

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

5913
House Bill No. _____



Introduced by Representative JOEY SARTE SALCEDA

**AN ACT PROVIDING FOR A BASIC REGULATORY FRAMEWORK FOR VIRTUAL
BANKING AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Virtual banking has become among the latest innovations in financial services. Marrying widely accessible digital platforms such as mobile phone applications with conventional banking strategies such as deposits and micro-lending, virtual banks are able to provide financial services at much more favorable rates, as they do not incur such expenses as establishing and securing branches and maintaining automated teller machines (ATMs).

The rise of virtual banks in the Philippines is inevitable. As of 2017, there were around 30.4 million smartphone users in the Philippines. Combine this statistic with the growth of the middle class due to favorable economic and fiscal policies and the development of financial inclusion strategies such as the National Identification System, and one sees a population eager, willing, and able to access the services provided by virtual banks.

Providing a regulatory framework for virtual banks should be a boost to the financial inclusion thrust being pursued by the Bangko Sentral ng Pilipinas (BSP). The existence of a financial system that is accessible to as wide a proportion of the population as possible is a prerequisite to building a strong middle class. Additionally, virtual banking, given its accessibility, presents opportunities for fast, reliable, and less costly delivery of social cash transfers. This would expedite the rollout of critical anti-poverty measures and help achieve the country's inclusive growth goals earlier.

In fact, virtual-only banking already exists in the Philippines, with platforms offered by ING Bank NV and CIMB. Together, both banks account for only 2/10,000 of a percent of total commercial and universal bank deposits and 15/10000 of total universal and commercial bank assets in the country. The opportunity for regulation is clearly now, when the industry is yet to go in full swing.

The industry's potential, however, is staggering, with CIMB recording a 97 percent growth in deposits from the 2nd quarter to the 3rd quarter of 2019.

There is also plenty of room for growth: Only 9 percent of Filipino consumers said they had used a smartphone to bank, compared with 26 percent in developing Asia, according to a 2014 survey by the global consulting firm McKinsey. regulatory framework for virtual banking would provide some certainty for the consumers of these banks, as well as open the playing field to more competition, which should result in even better terms and services for consumers.

This bill proposes four key pillars to a virtual banking sector in the country.

First, this bill makes it State policy to encourage virtual banking as a means to improve financial inclusion and to promote the development of financial technology.

Second, this bill provides a clear, coherent, and far-sighted regulatory framework for virtual banks, while also granting adequate latitude to the BSP. The bill also auctions license to qualified virtual banking applicants, to ensure that the state and the public receive the highest benefits from their applications.

Third, this bill provides operations and management rules that levels the playing field. This is to ensure that, right at the very start of this industry's emergence, virtual banking can become a fair, sustainably developing, and profitable industry. The bill likewise opens the virtual banking sector to some degree of foreign ownership to ensure that the playing field is open to a wider set of candidates who can deliver more efficient outcomes for consumers, to attract some of the financial technology (FinTech) know-how already developed in other countries, and to ensure adequate capitalization of the industry.

Fourth, this bill outlines a framework for consumer protection in virtual banks, including deposit insurance and protection against unauthorized transactions. By including consumer protection in the basic framework, the bill ensures that public welfare is an inseparable aspect of the exercise of the State's supervisory power over the industry.

Additionally, the bill also provides a transition period for virtual banks already operating.

For far too long, the approach of many regulatory agencies in the Philippines has been to unduly meddle in inevitable markets (such as those among new transport platforms), instead of anticipating a largely positive industry by providing appropriate and fair rules at the earliest opportunity.

With this bill, this representation hopes to build confidence and stability in the virtual banking sector, while promoting associated national goals such as financial inclusion and technological development.

