. 38-A. *ISSUANCE OF PROVISIONAL REMEDIES AGAINST*
10 *BANGKO SENTRAL ACTIONS.* – NO COURT, OTHER THAN THE COURT OF
11 APPEALS AND THE SUPREME COURT, SHALL ISSUE ANY TEMPORARY
12 RESTRAINING ORDER, PRELIMINARY INJUNCTION OR PRELIMINARY
13 MANDATORY INJUNCTION AGAINST THE *BANGKO SENTRAL* FOR ANY
14 ACTION UNDER THIS ACT.

15 “ANY RESTRAINING ORDER OR INJUNCTION ISSUED IN VIOLATION
16 OF THIS SECTION IS VOID AND OF NO FORCE AND EFFECT.

17 “THE PROVISIONS OF RULE 58 OF THE 1997 RULES ON CIVIL
18 PROCEDURE IN SO FAR AS THEY ARE APPLICABLE AND NOT INCONSISTENT
19 WITH THE PROVISIONS OF THIS ACT SHALL GOVERN THE ISSUANCE AND
20 DISSOLUTION OF THE RESTRAINING ORDER OR INJUNCTION AGAINST THE
21 *BANGKO SENTRAL.*”

22
23 SEC. 19. Section 43 of the same Act is hereby amended as follows:

24
25 “SEC. 43. *Computation of Profits and Losses.* — Within the first thirty
26 (30) days following the end of each year, the *Bangko Sentral* shall determine
27 its net profits or losses. [~~In the calculation of net profits, the *Bangko Sentral*~~
28 ~~shall make adequate allowance or establish adequate reserves for bad and~~
29 ~~doubtful accounts].~~ NOTWITHSTANDING ANY PROVISION OF LAW TO THE
30 CONTRARY, THE NET PROFIT OF THE *BANGKO SENTRAL* SHALL BE
31 DETERMINED AFTER ALLOWING FOR EXPENSES OF OPERATION ADEQUATE

1 ALLOWANCES AND PROVISIONS FOR BAD AND DOUBTFUL DEBTS,
2 DEPRECIATION IN ASSETS, AND SUCH OTHER ALLOWANCES AND
3 CONTINGENCIES OR PURPOSES AS THE MONETARY BOARD MAY
4 DETERMINE IN ACCORDANCE WITH PRUDENT FINANCIAL MANAGEMENT.”
5

6 SEC. 20. A new section entitled Section 43-A is hereby inserted in the same Act to
7 read as follows:
8

9 “SEC. 43-A. *BANGKO SENTRAL RESERVE FUND.* - THE *BANGKO*
10 *SENTRAL* SHALL ESTABLISH A RESERVE FUND TO MITIGATE FUTURE RISKS
11 AND CONTINGENCIES INHERENT IN CARRYING OUT THE *BANGKO SENTRAL*-
12 MANDATED FUNCTIONS AS CENTRAL MONETARY AUTHORITY. THE
13 RESERVE FUND SHALL CONSIST OF FLUCTUATION RESERVE, CONTINGENCY
14 RESERVE AND SUCH OTHER RESERVES AS THE MONETARY BOARD DEEMS
15 PRUDENT OR NECESSARY.

16 “THE FLUCTUATION RESERVE SHALL COVER LOSSES FROM
17 EXCHANGE RATE AND PRICE VOLATILITY AND SHALL BE DERIVED FROM THE
18 NET PROFITS BEFORE DISTRIBUTION, AS PROVIDED UNDER SECTION 44 OF
19 THIS ACT. ALL OTHER RESERVE FUNDS SHALL BE SOURCED FROM
20 SURPLUS.”
21

22 SEC. 21. Section 45 of the same Act is hereby amended to read as follows:
23

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

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

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

20
21 **SEC. 22.** Section 61 of the same Act is hereby amended to read as follows:
22

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

30
31 **SEC. 23.** Section 63 of the same Act is hereby amended to read as follows:

1
2 "SEC. 63. Action when Abnormal Movements Occur in the ~~[Monetary~~
3 ~~Aggregates, Credit, Or]~~ Price Level. — Whenever abnormal movements in the
4 ~~[monetary aggregates, in credit, or in]~~ prices endanger the stability of the
5 Philippine economy or important sectors thereof, the Monetary Board shall:

6 "(a) take such remedial measures as are appropriate and within the
7 powers granted to the Monetary Board and the *Bangko Sentral* under the
8 provisions of this Act; and

9 "(b) submit to the President of the Philippines and the Congress, and
10 make public, a detailed report which shall include, as a minimum, a
11 description and analysis of:

12 "(1) the causes of the rise or fall of ~~[the monetary aggregates,~~
13 ~~of credit or of]~~ prices;

14 "(2) the extent to which the changes in ~~[the monetary~~
15 ~~aggregates, in credit, or in]~~ prices have been reflected in changes in
16 the level of domestic output, employment, wages and economic
17 activity in general, and the nature and significance of any such
18 changes; and

19 "(3) the measures which the Monetary Board has taken and
20 the other monetary, fiscal or administrative measures which it
21 recommends to be adopted.

