

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **2436**



Introduced by: HON. MA. THERESA V. COLLANTES

EXPLANATORY NOTE

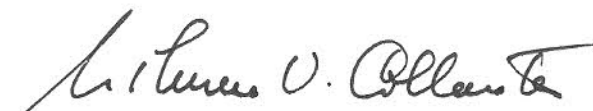
Since Republic Act N. 7653, otherwise known as the New Central Bank Act, was enacted in 1993, there have been dramatic developments in the banking environment brought about by automation, technology, globalization and the influences of best practices, on one hand, and by some structural weaknesses on the other hand, which may have abetted or tolerated instances of unsafe and unsound practices, poor governance, or even fraud.

The amendments hereby being proposed seek to enhance the administration of the monetary, credit and banking system of the Republic by, among other things, affirming the authority of the Bangko Sentral to administer the payments and settlements systems. This will promote the safe, reliable and final settlement of financial transactions thereby contributing to good economic order.

This measure will be complemented by the proposed supervisory powers of the Bangko Sentral which will oblige transparency in the disclosure of bank ownerships; subject the bank's owners to the fit and proper test, and compel restructuring and rehabilitation of distressed banks. To address early the commission of frauds and irregularities, it is also proposed that the authority of the examiners to access deposit accounts, which was granted before and was exercised without abuse, be restored.

The Bangko Sentral should also be able to function as a more responsive organization. Towards this end, its officials and personnel should be granted the same legal protection given to the Philippine Deposit Insurance Corporation (PDIC) under Republic Act No. 9576. It should be able to access from any person or entity in the Philippines, similar to what was enjoyed before by the defunct Central Bank of the Philippines, for completion of information and efficiency in the formulation of monetary policy. As an institution performing governmental functions, the Bangko Sentral should also be exempted from taxation.

Approval of this bill is earnestly sought.


HON. MA. THERESA V. COLLANTES

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AN ACT
AMENDING REPUBLIC NO. 7653, ENTITLED "THE NEW CENTRAL BANK ACT"

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

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

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

"The capital of the Bangko Sentral shall be [Fifty] **TWO HUNDRED** billion pesos (P[50,]**200,000,000,000**), to be fully subscribed by the Government of the Republic, hereafter referred to as the Government[.]. [Ten billion pesos (P10,000,000,000) of which] **THE UNPAID SUBSCRIPTION** shall be fully paid for by the Government **IN CASH AND/OR GOVERNMENT SECURITIES UPON EFFECTIVITY OF THIS ACT. THE CAPITALIZATION SHALL BE SUBJECT TO REVIEW EVERY FIVE (5) YEARS UPON JOINT RECOMMENDATION BY THE SECRETARY OF FINANCE, THE SECRETARY OF BUDGET AND MANAGEMENT AND THE MONETARY BOARD. THE PAYMENT OF ANY UNPAID SUBSCRIPTION AND/OR INCREASE IN CAPITALIZATION SHALL BE APPROPRIATED IN THE ANNUAL GENERAL APPROPRIATIONS ACT** [upon the effectivity of this Act and the balance to be paid for within a period of two (2) years from the effectivity of this Act in such manner and form as the Government, through the Secretary of Finance and the Secretary of Budget and Management, may thereafter

determine].”

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

“SEC. 3. *Responsibility and Primary Objective.* – The *Bangko Sentral* shall provide policy directions in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as provided in this Act and other pertinent laws over the operations of finance companies and non-bank financial institutions performing quasi-banking functions, [hereafter referred to as quasi-banks,] **CREDIT CARD COMPANIES, MONEY CHANGING BUSINESSES, PAWNSHOPS, E-MONEY ISSUERS, MONEY FORWARDING BUSINESSES, PAYMENT AND SETTLEMENT SYSTEM OPERATORS** and **OTHER** institutions performing similar functions, **AS MAY BE DETERMINED BY THE MONETARY BOARD, CONSISTENT WITH THE MANDATE OF THE BANGKO SENTRAL TO PROVIDE** POLICY DIRECTION IN THE AREAS OF MONEY, BANKING AND CREDIT.

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

“**THE BANGKO SENTRAL SHALL OVERSEE THE PAYMENT AND SETTLEMENT SYSTEMS IN THE PHILIPPINES IN ACCORDANCE WITH SOUND AND PRUDENT PRACTICES. FOR PURPOSES OF THIS ACT, A PAYMENT AND SETTLEMENT SYSTEM SHALL REFER TO ANY SYSTEM THAT CONSISTS OF A SET OF INSTRUMENTS AND ARRANGEMENTS THAT ENSURES THE EFFICIENT CIRCULATION OF MONEY AND SAFE TRANSFER OF FINANCIAL VALUES.**”

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

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

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

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

“The *Bangko Sentral* shall maintain and preserve a complete record of the

proceedings and deliberations of the Monetary Board, including the tapes and transcripts of the stenographic notes, either in their original form or in microfilm.

“THE MEETINGS OF THE MONETARY BOARD MAY BE CONDUCTED THROUGH MODERN TECHNOLOGIES SUCH AS TELECONFERENCING AND VIDEOCONFERENCING.”