Likewise, the country will become one of the first in Asia to provide a basic framework for virtual banking. This augurs well for our prospects to become a financial technology hub in the region. Based on the proponent's estimates, the bill may increase the share of virtual-only banking assets to between 2.83 and 4.34 percent of total assets in universal and commercial banks. This represents

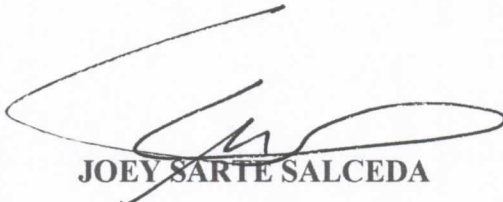
an almost 65000 percent growth from the current share, a development that would be to the clear advantage of the consumer, since virtual-only banking can offer more favorable interest rates.

As an industry promoting measure, the proposal is expected to result in encourage virtual banking to grow into a Php 903 billion-peso industry (in terms of assets) as shown in the estimates below:

Impact of the Virtual Banking Act of 2020 on assets in the virtual-only banking sector

PROJECTED VIRTUAL BANKING ASSETS AFTER REFORM (IN BILLIONS)					
	2021	2022	2023	2024	2025
Lower bound of estimates	30.00	96.00	205.20	366.24	589.49
Upper bound of estimates	35.00	119.00	271.60	520.24	903.34
PROJECTED VIRTUAL BANKING ASSETS AS A SHARE OF TOTAL ASSETS IN UNIVERSAL AND COMMERCIAL BANKS					
	2021	2022	2023	2024	2025
Lower bound of estimates	0.18%	0.53%	1.09%	1.85%	2.83%
Upper bound of estimates	0.20%	0.66%	1.44%	2.63%	4.34%
<i>Source: Salceda estimates, using Bangko Sentral ng Pilipinas data</i>					

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


JOEY SARTE SALCEDA

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AN ACT PROVIDING FOR A BASIC REGULATORY FRAMEWORK FOR VIRTUAL
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Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

CHAPTER 1
GENERAL PROVISIONS

Section 1. Title – This Act shall be known as the “Virtual Banking Act of 2020.”

Sec. 2. Declaration of Policy – It is the policy of the State to promote financial inclusion by providing the regulatory and institutional frameworks requisite for the development of safe, secure, accessible, and affordable financial products and services. Towards this end, the State shall provide a regulatory framework that will encourage the creation of stable, safe, and dependable virtual banks which will develop the application of financial technology in the Philippines, as well as provide enhanced consumer experience.

Sec. 3. Definition of Terms – As used in this Act, the term

(1) "Board of Directors" means the Board of Directors of the Corporation.

(2) "Credit" means any loan, mortgage, deed of trust, advance, or discount; any conditional sales contract; any contract to sell, or sale or contract of sale of property or services, either for present or future delivery, under which part or all of the price is payable subsequent to the making of such sale or contract; any rental-purchase contract; any contract or arrangement for the hire, bailment, or leasing of property; any option, demand, lien, pledge, or other claim against, or for the delivery of, property or money; any purchase, or other acquisition of, or any credit upon the security of, any obligation of claim arising out of any

of the foregoing; and any transaction or series of transactions having a similar purpose or effect.

(3) "Conventional bank" shall include banks, commercial banks, savings banks, mortgage banks, rural banks, development banks, cooperative banks, trust companies, branches and agencies in the Philippines of foreign banks and all other companies, corporations, partnership performing banking functions in the Philippines.

(4) "Deposit" means the unpaid balance of money or its equivalent received by a bank in the usual course of business and for which it has given or is obliged to give credit to a commercial, checking, savings, time or thrift account or which is evidenced by its certificate of deposit, and trust funds held by such bank whether retained or deposited in any department of such bank or deposited in another bank, together with such other obligations of a bank as the Board of Directors shall find and shall prescribe by regulations to be deposit liabilities of the Bank.

(5) "Person" means any individual, corporation, partnership, association, or other organized group of persons, or the legal successor or representative of the foregoing, and includes the Philippine Government or any agency thereof, or any other government, or of any of its political subdivisions, or any agency of the foregoing.

(6) "Senior management" means officers of the bank with decision-making powers critical to the general operations of the bank.