22 "Whenever the ~~[monetary aggregates, or the level of credit, increases~~
23 ~~or decreases by more than fifteen percent (15%), or the]~~ cost of living index
24 increases by more than ten percent (10%), in relation to the level existing at
25 the end of the corresponding month of the preceding year, or even though
26 ~~[any of these]~~ **THIS** quantitative guideline~~[s have]~~ **HAS** not been reached
27 when in its judgment the circumstances so warrant, the Monetary Board
28 shall submit the reports mentioned in this Section, and shall state therein
29 whether, in the opinion of the Board, said changes in the ~~[monetary~~
30 ~~aggregates, credit or]~~ cost of living represent a threat to the stability of the
31 Philippine economy or of important sectors thereof.

1 “The Monetary Board shall continue to submit periodic reports to the
2 President of the Philippines and to Congress until it considers that the
3 [~~monetary, credit or~~] price disturbances have disappeared or have been
4 adequately controlled.”
5

6 **SEC. 24.** Section 81 of the same Act is hereby amended to read as follows:
7

8 “SEC. 81. *Guiding Principles.* — The rediscounts, discounts, loans and
9 advances which the *Bangko Sentral* is authorized to extend to banking
10 institutions, under the provisions of the present article of this Act shall be
11 used to influence the volume of credit consistent with the objective of price
12 stability **AND MAINTENANCE OF FINANCIAL STABILITY.**”
13

14 **SEC. 25.** Section 84 of the same Act is hereby amended to read as follows:
15

16 “SEC. 84. *Emergency Loans and Advances.* - In periods of national
17 and/or local emergency or of imminent financial panic which directly
18 threaten monetary and **FINANCIAL** [~~banking~~] stability, the Monetary Board
19 may, by a vote of at least five (5) of its members, authorize the *Bangko*
20 *Sentral* to grant extraordinary loans or advances to banking institutions,
21 secured by assets as defined hereunder: *Provided*, That while such loans or
22 advances are outstanding, the debtor institution shall not, except upon prior
23 authorization by the Monetary Board, expand the total volume of its loans or
24 investments.
25

26 “The Monetary Board may, at its discretion, likewise authorize the
27 *Bangko Sentral* to grant emergency loans or advances to banking institutions,
28 even during normal periods, for the purpose of assisting a bank in a
29 precarious financial condition or under serious financial pressures brought by
30 unforeseen events, or events which, though foreseeable, could not be
31 prevented by the bank concerned: *Provided, however*, That the Monetary
Board has ascertained that the bank is not insolvent and has the assets

1 defined hereunder to secure the advances: *Provided, further,* That a
2 concurrent vote of at least five (5) members of the Monetary Board is
3 obtained.

4 "The amount of any emergency loan or advance shall not exceed the
5 sum of fifty percent (50%) of total deposits and deposit substitutes of the
6 banking institution, and shall be disbursed in two (2) or more tranches. The
7 amount of the first tranche shall be limited to twenty-five percent (25%) of
8 the total deposit and deposit substitutes of the institution and shall be
9 secured by (A) government securities, (B) **ACCEPTABLE GUARANTEES**
10 **BACKED UP BY THE NATIONAL GOVERNMENT OR ITS SECURITIES;** (C) ~~to~~
11 ~~the extent of their applicable loan values and~~ other unencumbered first
12 class collaterals and (D) **OTHER KINDS OF COLLATERALS AS MAY BE**
13 **AUTHORIZED BY THE MONETARY BOARD IN ACCORDANCE WITH SOUND**
14 **RISK MANAGEMENT PRINCIPLES** ~~[which the Monetary Board may approve]:~~
15 *Provided,* That if as determined by the Monetary Board, the circumstances
16 surrounding the emergency warrant a loan or advance greater than the
17 amount provided hereinabove, the amount of the first tranche may exceed
18 twenty-five percent (25%) of the bank's total deposit and deposit substitutes
19 if the same is adequately secured by applicable loan values of government
20 securities and unencumbered first class collaterals approved by the
21 Monetary Board, and the principal stockholders of the institution furnish an
22 acceptable undertaking to indemnify and hold harmless from suit a
23 conservator whose appointment the Monetary Board may find necessary at
24 any time.