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

“SEC. 16. Responsibility. – THE GENERAL RULE AND THE EXCEPTION THEREFROM ON THE LIABILITY OF PUBLIC OFFICERS AS PROVIDED IN SECTIONS 38 AND 39 OF CHAPTER 9, BOOK 1 OF THE REVISED ADMINISTRATIVE CODE OF 1987 SHALL APPLY TO [M]Members of the Monetary Board[, officials, examiners, and employees] AND OTHER PERSONNEL of the *Bangko Sentral* [who willfully violate this Act or who are guilty of negligence, abuses or acts of malfeasance, or misfeasance or fail to exercise extraordinary diligence in the performance of his duties shall be held liable for any loss or injury suffered by the *Bangko Sentral* or other banking institutions as a result of such violation, negligence, abuse, malfeasance, misfeasance or failure to exercise extraordinary diligence].

“Similar responsibility shall apply to members, officers, and employees of the *Bangko Sentral* for: (1) the disclosure of any information of a confidential nature, or any information on the discussions or resolutions of the Monetary Board, or about the confidential operations of the *Bangko Sentral*, unless the disclosure is in connection with the performance of official functions with the *Bangko Sentral*, or is with prior authorization of the Monetary Board or the Governor; or (2) the use of such information for personal gain or to the detriment of the Government, the *Bangko Sentral* or third parties: *Provided, however,* That any data or information required to be submitted to the President and/or the Congress, or to be published under the provisions of this Act shall not be considered confidential.

“THE *BANGKO SENTRAL*, ITS OFFICIALS AND EMPLOYEES SHALL BE INDEMNIFIED FOR ANY AND ALL LIABILITIES, LOSSES, CLAIMS, DEMANDS, DAMAGES, DEFICIENCIES, COSTS AND EXPENSES OF WHATSOEVER KIND AND NATURE THAT MAY ARISE IN CONNECTION WITH THE PERFORMANCE OF THEIR DUTIES DONE IN GOOD FAITH AND CONSISTENT WITH THE POWERS AND FUNCTIONS AUTHORIZED.”

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

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

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

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

“SEC. 23. *Authority to Obtain Data and Information.* – The *Bangko Sentral* shall have the authority to [request] **REQUIRE** from **ANY PERSON OR ENTITY, INCLUDING** government offices and instrumentalities, or government-owned or -controlled corporations, any data [which it may require for] **OR INFORMATION FOR STATISTICAL AND POLICY DEVELOPMENT PURPOSES IN RELATION TO** the proper discharge of its functions and responsibilities[. The *Bangko Sentral* through the Governor or in his absence, a duly authorized representative shall have the power to issue a *subpoena* for the production of the books and records for the aforesaid purpose. Those who refuse the *subpoena* without justifiable cause, or who refuse to supply the bank with data requested or required, shall be subject to punishment for contempt in accordance with the provisions of the Rules of Court.]: **PROVIDED, THAT DISAGGREGATED DATA OR INFORMATION GATHERED ARE SUBJECT TO PREVAILING CONFIDENTIALITY LAWS.**

“Data **OR INFORMATION** on individuals [firms,] **AND ENTITIES**, other than banks, gathered by the [Department of Economic Research and other departments or units of the] *Bangko Sentral* shall not be made available to any person or entity outside of the *Bangko Sentral* whether public or private. [except under order of the court or under such conditions as may be prescribed by the Monetary Board: *Provided, however,* That the] **INDIVIDUAL OR FIRM-LEVEL DATA OR INFORMATION FURNISHED BY A RESPONDENT TO A STATISTICAL INQUIRY OR SURVEY SHALL BE CONSIDERED PRIVILEGED COMMUNICATION AND SHALL BE**

INADMISSIBLE AS EVIDENCE IN ANY COURT PROCEEDINGS. DATA OR INFORMATION GATHERED SHALL BE SUBJECT TO PREVAILING DEPOSIT SECRECY LAWS. HOWEVER, collective data OR INFORMATION on [firms] ENTITIES may be released to interested persons or entities IN WHICH NO REFERENCE TO AN INDIVIDUAL, CORPORATION, ASSOCIATION, PARTNERSHIP, INSTITUTION OR BUSINESS ENTERPRISE SHALL APPEAR: *Provided, [finally,]* That in the case of data OR INFORMATION on banks, the provisions of Section 27 of this Act shall apply. CONSISTENT WITH THE PREVAILING PRACTICE IN THE PHILIPPINE STATISTICAL SYSTEM, THOSE WHO REFUSE TO SUPPLY THE *BANGKO SENTRAL* WITH THE REQUIRED DATA OR INFORMATION SHALL BE SUBJECT TO A PENALTY OF ONE (1) YEAR IMPRISONMENT AND A FINE OF ONE HUNDRED THOUSAND PESOS (P100,000). IN CASES WHERE THE VIOLATION IS DONE BY A CORPORATION, THE ABOVE PENALTY SHALL BE IMPOSED AGAINST THE RESPONSIBLE OFFICER, DIRECTOR, MANAGER AND/OR AGENT OF SAID CORPORATION. IN ADDITION, SUCH ERRING CORPORATION OR ANY OTHER JURIDICAL ENTITY, DEPENDING ON THE CATEGORY OF THE ENTERPRISE OR BUSINESS CONCERNED WHETHER SMALL, MEDIUM OR LARGE, SHALL BE IMPOSED A FINE RANGING FROM ONE HUNDRED THOUSAND PESOS (P100,000) TO FIVE HUNDRED THOUSAND PESOS (P500,000).