(7) "Virtual bank" means a bank which primarily delivers retail banking services through the internet or other forms of electronic channels instead of physical branches.

CHAPTER II REGULATION OF VIRTUAL BANKS

Sec. 4. Accreditation of Virtual Banks – In considering whether to approve or refuse an application for authorization of a virtual bank, the Bangko Sentral ng Pilipinas (BSP) needs to be satisfied that the basic requirements for authorization of a bank, as embodied in its "Basic Guidelines in Establishing Domestic Banks," are met.

For a firm applying to set up a virtual bank (hereinafter referred to as "virtual bank applicant"), fulfilment of the minimum criteria essentially means that the application must have substantively completed the essential elements requisite to safe, sustainable, and secure banking operations, including the digital infrastructure to ensure data privacy. The virtual bank applicant cannot simply be a "concept."

In addition to the usual requirements, the BSP may require that the virtual bank applicant submit a concrete and credible business plan setting out how it intends to conduct its business and how it plans to comply with the BSP's criteria on an ongoing basis.

Sec. 5 Auction of Licenses to Virtual Bank Applicants – The BSP shall grant licenses to operate to no more than five (5) virtual bank applicants every year for five years upon the effectivity of this Act, after which the number may be increased or decreased by the Monetary Board. The aforesaid licenses shall be auctioned to virtual bank applicants deemed qualified by the BSP. The BSP shall provide the rules and regulations for the auction of the aforesaid licenses.

Sec. 6. Promotion of Financial Inclusion Through Virtual Banking – As with conventional banks, virtual banks shall actively promote financial inclusion in delivering their financial products and services. As such, virtual banks shall not impose minimum account balance requirements or fees imposed against accounts with low balances.

Sec. 7. Basic managerial propriety requirements – In addition to management of risks associated with online banking, a virtual bank shall endeavor to properly manage credit, liquidity, and interest rate risks. Thus, as with conventional banks, the BSP must be satisfied that the controllers, directors and chief executives of the virtual banking applicant are fit and proper persons.

Additionally, given their technology-dependent business models, the board of directors and senior management of virtual banks should have the requisite knowledge and experience to enable them to discharge their functions effectively.

Sec. 8. Incorporation of a Virtual Bank – The virtual bank shall operate as a domestically-incorporated bank, as virtual banks are expected to engage primarily in retail businesses and cater to retail customers.

Sec. 9. Classification of a Virtual Bank – The BSP shall amend the Manual of Regulations for Banks (MORB) to include Virtual Banks. A Virtual Bank shall have, at the minimum, the following functions and powers, in addition to those the BSP may grant it, periodically or upon proper regulation:

- (a) grant loans, whether secured or unsecured;
- (b) invest in readily marketable bonds and other debt securities, commercial papers and accounts receivable, drafts, bills of exchange, acceptances or notes arising out of commercial transactions;
- (c) issue domestic letters of credit;
- (d) extend credit facilities to private and government employees;
- (e) accept savings and time deposits

With prior approval of the Monetary Board, and subject to such guidelines as may be established by it, a virtual bank may also perform all the functions and provide all the services that a thrift bank is allowed to perform.

Sec. 10. Minimum Capitalization Requirements – The BSP shall amend Subsection X111.1 of the MORB to include minimum capitalization requirements for virtual banks. The minimum capitalization requirement for a virtual bank shall be no less Twenty Billion Pesos (P 20,000,000.00), to be raised in four years. Additionally, virtual banks should comply with risk-based capital adequacy rules set by the BSP in accordance with International Convergence of Capital Measurement and Capital Standards, popularly known as Basel 2.

Sec. 11. Supervision of Virtual banks – The supervisory conditions to be imposed by the BSP on Virtual Banks shall cover requirements on capital adequacy, liquidity, large exposures, intra-group exposures and charges over assets, group structure, activities undertaken, risk management, fitness and propriety of directors and senior management and the submission of financial and other information to the BSP.

