

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

Sixteenth Congress
First Regular Session

HOUSE BILL No. **3984**



Introduced by Hon. Nelson "Sonny" P. Collantes

In 1994, Republic Act (R.A.) No. 7721 was enacted liberalizing the entry of foreign banks into the country by providing for three (3) modes through which foreign banks may enter, namely by (i) acquisition of up to sixty percent (60%) of the voting stock of an existing bank, (ii) investing in up to sixty percent (60%) of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines; or (iii) establishment of branches in the Philippines. The last mode of entry was made available for only five (5) years from the effectivity of R.A. 7721. On the other hand, while the availability of the first mode was extended and expanded by allowing foreign banks to own 100% of the voting stock of a domestic bank, this privilege was granted only for a period of seven years starting 2000, pursuant to R.A. 8791, otherwise known as the General Banking Law of 2000.

The opening of the banking sector to more established foreign banks was spurred by the economic benefits foreseen with the liberalized economy brought about by the General Agreement on Trade and Tariff (GATT). The Philippines benefited from this move by fostering competition in the banking industry which, in turn, raised the efficiency levels of banks through adoption of new technology and enhancement of human resource skills, reduced operating costs, instilled corporate governance structure reforms, encouraged more transparency and further developed the supervisory and regulatory framework. It can also be said that by allowing international players in the banking industry, the Philippines witnessed an increase in the availability of funds at competitive rates and increase in the options of financial instruments or products available in the market.

Once again, the Philippines is at the forefront of further regionalization in the ASEAN region, particularly through the ASEAN Banking Integration Framework which is intended to be implemented by 2020. The economic and financial integration of the ASEAN region is expected to bring across the region opportunities for growth and expansion particularly in the banking industry. The Philippines will benefit from this if the current limitations and restrictions inherent in its banking laws governing entry of foreign banks in the Philippines will be lifted to a certain extent. The

Philippines now has the chance to be a step ahead and position itself ready to take advantage of the benefits of this economic integration through the further opening of the banking industry to foreign banks, which the present bill seeks to timely address.

The entry of foreign banks through full acquisition of voting stock of domestic banks can also serve as a tool to further strengthen the financial system. This opens up opportunities for weak banks to exit from the system through sale of their voting stock or equity to foreign banks which are expected to possess sufficient resources for such purpose. As cited above, foreign banks are also expected to bring new and fresh perspectives and technology in managing the entity which is fundamental in reversing conditions of investee bank. There is a greater incentive for foreign banks to engage in such transaction if the privilege to purchase the entire voting stock of the domestic bank is granted.

More importantly, the greater foreign participation in the banking industry is expected to augment the financial resources to which the Philippine economy may have access, thereby supporting the initiatives of the present administration in implementing various infrastructure projects and rehabilitation programs. The greater influx of capital coming into the Philippines and the availability of international capital to the domestic economy would also see expansion of enterprises and trades, which may potentially create more jobs for our fellow Filipinos.

Without a doubt, the Philippines stands to gain from the proposed expansion of foreign bank entry into the Philippines, especially in light of the prevailing economic conditions, both domestically and internationally.

For these reasons, the immediate passage of this bill is earnestly sought.


NELSON P. COLLANTES
Representative
3rd District, Batangas

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**AN ACT AMENDING REPUBLIC ACT NO. 7721, OTHERWISE KNOWN AS
"AN ACT LIBERALIZING THE ENTRY AND SCOPE OF OPERATIONS OF FOREIGN BANKS
IN THE PHILIPPINES AND FOR OTHER PURPOSES"**

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

Section 1. Section 2 of Republic Act No. 7721 is hereby amended to read as follows:

"Sec. 2. Modes of Entry. – The Monetary Board may authorize foreign banks to operate in the Philippine banking system through any **ONE** of the following modes of entry: (i) by acquiring, purchasing or owning up to **ONE HUNDRED PERCENT (100%)** ~~sixty percent (60%)~~ of the voting stock of an existing bank; (ii) by investing in up to **ONE HUNDRED PERCENT (100%)** ~~sixty percent (60%)~~ of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines; or (iii) by establishing branches with full banking authority: ~~Provided, That a foreign bank may avail itself of only one (1) mode of entry: Provided, further, That a foreign bank or a Philippine corporation may own up to a sixty percent (60%) of the voting stock of only one (1) domestic bank or new banking subsidiary.~~

Section 2. Section 3 of Republic Act No. 7721 is hereby amended to read as follows:

"Sec. 3. Guidelines for Approval. — In approving entry applications of foreign banks, the Monetary Board shall: (i) ensure geographic

17 representation and complementation; (ii) consider strategic trade and
18 investment relationships between the Philippines and the country of
19 incorporation of the foreign bank; (iii) study the demonstrated capacity,
20 global reputation for financial innovations and stability in a competitive
21 environment of the applicant; (iv) see to it that reciprocity rights are enjoyed
22 by Philippine banks in the applicant's country; and (v) consider willingness to
23 fully share their technology.