“ANY PERSON, INCLUDING PARTIES WITHIN THE MONETARY BOARD AND THE *BANGKO SENTRAL*, WHO BREACH THE CONFIDENTIALITY OF DATA OR INFORMATION, WHETHER BY IMPROPER BEHAVIOR, BEHAVIOR WITH MALICIOUS INTENT, OR USE OF CONFIDENTIAL INFORMATION FOR PROFIT ARE CONSIDERED GUILTY OF OFFENSE AND SHALL BE LIABLE TO A FINE OF NOT LESS THAN FIVE THOUSAND PESOS (P5,000) NOR MORE THAN TEN THOUSAND PESOS (P10,000) OR IMPRISONMENT OF NOT LESS THAN THREE (3) MONTHS NOR MORE THAN ONE (1) YEAR, OR BOTH, SUBJECT TO THE DEGREE OF BREACH OF INFORMATION, AT THE DISCRETION OF THE COURT.”

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

“SEC. 25. *Supervision and Examination.* – The *Bangko Sentral* shall have

supervision over, and conduct periodic or special examinations of, banking institutions and quasi-banks, including their subsidiaries and affiliates [engaged in allied activities].

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

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

"The department heads and the examiners of the supervising and/or examining departments are hereby authorized to administer oaths to any director, officer, or employee of any [institution] **ENTITY** under their respective supervision or subject to their examination, [and] to compel the presentation of all books, documents, papers or records necessary in their judgment to ascertain the facts relative to the true condition of any [institution] **ENTITY** as well as the books and records of persons and entities relative to or in connection with the operations, activities or transactions of the [institution] **ENTITY** under examination[, subject to the provision of existing laws protecting or safeguarding the secrecy or confidentiality of bank deposits as well as investments of private persons, natural or juridical, in debt instruments issued by the Government] **AND TO INQUIRE INTO BANK DEPOSITS AND INVESTMENT ACCOUNTS IN THE COURSE OF AN EXAMINATION IN ORDER TO ASCERTAIN COMPLIANCE WITH LAWS AND BANKING REGULATIONS.**

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

or injunction contemplated in this section.”

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

“SEC. 25-A. *TRANSFER OF SHARES.* – TRANSFERS OR ACQUISITIONS, OR A SERIES THEREOF, OF AT LEAST TEN PERCENT (10%) OF VOTING RIGHTS IN BANKS OR QUASI-BANKS SHALL BE REPORTED TO THE *BANGKO SENTRAL* WITHIN SUCH PERIOD AS MAY BE PRESCRIBED BY THE MONETARY BOARD. PRIOR TO SUCH NOTIFICATION, NO SUCH TRANSFER OR ACQUISITION SHALL HAVE LEGAL EFFECT NOR SHALL THE SAME BE RECOGNIZED IN THE BOOKS OF THE ENTITY OR BY ANY GOVERNMENT AGENCY, AND THE TRANSFEROR – STOCKHOLDERS SHALL REMAIN ACCOUNTABLE AND RESPONSIBLE THEREFOR. TRANSFER OF ACTUAL CONTROL OR MANAGEMENT OF THE ENTITY TO THE NEW STOCKHOLDERS OR THEIR REPRESENTATIVES PRIOR TO NOTIFICATION SHALL MAKE THE TRANSFEROR, THE TRANSFEREE AND ANY PERSON RESPONSIBLE THEREFOR, LIABLE UNDER SECTIONS 36 AND 37 OF THIS ACT. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE *BANGKO SENTRAL* MAY SHARE WITH THE PHILIPPINE DEPOSIT INSURANCE CORPORATION ANY INFORMATION THAT THE *BANGKO SENTRAL* MAY OBTAIN PERTAINING TO TRANSFER OR ACQUISITION OF SHARES OR SERIES OF TRANSFERS OR ACQUISITION OF SHARES IN BANKS AND QUASI-BANKS.”

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

“SEC. 28. *Examination and Fees.* – The supervising and examining department head, personally or by deputy, shall examine the [books] OPERATIONS of every bank[ing institution once in every twelve (12) months, and at such other times as the Monetary Board by an affirmative vote of five (5) members, may deem expedient and to make a report on the same to the Monetary Board:] AND QUASI-BANK, INCLUDING THEIR SUBSIDIARIES AND AFFILIATES AND OTHER ENTITIES WHICH UNDER THIS ACT OR SPECIAL LAWS ARE SUBJECT TO *BANGKO SENTRAL* SUPERVISION, IN ACCORDANCE WITH THE GUIDELINES SET BY THE MONETARY BOARD TAKING INTO CONSIDERATION SOUND AND PRUDENT PRACTICES: *Provided*, That there shall be an interval of at least twelve

(12) months between [annual] **REGULAR** examinations[.]: **PROVIDED, FURTHER, THAT THE MONETARY BOARD, BY AN AFFIRMATIVE VOTE OF AT LEAST FIVE (5) MEMBERS, MAY AUTHORIZE A SPECIAL EXAMINATION IF THE CIRCUMSTANCES WARRANT.**

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

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

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

“SEC. 28-A. BANGKO SENTRAL COORDINATION. – THE SUSPENSION OR REVOCATION OF ANY GOVERNMENT LICENSE NECESSARY FOR THE OPERATION OF A BANGKO SENTRAL-SUPERVISED ENTITY MUST BE DONE ONLY WITH PRIOR NOTIFICATION TO THE BANGKO SENTRAL.”