Sec. 12. Transparency with the BSP – Virtual banks must keep a full set of their books, accounts and records of transactions usually required by the BSP of other banks, and which shall be accessible to the BSP.

CHAPTER III OWNERSHIP AND OPERATIONS OF VIRTUAL BANKS

Sec. 13. Ownership of virtual banks – Both financial firms (including existing banks in the Philippines) and non-financial firms (including technology companies) may apply to own and operate a virtual bank. As new ventures which can be subject to higher risks in the initial years of operation, the BSP must be satisfied that owners and parent companies of a virtual bank are committed to supporting the bank and are capable of providing strong financial, technology and other support when necessary.

A person who holds more than fifty (50) percent of the share capital of a bank incorporated in the Philippines should be a bank or a financial institution in good standing and supervised by the appropriate authority in the Philippines or a joint venture between a financial institution in good standing and supervised by the appropriate authority in the Philippines and elsewhere. *Provided* that in the case of the latter, the Philippine financial institutions shall own a total of at least thirty (30) percent of the joint venture.

Sec. 14. Physical presence in the Philippines – A virtual bank applicant, if authorized, must maintain a physical presence in the Philippines, which shall be its principal place of business. The BSP shall ensure that this requirement is complied with, to provide an office for interfacing with the BSP, as well as with customers to address their inquiries or complaints.

Sec. 15. Other offices – Virtual banks are not expected to establish local branches. They may nevertheless maintain one or more local offices, subject to notification requirements provided by the BSP.

Sec. 16. Technology-related risk management – A virtual bank shall adequately manage technology-related risks, especially information security, system resilience, and business sustainability. As such, the BSP shall issue guidelines to ensure that the technology employed by virtual banks are “fit for purpose,” or appropriate to the type of transactions which the virtual bank is authorized to carry out.

As such, a virtual bank applicant will be required to engage a qualified and independent expert to perform an independent assessment of the adequacy of its planned information technology governance and systems. A copy of this assessment report should be provided to the BSP as part of its application requirements.

A more detailed independent assessment of the actual design, implementation and effectiveness of its computer hardware, systems, security, procedures and controls should be undertaken and the report of the assessment should be provided to the BSP before the virtual bank commences operations.

Sec. 17. Continuing review of technology risk management -- The virtual bank shall establish procedures for regular review of its security and technology related arrangements to ensure that such arrangements remain appropriate having regard to the continuing developments in technology.

The BSP shall also be authorized to perform, periodically and/or from time to time, both random and scheduled audits of the security of existing virtual banks information technology governance and systems.

Sec. 18. Risk management – Like conventional banks, a virtual bank applicant must understand the types of risk to which it is exposed and put in place appropriate systems to identify, measure, monitor and control these risks. It should be aware that certain types of risk such as liquidity, operational (including protection of customer data) and reputation risk may be accentuated in the case of virtual banks because of their nature of operation.

As such, the virtual bank shall undergo the standard risk-based supervisory framework established by the BSP, analyze to what extent it will be subject to these risks as a virtual bank, and establish appropriate controls to manage these risks.

Sec. 19. Business plan – Subject to the specifications of the BSP, a virtual bank must be able to present a credible and viable business plan which strikes a secure and sustainable balance between the desire to build market share and the need to earn a reasonable return on assets and equity. A

virtual bank should not allow rapid business expansion to put undue strains on its systems and risk management capability.

With its existing regulatory functions and powers, the BSP shall ensure that virtual banks undertake strategies that do not interfere with the stability of the banking sector or undermine the confidence of the general public in the virtual bank itself.

Sec. 20. Exit plan – Given the novelty of virtual banking, the BSP shall require a virtual bank applicant to provide an exit plan in case its business model turns out to be unsuccessful. The exit plan shall ensure that, in the event of failure, a virtual bank can unwind its business operations in an orderly manner without causing disruption to the customers and the financial system. At the minimum, an exit plan shall include the circumstances under which the plan will be triggered, the authority to trigger the plan, the channels to be used to repay depositors and the source of funding for making the payments. The specifications of the exit plan shall be set by the BSP.