25 "Prior to the release of the first tranche, the banking institution shall
26 submit to the *Bangko Sentral* a resolution of its board of directors
27 authorizing the *Bangko Sentral* to evaluate other assets of the banking
28 institution certified by its external auditor to be good and available for
29 collateral purposes should the release of the subsequent tranche be
30 thereafter applied for.

1 “The Monetary Board may, by a vote of at least five (5) of its
2 members, authorize the release of a subsequent tranche on condition that
3 the principal stockholders of the institution:

4 “(a) furnish an acceptable undertaking to indemnify and hold
5 harmless from suit a conservator whose appointment the Monetary Board
6 may find necessary at any time; and

7 “(b) provide acceptable security which, in the judgment of the
8 Monetary Board, would be adequate to supplement, where necessary, the
9 assets tendered by the banking institution to collateralize the subsequent
10 tranche.

11 “In connection with the exercise of these powers, the prohibitions in
12 Section 128 of this Act shall not apply insofar as it refers to acceptance as
13 collateral of shares and their acquisition as a result of foreclosure
14 proceedings, including the exercise of voting rights pertaining to said shares:
15 *Provided, however, That should the Bangko Sentral acquire any of the shares*
16 *it has accepted as collateral as a result of foreclosure proceedings, the*
17 *Bangko Sentral shall dispose of said shares by public bidding within one (1)*
18 *year from the date of consolidation of title by the Bangko Sentral.*

19 “Whenever a financial institution incurs an overdraft in its account
20 with the *Bangko Sentral*, the same shall be eliminated within the period
21 prescribed in Section 102 of this Act.”
22

23 **SEC. 26.** A new section entitled Section 88-A is hereby inserted in the same Act to
24 read as follows:
25

26 **“SEC. 88-A. EXEMPTION FROM ATTACHMENT. - COLLATERALS ON**
27 **LOANS AND ADVANCES GRANTED BY THE BANGKO SENTRAL, WHETHER OR**
28 **NOT THE INTEREST OF THE BANGKO SENTRAL IS REGISTERED, SHALL NOT BE**
29 **SUBJECT TO ATTACHMENT, EXECUTION OR ANY OTHER COURT PROCESS OR**
30 **ADMINISTRATIVE RESTRICTIONS ON LAND USE, NOR SHALL THEY BE**
31 **INCLUDED IN THE PROPERTY OF INSOLVENT PERSONS OR INSTITUTIONS.”**

1
2 **SEC. 27.** A new section entitled Section 88-B is hereby inserted in the same Act to
3 read as follows:
4

5 **"SEC. 88-B. DEPUTIZATION OF LEGAL STAFF. – IN CASE OF AN**
6 **EXTRAJUDICIAL FORECLOSURE OF MORTGAGE, THE *BANGKO SENTRAL* MAY**
7 **DEPUTIZE ANY OF ITS LAWYERS TO CONDUCT THE PUBLIC AUCTION**
8 **PURSUANT TO ACT NO. 3135, AS AMENDED. IN CASE OF A JUDICIAL**
9 **FORECLOSURE, THE *BANGKO SENTRAL* MAY, WITH THE APPROVAL OF THE**
10 **COURT, LIKEWISE DEPUTIZE ANY OF ITS LAWYERS TO ACT AS SPECIAL**
11 **SHERIFF IN THE SALE OF A DEBTOR'S PROPERTIES AND IN THE**
12 **ENFORCEMENT OF COURT WRITS AND PROCESSES RELATED THERETO. THE**
13 **SPECIAL SHERIFF OF THE *BANGKO SENTRAL* SHALL MAKE A REPORT TO THE**
14 **PROPER COURT AFTER ANY ACTION HAS BEEN TAKEN BY HIM, WHICH**
15 **COURT SHALL TREAT SUCH ACTION AS IF IT WERE AN ACT OF ITS OWN**
16 **SHERIFF IN ALL RESPECTS.**

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

1
2 **SEC. 28.** A new section entitled Section 88-C is hereby inserted in the same Act to
3 read as follows:
4

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

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

28 **SEC. 29.** A new section entitled Section 88-D is hereby inserted in the same Act to
29 read as follows:
30

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

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

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

16 **SEC. 31.** A new section entitled Section 89-B is hereby inserted in the same Act to
17 read as follows:
18