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

“SEC. 30. Proceedings in Receivership and Liquidation. – Whenever, upon report of the head of the supervising or examining department, the Monetary Board finds that a bank, [or] quasi-bank **OR NON-BANK FINANCIAL INSTITUTION:**

“(a) HAS NOTIFIED THE BANGKO SENTRAL OR PUBLICLY ANNOUNCED A UNILATERAL CLOSURE, OR HAS BEEN DORMANT FOR AT LEAST

SIXTY (60) DAYS OR IN ANY MANNER HAS SUSPENDED THE PAYMENT OF ITS DEPOSIT/DEPOSIT SUBSTITUTE LIABILITIES, OR is unable to pay its liabilities as they become due in the ordinary course of business: *Provided*, That this shall not include inability to pay caused by extraordinary demands induced by financial panic in the banking community; **OR**

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

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

“(d) has willfully violated a cease and desist order under Section 37 that has become final, involving acts or transactions which amount to fraud or a dissipation of the assets of the institution; in which cases, the Monetary Board may summarily and without need for prior hearing forbid the institution from doing business in the Philippines and, **IN CASE OF BANKING INSTITUTIONS**, designate the Philippine Deposit Insurance Corporation (**PDIC**) as receiver [of the banking institution] **AND DIRECT THE PDIC TO PROCEED WITH THE LIQUIDATION OF CLOSED BANKING INSTITUTION PURSUANT TO THIS SECTION AND THE RELEVANT PROVISIONS OF REPUBLIC ACT NO. 3591, AS AMENDED. THE MONETARY BOARD SHALL NOTIFY IN WRITING THE BOARD OF DIRECTORS OF THE CLOSED BANK OF THE MONETARY BOARD’S FINDINGS.**

“(f) [For a quasi-bank, any person of recognized competence in banking or finance may be designated as receiver.] **THE RECEIVER FOR QUASI-BANKS AND NON-BANK FINANCIAL INSTITUTIONS SHALL BE DESIGNATED BY THE MONETARY BOARD.**

“The receiver shall immediately gather and take charge of all the assets and liabilities of the institution, administer the same for the benefit of its creditors, **DEPOSIT OR PLACE THE FUNDS OF THE INSTITUTION IN NONSPECULATIVE INVESTMENTS, PAY ADMINISTRATIVE REMEDIES** and exercise the general powers of a receiver under the Revised Rules of Court [but shall not, with the exception of administrative expenditures, pay or commit any act that will involve the transfer or disposition of any asset of the institution: *Provided*, That the receiver may deposit or place the funds of the institution in nonspeculative investments]. The receiver **OF**

QUASI-BANKS AND NON-BANK FINANCIAL INSTITUTIONS shall determine as soon as possible, but not later than ninety (90) days from take-over, whether [the] **SUCH** institution may be rehabilitated or otherwise placed in such a condition so that it may be permitted to resume business with safety to its [depositors and] creditors and the general public: *Provided*, That any determination for the resumption of business of the institution shall be subject to prior approval of the Monetary Board.

"IN ORDER TO REHABILITATE THE CLOSED INSTITUTION OR TO RESTORE ITS OPERATIONS WITH SAFETY TO ITS CREDITORS AND THE GENERAL PUBLIC, OR TO MERGE OR CONSOLIDATE THE CLOSED INSTITUTION WITH ANOTHER QUALIFIED INSTITUTION, THE RECEIVER OF BANKS, QUASI-BANKS AND OTHER NON-BANK FINANCIAL INSTITUTIONS MAY IMMEDIATELY TRANSFER OR DISPOSE OF ANY OR ALL OF THE ASSETS OF THE CLOSED INSTITUTION, CAUSE QUASI-REORGANIZATION OF THE INSTITUTION, AND SUCH OTHER ACTS AS MAY BE AUTHORIZED BY LAW.

If the receiver **OF BANKS, QUASI-BANKS AND OTHER NON-BANK FINANCIAL INSTITUTIONS** determines that the institution cannot be rehabilitated or permitted to resume business in accordance with the next preceding paragraph, the Monetary Board shall notify in writing the board of directors of [its] **THE RECEIVER'S** findings and direct the receiver to proceed with the liquidation of the institution. The receiver **ACTING AS THE LIQUIDATOR OF BANKS, QUASI-BANKS AND OTHER NON-BANK FINANCIAL INSTITUTIONS** shall:

"(1) file *ex parte* with the proper regional trial court, and without requirement of prior notice or any other action, a petition for assistance in the liquidation of the institution pursuant to a liquidation plan [adopted by the Philippine Deposit Insurance Corporation for general application to all closed banks] **PREPARED BY THE RECEIVER AND ADOPTED BY THE MONETARY BOARD.** [In case of quasi-banks, the liquidation plan shall be adopted by the Monetary Board. Upon acquiring jurisdiction, the court shall, upon motion by the receiver after due notice,] **THE COURT SHALL HAVE EXCLUSIVE JURISDICTION TO** adjudicate disputed claims against the institution, assist the enforcement of individual liabilities of the stockholders, directors and officers, and decide on other issues as may be material to implement the liquidation plan adopted. The receiver shall pay the cost of the proceedings from the assets of the institution.