Sec. 21. Outsourcing – Virtual banks may outsource computer or business operations of a virtual bank to a third party service provider, which may or may not be part of the group owning the virtual bank, provided that they should discuss their plans for material outsourcing with the BSP in advance, and should comply with the BSP's rules and regulations on outsourcing, especially with Section X162 of the MORB, or Statement of Principle on Outsourcing. In particular, the BSP must be satisfied that the operations outsourced remain subject to proper security controls, that confidentiality and integrity of customer information will not be compromised, and that the requirements under the Data Privacy Act, other applicable laws and regulations, and common customer confidentiality are complied with.

CHAPTER IV CONSUMER PROTECTION

Sec. 22. Virtual Banks as BSFI – A virtual bank shall be a BSP-supervised Financial Institution (BSFI). As a BSFI, a virtual bank shall be subject to the rules and regulations set under the BSP Regulations on Financial Consumer Protection. The BSP may also amend its consumer protection regulations to address consumer concerns unique to virtual banks, given the novel nature of their technology-dependent business model.

Sec. 23. Truth and transparency in virtual banking – Virtual banks shall be subject to applicable rules and regulations under Republic Act No. 3765, or the "Truth in Lending Act." Additionally, virtual banks shall ensure that, in addition to the usual risks associated with conventional financial institutions, consumers are fully apprised of both the risks and advantages of availing of the services of virtual banks. The BSP shall require that, before initiating a relationship with the virtual bank, consumers of subscribe to a standard statement detailing the risks associated with availing of the services of virtual banks.

Sec. 24. Deposit insurance – Deposits made in virtual banks shall be covered by all protections extended to deposits in conventional banks. As such, deposits in virtual banks shall be covered by Republic Act No. 3591, as amended by Republic Act. No. 9576. Virtual banks as covered by this Act shall be member banks of the Philippine Deposit Insurance Corporation (PDIC). No part of this Act shall be construed as to reduce or alter the protections already extended to deposits in conventional banks.

Sec. 25. Basic consumer rights to information – It shall be the responsibility of virtual banks to ensure that consumers are informed of the risks involved in virtual banking. To this end, the consumer may request any informally normally made available to consumers by conventional banks.

Sec. 26. Basic protection against direct loss due to unauthorized transactions – Unless a customer acts fraudulently or with gross negligence such as failing to properly safeguard his or her device(s) or secret code(s) for accessing the e-banking service, he or she should not be responsible for any direct loss suffered by him or her as a result of unauthorized transactions conducted through his or her account.

CHAPTER V OTHER PROVISIONS

Sec. 27. Congressional Oversight Committee on Virtual Banks – To monitor the implementation of this Act, there shall be a Congressional Oversight Committee on Virtual Banks, composed of the Chair and four other members of the House Committee on Banks and Financial Intermediaries, and the Chair and four other members of the Senate Committee on Banks, Financial Institutions and Currencies. No part of this Act shall be construed as to limit the oversight powers inherently or actually possessed by the same committees.

Sec. 28. Transitory Provisions – Existing virtual banks or virtual banking services which were authorized by the BSP prior to the effectivity of this Act shall be given one hundred and eighty (180) days to comply with rules and regulations set by the BSP pursuant to this Act. No virtual banking licenses shall be issued by the BSP in the period between the effectivity of this Act and the issuance of applicable rules and regulations pursuant to this Act.

Sec. 29. Implementing Rules and Regulations – The BSP shall promulgate the necessary rules and regulations within ninety (90) working days from the effectivity of this Act.

Sec. 30. Separability Clause. — If any portion or provision of this Act is subsequently declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain in full force and effect.

Sec. 31. Repealing Clause. — All other laws, acts, presidential decrees, executive orders, presidential proclamations, issuances, rules and regulations, or parts thereof which are contrary to

or inconsistent with any of the provisions of this Act are hereby repealed, amended, or modified accordingly.

Sec. 32. Effectivity. — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,