19 “SEC. 89-B. *LOANS TO THE PHILIPPINE DEPOSIT INSURANCE*
20 *CORPORATION.* – THE *BANGKO SENTRAL*, PURSUANT TO ITS MANDATE OF
21 MAINTAINING FINANCIAL STABILITY, MAY LEND TO THE PHILIPPINE
22 DEPOSIT INSURANCE CORPORATION FUNDS FOR INSURANCE PURPOSE
23 AND FOR FINANCIAL ASSISTANCE THAT THE LATTER IS AUTHORIZED TO
24 EXTEND UNDER SECTION 17(D) OF REPUBLIC ACT NO. 3591, AS AMENDED,
25 TO AN INSURED BANK IN DANGER OF CLOSING IN ORDER TO MINIMIZE
26 LOSSES TO ITS DEPOSITORS AND CREDITORS. NOTWITHSTANDING SECTION
27 18 OF REPUBLIC ACT NO. 3591, AS AMENDED, THE MONETARY BOARD
28 SHALL PRESCRIBE INTEREST RATES AND SUCH OTHER TERMS AND
29 CONDITIONS OF THE LOAN.”
30

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

1
2 "SEC. 92. *Issue and Negotiation of Bangko Sentral Obligations.* — In
3 order to provide the *Bangko Sentral* with effective instruments for open
4 market operations, the *Bangko Sentral* may, subject to such rules and
5 regulations as the Monetary Board may prescribe and in accordance with the
6 principles stated in Section 90 of this Act, issue, place, buy and sell freely
7 negotiable evidences of indebtedness of the *Bangko Sentral*. [~~Provided, That~~
8 ~~issuance of such certificates of indebtedness shall be made only in cases of~~
9 ~~extraordinary movement in price levels.~~] Said evidences of indebtedness may
10 be issued directly against the international reserve of the *Bangko Sentral* or
11 against the securities which it has acquired under the provisions of Section
12 91 of this Act, or may be issued without relation to specific types of assets of
13 the *Bangko Sentral*.

14 "The Monetary Board shall determine the interest rates, maturities
15 and other characteristics of said obligations of the *Bangko Sentral*, and may,
16 if it deems it advisable, denominate the obligations in gold or foreign
17 currencies.

18 "Subject to the principles stated in Section 90 of this Act, the
19 evidences of indebtedness of the *Bangko Sentral* to which this section refers
20 may be acquired by the *Bangko Sentral* before their maturity, either through
21 purchases in the open market or through redemptions at par and by lot if the
22 *Bangko Sentral* has reserved the right to make such redemptions. The
23 evidences of indebtedness acquired or redeemed by the *Bangko Sentral* shall
24 not be included among its assets, and shall be immediately retired and
25 cancelled."

26
27 **SEC. 33.** Section 95 of the same Act is hereby amended to read as follows:

28
29 "SEC. 95. *Definition of Deposit Substitutes.* — The term "deposit
30 substitutes" is defined as an alternative form of obtaining funds from the
31 public, other than deposits, through the issuance, endorsement, or

1 acceptance of debt instruments for the borrower's own account, for the
2 purpose of relending or purchasing of receivables and other obligations.
3 These instruments may include, but need not be limited to, bankers
4 acceptances, promissory notes, participations, certificates of assignment and
5 similar instruments with recourse, and repurchase agreements. **THE TERM**
6 **'PUBLIC' MEANS BORROWING FROM TWENTY (20) OR MORE LENDERS AT**
7 **ANY ONE TIME. FOR THIS PURPOSE, "LENDERS" SHALL REFER TO**
8 **INDIVIDUALS AND CORPORATE ENTITIES THAT ARE NOT ACTING AS**
9 **FINANCIAL INTERMEDIARIES, SUBJECT TO THE SAFEGUARDS AND**
10 **REGULATIONS ISSUED BY THE MONETARY BOARD.** The Monetary Board
11 shall determine what specific instruments shall be considered as deposit
12 substitutes for the purposes of SECTION 94 of this Act[?]. *Provided, however,*
13 That deposit substitutes of commercial, industrial and other non-financial
14 companies for the limited purpose of financing their own needs or the needs
15 of their agents or dealers shall not be covered by the provisions of Section 94
16 of this Act."