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

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

“The designation of a conservator under Section 29 of this Act or the appointment of a receiver under this section shall be vested exclusively with the Monetary Board. Furthermore, the designation of a conservator is not a precondition to the designation of a receiver.”

SEC. 12. Section 34 of the same Act is hereby amended to read as follows:

“SEC. 34. *Refusal to Make Reports or Permit Examination.* – Any officer, owner, agent, manager, director or officer-in-charge of any institution [subject to the supervision or examination by the *Bangko Sentral* within the purview of this Act] who, being required in writing by the Monetary Board or by the head of the supervising and examining department, **WITHIN THE PURVIEW OF THIS ACT AND RELEVANT LAWS**, willfully refuses to file the required report or permit any lawful examination into the affairs of such institution shall be punished by a fine of not less than Fifty thousand pesos (P50,000) nor more than [One hundred thousand pesos (P100,000)] **TWO MILLION PESOS (P2,000,000)** or by imprisonment of not less than one (1) year nor more than five (5) years, or both, [in] **AT** the discretion of the court.”

SEC. 13. Section 35 of the same Act is hereby amended to read as follows:

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

SEC. 14. Section 36 of the same Act is hereby amended to read as follows:

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

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

SEC. 15. Section 37 of the same Act is hereby amended to read as follows:

“SEC. 37. *Administrative Sanctions on [Banks and Quasi-banks] SUPERVISED ENTITIES.* – Without prejudice to the criminal sanctions against the culpable persons provided in Sections 34, 35, and 36 of this Act, the Monetary Board may, at its discretion, impose upon any bank or quasi-bank, **INCLUDING THEIR SUBSIDIARIES AND AFFILIATES, OR OTHER ENTITIES WHICH UNDER THIS ACT OR SPECIAL LAWS ARE SUBJECT TO THE BANGKO SENTRAL SUPERVISION, AND** their directors, [and/or] officers **OR EMPLOYEES**, for any willful violation of its charter or bylaws, willful delay in the submission of reports or publications thereof as required by

law, rules and regulations; any refusal to permit examination into the affairs of the [institution] **ENTITY**; any willful making of a false or misleading statement to the Board or the appropriate supervising and examining department or its examiners; any willful failure or refusal to comply with, or violation of, any banking law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor; or any commission of irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Monetary Board, the following administrative sanctions, whenever applicable:

“(a) fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed [Thirty thousand pesos (P30,000)] **ONE MILLION PESOS (P1,000,000) FOR EACH TRANSACTIONAL VIOLATION OR ONE HUNDRED THOUSAND PESOS (P100,000) PER BANKING [a] day for each CONTINUING violation, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the size of the [bank or quasi-bank] ENTITY: PROVIDED, THAT IN CASE PROFIT IS GAINED OR LOSS IS AVOIDED AS A RESULT OF THE VIOLATION, A FINE OF NOT MORE THAN THREE (3) TIMES THE PROFIT GAINED OR LOSS AVOIDED MAY BE IMPOSED;**

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

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

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

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

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

“The Monetary Board may, whenever warranted by circumstances, preventively suspend any director or officer of [a bank or quasi-bank] **THE ENTITY** pending an investigation: *Provided*, That should the case be not finally decided by the *Bangko Sentral* within a period of one hundred twenty (120) days after the date of suspension, said director or officer shall be reinstated in his position: *Provided, further*, That when the delay in the disposition of the case is due to the fault, negligence or petition of the director or officer, the period of delay shall not be counted in computing the period of

suspension herein provided.

“The above administrative sanctions need not be applied in the order of their severity.

“Whether or not there is an administrative proceeding, if the [institution] **ENTITY** and/or the directors, [and/or] officers **AND/OR EMPLOYEES** concerned continue with or otherwise persist in the commission of the indicated practice or violation, the Monetary Board may issue an order requiring the [institution] **ENTITY** and/or the directors, and/or officers **AND/OR EMPLOYEES** concerned to cease and desist from the indicated practice or violation, and may further order that immediate action be taken to correct the conditions resulting from such practice or violation. The cease and desist order shall be immediately effective upon service on the respondents.

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

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

SEC. 16. A new Section 38-A is hereby inserted in the same Act to read as follows:

“SEC. 38-A. ISSUANCE OF PROVISIONAL REMEDIES AGAINST BANGKO SENTRAL ACTIONS. – NO COURT, OTHER THAN THE COURT OF APPEALS AND THE SUPREME COURT, SHALL ISSUE ANY TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION OR PRELIMINARY MANDATORY INJUNCTION AGAINST THE BANGKO SENTRAL FOR ANY

ACTION UNDER THIS ACT.