24 ~~"Only those among the top one hundred fifty (150) foreign banks in~~
25 ~~the world or the top five (5) banks in their country of origin as of the date of~~
26 ~~application~~ **ONLY ESTABLISHED, REPUTABLE AND FINANCIALLY SOUND**
27 **FOREIGN BANKS** shall be allowed entry in accordance with Section 2 **OF THIS**
28 ~~ACT(iii) and (iii) hereof. To qualify to establish a branch or a subsidiary, THE~~
29 **FOREIGN BANK APPLICANT MUST BE WIDELY-OWNED AND PUBLICLY-**
30 **LISTED, UNLESS THE FOREIGN BANK APPLICANT IS OWNED AND**
31 **CONTROLLED BY THE GOVERNMENT OF ITS COUNTRY OF ORIGIN.**

32 "In the exercise of this authority, the Monetary Board shall adopt such
33 measures as may be necessary to: ~~(i) ensure that at all times the control of AT~~
34 **LEAST** seventy percent (70%) of the resources or assets of the entire banking
35 system is held by domestic banks which are ~~at least majority-owned by~~
36 ~~Filipinos. (ii) prevent a dominant market position by one bank or the~~
37 ~~concentration of economic power in one or more financial institutions, or in~~
38 ~~corporations, participations, partnerships, groups or individuals with related~~
39 ~~interests; and (iii) secure the listing in the Philippine Stock Exchange of the~~
40 ~~shares of stocks of banking corporations established under Section 2(i) and~~
41 ~~(ii) of this Act, That said banking corporations shall establish stock option~~
42 ~~plans for their officers and employees as the resources or assets of these~~
43 ~~corporations may allow in the best business judgment of their respective~~
44 ~~boards of directors, pursuant to the Corporation Code of the Philippines. "To~~
45 ~~qualify to establish a branch or a subsidiary, the foreign bank applicant must~~
46 ~~be widely owned and publicly listed in its country of origin, unless the foreign~~
47 ~~bank applicant is owned by the government of its country of origin."~~

Section 3. Section 4 of Republic Act No. 7721 is hereby amended to read as follows:

"Sec. 4. Capital Requirements. — (i) For Locally Incorporated Subsidiaries. — The minimum capital required for locally incorporated subsidiaries of foreign banks shall be equal to that prescribed by the Monetary Board for domestic banks of the same category.

"(ii) For Foreign Bank Branches. — **FOREIGN BANKS THAT SHALL BE AUTHORIZED TO ESTABLISH BRANCHES** ~~seeking entry pursuant to Section 2 (iii) of this Act shall permanently assign capital of not less than the U.S. dollar equivalent of Two Hundred ten million pesos (P210,000,000.00) at the exchange rate on the date of the effectivity of this Act, as~~ **OF AN AMOUNT NOT LESS THAN THE MINIMUM CAPITAL REQUIRED FOR DOMESTIC BANKS OF THE SAME CATEGORY** ~~ascertained by the Monetary Board in the rules and regulations to implement this Act, The permanently assigned capital shall be inwardly remitted and converted into Philippine currency. The foreign bank shall be entitled to three (3) branches.~~

The foreign bank **BRANCH** may open ~~three (3) additional~~ **UP TO FIVE (5) SUB-branches** ~~in locations designated AS MAY BE APPROVED by the Monetary Board. LOCALLY INCORPORATED SUBSIDIARIES OF FOREIGN BANKS PURSUANT TO SECTION 2(II) OF THIS ACT SHALL HAVE THE SAME BRANCHING PRIVILEGES AS DOMESTIC BANKS OF THE SAME CATEGORY by inwardly remitting and converting into Philippine currency as permanently assigned capital, the U.S. dollar equivalent of Thirty five million pesos (P35,000,000.00) per additional branch at the exchange rate on the date of the effectivity of this Act, as ascertained by the Monetary Board. The total number of branches for each new foreign bank entrant shall not exceed six (6).~~

~~"For purposes of meeting the prescribed capital ratios, the term "capital" shall include permanently assigned capital plus "net due to head office, branches and subsidiaries and offices outside the Philippines" in the ratio prescribed by law or as may be prescribed by the Monetary Board: Provided, That in all cases, the permanently assigned capital and fifteen~~

80 percent (15%) of "net due to" required to comply with prescribed capital
81 ratios shall be inwardly remitted and converted to Philippine currency:
82 *Provided, further,* That amounts invested in productive enterprises or utilized
83 by Philippine companies for export activities, shall not be subject to
84 conversion into Philippine currency: *Provided, finally,* That the Monetary
85 Board shall monitor the effective use of the "net due to" funds. Whenever
86 there results "net due from head office" outside the Philippines, this shall be
87 deducted from the capital accounts for purposes of determining the required
88 capital ratios."