17
18 **SEC. 34.** Section 101 of the same Act is hereby amended to read as follows:
19

20 "SEC. 101. *Reserve Deficiencies.* - Whenever the reserve position of
21 any bank or quasi-bank, computed in the manner specified in the preceding
22 section of this Act, is below the required minimum, the bank or quasi-bank
23 shall pay the *Bangko Sentral* one-tenth of one percent (1/10 of 1%) per day
24 on the amount of the deficiency or the prevailing ninety-one-day treasury bill
25 rate plus three percentage points, whichever is higher: *Provided, however,*
26 That banks and quasi-banks shall ordinarily be permitted to offset any
27 reserve deficiency occurring on one or more days of the week with any
28 excess reserves which they may hold on other days of the same week and
29 shall be required to pay the penalty only on the average daily deficiency
30 during the week. In cases of abuse, the Monetary Board may deny any bank

or quasi-bank the privilege of offsetting reserve deficiencies in the aforesaid manner.

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

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

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

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

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

"SEC. 108. *Minimum Capital Ratios.* — The Monetary Board may prescribe minimum **RISK-BASED CAPITAL ADEQUACY** ratios **BASED ON INTERNATIONALLY ACCEPTED STANDARDS** ~~[which the capital and surplus of the banks must bear to the volume of their assets, or to specific categories~~

1 ~~thereof,]~~ and may alter said ratios whenever it deems necessary. **IN THE**
2 **EXERCISE OF ITS AUTHORITY UNDER THIS SECTION, THE MONETARY BOARD**
3 **MAY PRESCRIBE A HIGHER MINIMUM CAPITAL ADEQUACY RATIO FOR**
4 **DIFFERENT BANK CATEGORIES AS MAY BE WARRANTED BY THEIR RISK**
5 **PROFILE.”**
6

7 **SEC. 37.** Section 113 of the same Act is hereby amended to read as follows:
8

9 “SEC. 113. *Official Deposits.* — The *Bangko Sentral* shall be the official
10 depository of the Government, its political subdivisions and instrumentalities
11 as well as of government-owned or -controlled corporations and, as a
12 general policy, their cash balances should be deposited with the *Bangko*
13 *Sentral*, with only minimum working balances to be held by government-
14 owned banks and such other banks incorporated in the Philippines as the
15 Monetary Board may designate, subject to such rules and regulations as the
16 Board may prescribe: *Provided*, That such banks may hold deposits of the
17 political subdivisions and instrumentalities of the Government beyond their
18 minimum working balances whenever such subdivisions and
19 instrumentalities have outstanding loans with said banks.

20 “The *Bangko Sentral* may **ACCEPT DEPOSITS AND** pay interest on
21 **SUCH deposits AND OTHER SIMILAR PLACEMENTS** of the Government or of
22 its political subdivisions and instrumentalities, banks **AND OTHER BANGKO**
23 **SENTRAL-SUPERVISED INSTITUTIONS.”**
24

25 **SEC. 38.** Section 123 of the same Act is hereby amended to read as follows:
26

27 “SEC. 125. *TAX EXEMPTIONS.* — The *Bangko Sentral* shall be exempt
28 ~~for a period of five (5) years from the approval of this Act~~ from all national,
29 provincial, municipal and city taxes, fees, charges and assessments.

30 “The exemption authorized in the preceding paragraph of this section
31 shall apply to all property of the *Bangko Sentral*, to the resources, receipts,

1 expenditures, profits and income of the *Bangko Sentral*, as well as to all
2 contracts, deeds, documents and transactions related to the conduct of the
3 business of the *Bangko Sentral*: *Provided, however*, That said exemptions
4 shall apply only to such taxes, fees, charges and assessments for which the
5 *Bangko Sentral* itself would otherwise be liable, and shall not apply to taxes,
6 fees, charges, or assessments payable by persons or other entities doing
7 business with the *Bangko Sentral*: *Provided, further*, That foreign loans and
8 other obligations of the *Bangko Sentral* shall be exempt, both as to principal
9 and interest, from any and all taxes if the payment of such taxes has been
10 assumed by the *Bangko Sentral*."

11
12 **SEC. 39.** Section 128 of the same Act is hereby amended to read as follows:
13

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

22 "The *Bangko Sentral* shall not engage in development banking or
23 financing: *Provided, however*, That outstanding loans obtained or extended
24 for development financing shall not be affected by the prohibition of this
25 section."

26
27 **SEC. 40. *Repealing Clause.*** All provisions of existing laws, orders, rules and
28 regulations, or parts thereof which are in conflict or inconsistent with the provisions of this
29 Act are hereby repealed, amended or modified accordingly.
30

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

4
5 **SEC. 42. *Effectivity.*** This Act shall take effect fifteen (15) days following its
6 publication in the *Official Gazette* or in a newspaper of general circulation in the Philippines.