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

“THE PROVISIONS OF RULE 58 OF THE 1997 RULES ON CIVIL PROCEDURE INsofar AS THEY ARE APPLICABLE AND NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT SHALL GOVERN THE ISSUANCE AND DISSOLUTION OF THE RESTRAINING ORDER OR INJUNCTION AGAINST THE *BANGKO SENTRAL*.”

SEC. 17. Section 43 of the same Act is hereby amended to read as follows:

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

SEC. 18. A new Section 43-A is hereby inserted in the same Act to read as follows:

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

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

SEC. 19. Section 45 of the same Act is hereby amended to read as follows:

“SEC. 45. *Revaluation Profits and Losses.* – **UNREALIZED** [P]Profits or losses arising from any revaluation of the *Bangko Sentral's* [net] assets, [or] liabilities **OR DERIVATIVE INSTRUMENTS DENOMINATED** in [gold or] foreign currencies with respect to the **MOVEMENTS OF PRICES AND EXCHANGE RATES FROM THIRD CURRENCIES TO** Philippine peso shall not be included in the computation of the annual profits and losses of the *Bangko Sentral*. Any profit[s] or loss[es] arising in this manner shall be offset by any amounts which, as a consequence of such revaluations, are owed by the Philippines to any international or regional intergovernmental financial institution of which the Philippines is a member or are owed by these institutions to the Philippines. Any remaining **UNREALIZED** profit or loss shall be carried in a special frozen account which shall be named "Revaluation of International Reserve (**RIR**)", and the net balance of which shall appear either among the liabilities or among the assets of the *Bangko Sentral*, depending on whether the revaluations have produced net profits or net losses.

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

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

“SEC. 61. *Guiding Principle.* – [The Monetary Board shall endeavor to control any expansion or contraction in monetary aggregates which is prejudicial to the attainment or maintenance of price stability.] **THE MONETARY BOARD SHALL REGULARLY ASSESS PRICE DEVELOPMENTS AND OUTLOOK AND, BASED ON ITS**

ANALYSIS AND EVALUATION OF INFLATIONARY PRESSURES, USE ITS POLICY INSTRUMENTS TO ATTAIN AND MAINTAIN PRICE STABILITY.”

SEC. 21. Section 63 of the same Act is hereby amended to read as follows:

“SEC. 63. *Action When Abnormal Movements Occur in the [Monetary Aggregates, Credit, or] Price Level.* – Whenever abnormal movements in the [monetary aggregates, in credit, or in] prices endanger the stability of the Philippine economy or important sectors thereof, the Monetary Board shall:

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

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

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

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

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

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

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

SEC. 22. Section 81 of the same Act is hereby amended to read as follows:

“SEC. 81. *Guiding Principles.* – The rediscounts, discounts, loans and advances which the *Bangko Sentral* is authorized to extend to banking institutions under the

provisions of the present article of this Act shall be used to influence the volume of credit consistent with the objective of price stability **AND MAINTENANCE OF FINANCIAL STABILITY.**”

SEC. 23. Section 84 of the same Act is hereby amended to read as follows:

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

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

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

of government securities and unencumbered first class collaterals approved by the Monetary Board, and the principal stockholders of the institution furnish an acceptable undertaking to indemnify and hold harmless from suit a conservator whose appointment the Monetary Board may find necessary at any time.

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

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

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

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

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

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

SEC. 24. A new Section 88-A is hereby inserted in the same Act to read as follows:

"SEC. 88-A. EXEMPTION FROM ATTACHMENT. -COLLATERALS ON LOANS AND ADVANCES GRANTED BY THE BANGKO SENTRAL, WHETHER OR NOT THE INTEREST OF THE BANGKO SENTRAL IS REGISTERED, SHALL NOT BE SUBJECT TO ATTACHMENT, EXECUTION OR ANY OTHER COURT PROCESS OR ADMINISTRATIVE RESTRICTIONS

ON LAND USE, NOR SHALL THEY BE INCLUDED IN THE ASSETS OF THE CLOSED BANK FOR DISTRIBUTION TO OTHER CREDITORS: *PROVIDED, HOWEVER, THAT THE PROCEEDS IN EXCESS OF THE AMOUNT SECURED SHALL BE RETURNED BY THE BANGKO SENTRAL TO THE RECEIVER.*"

SEC. 25. A new Section 88-B is hereby inserted in the same Act to read as follows:

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

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

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

“SEC. 88-C. *RIGHT OF REDEMPTION OF FORECLOSED REAL PROPERTY; RIGHT OF POSSESSION DURING REDEMPTION PERIOD.* – THE MORTGAGOR SHALL HAVE THE RIGHT TO REDEEM THE PROPERTY WITHIN ONE (1) YEAR FROM THE DATE OF FORECLOSURE SALE OF THE REAL ESTATE, IN CASE THE MORTGAGOR IS A NATURAL PERSON, AND WITHIN NINETY (90) DAYS BUT NOT LATER THAN THE DATE OF REGISTRATION OF THE CERTIFICATE OF FORECLOSURE SALE, IN CASE THE MORTGAGOR IS A JURIDICAL PERSON: *PROVIDED, HOWEVER, THAT FORECLOSED REAL PROPERTIES IN THE NAME OF A BORROWER BANK, OR OTHER CORPORATE THIRD PARTY MORTGAGOR WHOSE PROPERTIES ARE DIRECTLY MORTGAGED TO THE BANGKO SENTRAL, PURSUANT TO ACT NO. 3135, THE APPLICABLE REDEMPTION PERIOD IS ONE (1) YEAR. REDEMPTION SHALL BE EFFECTED BY PAYING THE PRINCIPAL, INTERESTS, INCLUDING ALL COSTS AND OTHER EXPENSES INCURRED BY REASON OF THE FORECLOSURE SALE.*