89 Section 4. Section 6 of Republic Act No. 7721 is hereby repealed.

90 ~~"Sec. 6. Entrants under Section 2(iii). — Foreign banks shall be allowed~~
91 ~~entry under Section 2 (iii) within five (5) years from the effectivity of this Act.~~
92 ~~During this period, six (6) new foreign banks shall be allowed entry under~~
93 ~~Section 2 (iii) upon the approval of the Monetary Board. An additional four~~
94 ~~(4) foreign banks may be allowed entry on recommendation of the Monetary~~
95 ~~Board, subject to compliance with Sections 2, 3, 4 and 5 of this Act, upon~~
96 ~~approval of the President as the national interest may require."~~

97 Section 5. Section 8 of Republic Act No. 7721 is hereby amended to read as follows:

98 "Sec. 8 . Equal Treatment. — Foreign banks authorized to operate
99 under Section 2 of this Act, shall perform the same functions, enjoy the same
100 privileges, and be subject to the same limitations imposed upon a Philippine
101 bank of the same category; **PROVIDED, HOWEVER, THAT THE MONETARY**
102 **BOARD MAY PRESCRIBE A HIGHER SINGLE BORROWER'S LIMIT FOR A**
103 **FOREIGN BANK BRANCH UP TO THE EQUIVALENT OF ITS PERMANENTLY**
104 **ASSIGNED CAPITAL FOR THE PURPOSE OF PROMOTING FOREIGN**
105 **INVESTMENTS.** ~~These limits include, among others, the single borrower's~~
106 ~~limit and capital to risk asset ratio as well as the capitalization required for~~
107 ~~expanded commercial banking activities under the General Banking Act and~~
108 ~~other related laws of the Philippines.~~

109 "The foreign banks shall guarantee the observance of the rights of
110 their employees under the Constitution.

111 "Any right, privilege or incentive granted to foreign banks or their
112 subsidiaries or affiliates under this Act, shall be equally enjoyed by and
113 extended under the same conditions to Philippine banks. ~~Philippine~~
114 ~~corporations whose shares of stocks are listed in the Philippine Stock~~
115 ~~Exchange or are of long standing for at least ten (10) years shall have the~~
116 ~~right to acquire, purchase or own up to sixty percent (60%) of the voting~~
117 ~~stock of a domestic bank."~~

118 Section 6. A new provision in Section 9 is hereby inserted in the same Act, in lieu of
119 the original provisions of Section 9 repealed by Section 11 of Republic Act No. 10000.
120 Section 9 shall now read as follows:

121 ***"SECTION 9. PARTICIPATION IN FORECLOSURE PROCEEDINGS.***
122 **FOREIGN BANKS WHICH ARE AUTHORIZED TO DO BANKING BUSINESS IN**
123 **THE PHILIPPINES THROUGH ANY OF THE MODES OF ENTRY UNDER SECTION**
124 **2 SHALL BE ALLOWED TO BID AND TAKE PART IN FORECLOSURE SALES OF**
125 **REAL PROPERTY MORTGAGED TO THEM, AS WELL AS TO AVAIL OF**
126 **ENFORCEMENT AND OTHER PROCEEDINGS, AND ACCORDINGLY TAKE**
127 **POSSESSION OF THE MORTGAGED PROPERTY, FOR A PERIOD NOT**
128 **EXCEEDING FIVE (5) YEARS FROM ACTUAL POSSESSION: PROVIDED, THAT IN**
129 **NO EVENT SHALL TITLE TO THE PROPERTY BE TRANSFERRED TO SUCH**
130 **FOREIGN BANK. IN CASE SAID BANK IS THE WINNING BIDDER, IT SHALL,**
131 **DURING THE SAID FIVE (5)-YEAR PERIOD, TRANSFER ITS RIGHTS TO A**
132 **QUALIFIED PHILIPPINE NATIONAL, WITHOUT PREJUDICE TO A BORROWER'S**
133 **RIGHTS UNDER APPLICABLE LAWS. SHOULD THE BANK FAIL TO TRANSFER**
134 **SUCH PROPERTY WITHIN THE FIVE (5)-YEAR PERIOD, IT SHALL BE PENALIZED**
135 **ONE HALF (1/2) OF ONE PERCENT (1%) PER ANNUM OF THE PRICE AT**
136 **WHICH THE PROPERTY WAS FORECLOSED UNTIL IT IS ABLE TO TRANSFER**
137 **THE PROPERTY TO A QUALIFIED PHILIPPINE NATIONAL."**