“THE *BANGKO SENTRAL*, AS PURCHASER IN THE FORECLOSURE SALE AND WITHOUT NEED OF POSTING A BOND, MAY TAKE POSSESSION OF THE FORECLOSED PROPERTY DURING THE REDEMPTION PERIOD. THE *BANGKO SENTRAL* SHALL BE ENTITLED TO THE FRUITS OF THE PROPERTY, THE SAME TO BE APPLIED AGAINST THE REDEMPTION PRICE.”

SEC. 27. A new Section 89-A is hereby inserted in the same Act to read as follows:

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

SEC. 28. A new Section 89-B is hereby inserted in the same Act to read as follows:

“SEC. 89-B. *LOANS TO THE PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC).* – THE *BANGKO SENTRAL*, PURSUANT TO ITS MANDATE OF MAINTAINING FINANCIAL STABILITY, MAY LEND TO THE

PDIC FUNDS FOR INSURANCE PURPOSE AND FOR FINANCIAL ASSISTANCE THAT THE LATTER IS AUTHORIZED TO EXTEND UNDER SECTION 17(D) OF REPUBLIC ACT NO. 3591, AS AMENDED, TO AN INSURED BANK IN DANGER OF CLOSING IN ORDER TO MINIMIZE LOSSES TO ITS DEPOSITORS AND CREDITORS. NOTWITHSTANDING SECTION 18 OF REPUBLIC ACT NO. 3591, AS AMENDED, THE MONETARY BOARD SHALL PRESCRIBE INTEREST RATES AND SUCH OTHER TERMS AND CONDITIONS OF THE LOAN.”

SEC. 29. Section 92 of the same Act is hereby amended to read as follows:

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

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

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

SEC. 30. Section 95 of the same Act is hereby amended to read as follows:

“SEC. 95. *Definition of Deposit Substitutes.* – The term ‘deposit substitutes’ is defined as an alternative form of obtaining funds from the public, other than deposits, through the issuance, endorsement, or acceptance of debt instruments for the borrower’s

own account, for the purpose of relending or purchasing of receivables and other obligations. These instruments may include, but need not be limited to, bankers acceptances, promissory notes, participations, certificates of assignment and similar instruments with recourse, and repurchase agreements. **THE TERM 'PUBLIC' MEANS BORROWING FROM TWENTY (20) OR MORE LENDERS AT ANY ONE TIME. FOR THIS PURPOSE, 'LENDERS' SHALL REFER TO INDIVIDUALS AND CORPORATE ENTITIES THAT ARE NOT ACTING AS FINANCIAL INTERMEDIARIES, SUBJECT TO THE SAFEGUARDS AND REGULATIONS ISSUED BY THE MONETARY BOARD.** The Monetary Board shall determine what specific instruments shall be considered as deposit substitutes for the purposes of Section 94 of this Act: *Provided, however,* That deposit substitutes of commercial, industrial and other nonfinancial companies issued for the limited purpose of financing their own needs or the needs of their agents or dealers shall not be covered by the provisions of Section 94 of this Act."

SEC. 31. Section 101 of the same Act is hereby amended to read as follows:

"SEC. 101. *Reserve Deficiencies.* – Whenever the reserve position of any bank or quasi-bank, computed in the manner specified in the preceding section of this Act, is below the required minimum, the bank or quasi-bank shall pay the *Bangko Sentral* one-tenth of one percent (1/10 of 1%) per day on the amount of the deficiency or the prevailing ninety-one-day treasury bill rate plus three percentage points, whichever is higher: *Provided, however,* That banks and quasi-banks shall ordinarily be permitted to offset any reserve deficiency occurring on one or more days of the week with any excess reserves which they may hold on other days of the same week and shall be required to pay the penalty only on the average daily deficiency 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 reserved deficiency penalties for rehabilitation program of a bank.”

SEC. 32. 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. 33. Section 108 of the same Act is hereby amended to read as follows:

“SEC. 108. *Minimum Capital Ratios.* – The Monetary Board may prescribe minimum [ratios which the capital and surplus of the banks must bear to the volume of their assets, or to specific categories thereof,] **RISK-BASED CAPITAL ADEQUACY RATIOS BASED ON INTERNATIONALLY ACCEPTED STANDARDS** and may alter said ratios whenever it deems necessary. **IN THE EXERCISE OF ITS AUTHORITY UNDER THIS SECTION, THE MONETARY BOARD MAY REQUIRE BANKS TO HOLD CAPITAL BEYOND THE MINIMUM REQUIREMENTS COMMENSURATE TO THEIR RISK PROFILE.**”

SEC. 34. Section 113 of the same Act is hereby amended to read as follows:

“SEC. 113. *Official Deposits.* – The *Bangko Sentral* shall be the official depository of the Government, its political subdivisions and instrumentalities as well as of government-owned or -controlled corporations. [and, a]As a general policy, their cash balances should be deposited with the *Bangko Sentral*, with only minimum working balances to be held by government-owned banks and such other banks [incorporated] **LICENSED TO OPERATE** in the Philippines as the Monetary Board may [designate, subject to such rules and regulations as the Board may prescribe: *Provided*, That such banks may hold deposits of the political subdivisions and instrumentalities of the Government beyond their minimum working balances whenever such subdivisions and instrumentalities have outstanding loans with said banks] **AUTHORIZE.**

“The *Bangko Sentral* may **ACCEPT DEPOSITS AND** pay interest on **SUCH** deposits **AND OTHER SIMILAR PLACEMENTS** of the Government or of its political subdivisions and instrumentalities, [as well as on deposit of] banks [with the *Bangko*

Sentral] **AND OTHER BANGKO SENTRAL-SUPERVISED INSTITUTIONS."**

SEC. 35. Section 123 of the same Act is hereby amended to read as follows:

"SEC. 123. *Financial Advice on Official Credit Operations.* – Before undertaking any credit operation abroad, the Government, through the Secretary of Finance, shall request the opinion, in writing, of the Monetary Board on the monetary implications of the contemplated action. Such opinions must similarly be requested by all political subdivisions and instrumentalities of the Government before any credit operation abroad is undertaken by them.

"The opinion of the Monetary Board shall be based on the gold and foreign exchange resources and obligations of the nation and on the effects of the proposed operation on the balance of payments and on monetary aggregates.

"Whenever the Government, or any of its political subdivisions or instrumentalities, contemplates borrowing within the Philippines, the prior opinion of the Monetary Board shall likewise be requested in order that the Board may render an opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments.

"A CREDIT OPERATION OR BORROWING AS PROVIDED HEREIN MAY TAKE THE FORM OF DIFFERENT CREDIT FACILITIES SUCH AS, BUT NOT LIMITED TO, A SINGLE LOAN, SERIES OF LOANS UNDER A BORROWING PROGRAM, OR CREDIT LINES. NO PRIOR MONETARY BOARD OPINION SHALL BE REQUIRED FOR INDIVIDUAL DRAWDOWNS OR BORROWINGS WITHIN APPROVED CREDIT LINES OR BORROWING PROGRAMS."

SEC. 36. Section 125 of the same Act is hereby amended to read as follows:

"SEC. 125. *Tax Exemptions.* – The *Bangko Sentral* shall be exempt [for a period of five (5) years from the approval of this Act] from all national, provincial, municipal and city taxes, fees, charges and assessments[.], **WHETHER DIRECT OR INDIRECT, EXCEPT ON THE FOLLOWING:**

"(A) ADMINISTRATIVE FEES AND CHARGES IMPOSED BY ANY GOVERNMENT AGENCY;

"(B) MUNICIPAL/CITY FEES FOR SERVICES PROVIDED;

"(C) INCOME FROM SALE OF: (1) BSP FORMS; (2) BID DOCUMENTS; (3) SCRAP ITEMS; WASTE MATERIALS, SHREDDED RECORDS; (4) CAR STICKERS, SECURITY PASS, IDENTIFICATION

PARAPHERNALIA; (5) DEMONETIZED COMMEMORATIVE NOTES AND COINS; (6) COMMEMORATIVE MEDALS; AND (7) UNSERVICEABLE FURNITURE AND EQUIPMENT THROUGH AUCTION;

“(D) INCOME FROM: (1) LEASE OF BSP OFFICES AND OTHER PROPERTIES; (2) LEASE OF BSP VAULTS; AND (3) USE OF BSP-OWNED PROPERTIES;

“(E) PENALTIES AND CHARGES FOR: (1) LATE DELIVERY OF PURCHASES/SERVICES; AND (2) LATE PAYMENT OF LEASE.

“[The exemption authorized in the preceding paragraph of this section shall apply to all property of the *Bangko Sentral*, to the resources, receipts, expenditures, profits and income of the *Bangko Sentral*, as well as to all contracts, deeds, documents and transactions related to the conduct of the business of the *Bangko Sentral*: *Provided, however,* That said exemptions shall apply only to such taxes, fees, charges and assessments for which the *Bangko Sentral* itself would otherwise be liable, and shall not apply to taxes, fees, charges, or assessments payable by persons or other entities doing business with the *Bangko Sentral*: *Provided, further,* That] **THE EXEMPTION FROM THE DOCUMENTARY STAMP TAX AS PROVIDED UNDER SECTION 199(L) OF REPUBLIC ACT NO. 9337, AS AMENDED (THE 1997 NATIONAL INTERNAL REVENUE CODE) SHALL CONTINUE TO BE OPERATIVE.** [f] Foreign loans and other obligations of the *Bangko Sentral* shall **ALSO** be exempt, both as to principal and interest, from any and all taxes if the payment of such taxes [has been] **IS** assumed by the *Bangko Sentral*.”

SEC. 37. 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. 38. *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. 39. *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. 40. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,