138 Section 7. Section 10 of Republic Act No. 7721 is hereby amended to read as follows:

139 **"Sec. 10. Transitory Provisions. — FOREIGN BANKS WHICH ARE**
140 **ALREADY AUTHORIZED TO DO BANKING BUSINESS IN THE PHILIPPINES**
141 **THROUGH ANY OF THE MODES OF ENTRY UNDER SECTION 2 HEREOF MAY**
142 **APPLY TO CHANGE THEIR ORIGINAL MODE OF ENTRY.**

143 "Foreign banks operating through branches in the Philippines upon
144 the effectivity of this Act shall **RETAIN THEIR ORIGINAL PRIVILEGE UPON**
145 **ENTRY TO ESTABLISH A LIMITED NUMBER OF SUB-BRANCHES. HOWEVER,**
146 **THE PREVIOUS RESTRICTION ON THE LOCATIONS OF SUCH ADDITIONAL**
147 **BRANCHES IS HEREBY LIFTED.** ~~shall be eligible for the privilege of~~
148 ~~establishing up to six (6) additional branches under the same terms and~~
149 ~~conditions required by Section 4 (ii) hereof: Provided, That for any branch~~
150 ~~additional to what is existing at the time of the effectivity of this Act, the~~
151 ~~prescribed permanently assigned capital shall be complied with immediately:~~
152 ~~Provided, further, That a foreign bank may open three (3) branches in the~~
153 ~~location of its choice and the next three (3) branches in locations designated~~
154 ~~by the Monetary Board to insure balanced economic development in all the~~
155 ~~regions.~~

156 "The existing Philippine branches of foreign banks shall ~~be given~~
157 **COMPLY WITHIN ONE (1)** ~~one and a half (1 1/2)~~ years from the effectivity of
158 this Act ~~to comply~~ with the minimum capital requirements as prescribed
159 under Section 4 (ii) of this Act, **UNLESS OTHERWISE EXTENDED BY THE**
160 **MONETARY BOARD."**

161 Section 8. Section 12 of Republic Act No. 7721 is hereby amended to read as follows:

162 "Sec. 12. *Applicability of Other Banking Laws.* — ~~The provisions of~~
163 ~~Republic Act No. 337, as amended, otherwise known as the General Banking~~
164 ~~Act,~~ **THE PROVISIONS OF REPUBLIC ACT NO. 7653, OTHERWISE KNOWN AS**
165 **THE NEW CENTRAL BANK ACT, THE PROVISIONS OF REPUBLIC ACT NO.**
166 **8791, OTHERWISE KNOWN AS THE GENERAL BANKING LAW OF 2000,**
167 insofar as they are applicable and not in conflict with any provision of this
168 Act, shall apply to banks authorized pursuant to this Act."

169 Section 9. Section 13 of Republic Act No. 7721 is hereby amended as follows:

170 "Section 13. ~~Delegation of Rule-Making Powers~~ **OF THE MONETARY**
171 **BOARD OF THE BANGKO SENTRAL NG PILIPINAS** and Compliance Reports. —
172 The Monetary Board is hereby authorized to issue such rules and regulations
173 as may be needed to implement the provisions of this Act ~~in consultation~~
174 ~~with various stakeholders the chairpersons of the Banks Committee of the~~

~~House of Representatives and the Senate of the Philippines. On or before~~
May 30 of each year, the Monetary Board shall file a written report to
Congress and its respective Banks Committees, on the developments in the
implementation of this Act. **THE IMPLEMENTING RULES AND REGULATIONS**
OF THIS ACT SHALL BE PUBLISHED IN AT LEAST TWO (2) NEWSPAPERS OF
GENERAL CIRCULATION."

Section 10. Section 14 of Republic Act No. 7721 is hereby amended to read as
follows:

"Section 14.-Amendment and Repeal of Inconsistent Laws. — Sections
11, 12, 12 A, 12 B, 13, 14 A, 21 B, and 68 of Republic Act No. 337, as
amended, otherwise known as the General Banking Act; Sections 4 and 5 of
Republic Act No. 7353, otherwise known as the Rural Banks Act; Sections 4
and 14 of Republic Act No. 3779, as amended, otherwise known as the
Savings and Loan Association Act; and Section 4 of Republic Act No. 4093, as
amended, otherwise known as the Private Development Banks Act **ALL LAWS,**
DECREES, EXECUTIVE ORDERS, PROCLAMATIONS, RULES AND
REGULATIONS, AND OTHER ISSUANCES, OR PARTS THEREOF, insofar as they
are inconsistent with **THE PROVISIONS OF** this Act, are hereby repealed or
modified accordingly."

Section 11. Section 15 of Republic Act No. 7721 is hereby amended as follows:

"Sec. 15 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, WHICHEVER IS EARLIER."

Approved,