

MALACAÑANG
M a n i l a

PRESIDENTIAL DECREE No. 1771

**AMENDING FURTHER REPUBLIC ACT NO. 265, AS AMENDED,
THERWISE KNOWN AS "THE CENTRAL BANK ACT"**

WHEREAS, supervisory and regulatory authorities should have the means to achieve their objectives and accomplish their responsibilities;lawphil.net

WHEREAS, the Central bank should be able to enforce banking laws and rules and regulations in order promote and maintain a safe and sound banking system;

WHEREAS, it is necessary to afford the Central Bank greater flexibility in the use of its credit facilities meet the demands of economic development;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order the amendment of Republic Act No. 265, as amended, follows:

Section 1. Section 1 of Republic Act No. 265 as amended, is hereby amended to read as follows:

"Sec. 1. Creation of the Central Bank. There is hereby created a body corporate to be known as the Central Bank of the Philippines which shall be governed by the provisions of this Act.

"The capital of the Central Bank shall be ten billion (P10,000,000,000.00) pesos, the initial subscription which shall be appropriated from the assets of the Exchange Standard Fund, as provided in section 134 of this Act."

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

"Sec. 3. Place of business. The Central Bank shall have its principal place of business in Metropolitan Manila, but may have such branches, agencies and correspondents in other places as are necessary for the proper conduct of its business."

Section 3. Section 5 of the same Act is hereby amended to read as follows:

"Sec. 5. Composition of the Monetary Board. The powers and functions of the Central Bank shall be exercised by a Monetary Board, which shall be composed of seven members, as follows:

"(a) The Governor, who shall be the Chairman of the Monetary Board. The Governor shall be appointed for a term of six years by the President of the Philippines. Whenever the Governor is unable to attend a meeting of the Board, a Senior Deputy Governor shall act as Chairman.

"(b) The Minister of Finance. Whenever the Minister of Finance is unable to attend a meeting of the Board, he shall designate a deputy minister to attend as his alternate;

"(c) The Director General of the National Economic and Development Authority. Whenever the Director General is unable to attend a meeting of the Board, he shall designate a deputy director-general of the Authority to attend as his alternate;

"(d) The Chairman of the Board of Investments. Whenever the Chairman of the Board of Investments is unable to attend a meeting of the Board, he shall designate a governor of the Board of Investments to attend as his alternate;

"(e) In lieu of any of the officials named in subsection (c) or (d) above, such head of any other financial or economic agency or department of the Government as the President of the Philippines may determine;

"(f) Three part-time members from the private sector, to be appointed for terms of six years by the President: Provided, however, that the first members appointed under the provisions of this subsection shall have terms of office of two, four and six years, respectively.

"In making appointments to the Monetary Board, the President of the Philippines shall base his selection on the integrity, experience and expertise of the appointee."

Section 4. The first paragraph of Section 10 of the same Act is hereby amended to read as follows:

"Sec. 10. Meetings. The Monetary Board shall convene as frequently as is necessary to discharge its responsibilities properly, but shall meet at least once every two weeks. The Board may be convoked either by the Minister of Finance or by the Governor of the Central Bank."

Section 5. Subsections (b) and (c) of Section 14 of the same Act is hereby amended to read as follows:

"(b) Direct the management, operations, and administration of the Central Bank, reorganize its personnel, and issue such rules and regulations as it may deem necessary or convenient for his purpose. The legal units of the Central Bank shall be under the exclusive supervision and control of the Monetary Board, the provision of any law to the contrary notwithstanding.

"(c) On the recommendation of the Governor, appoint, fix the remunerations and other emoluments, and remove personnel of the Central Bank, with the exceptions of the Governor, subject to pertinent civil service and compensation laws: Provided, That the Monetary Board shall have exclusive and final authority to promote, transfer, assign, or reassign personnel of the Central Bank and these personnel actions are deemed made in the interest of the service and not disciplinary, any provisions of existing law to the contrary notwithstanding: Provided, further, That the Monetary Board may delegate such authority to the Governor under such guidelines as it may determine."

Section 6. Subsection (b) of Section 17 of the same Act is hereby amended to read as follows:

"(b) To authorize, with his signature, contracts entered into by the Central Bank, notes and securities issued by the Bank, and the annual reports, balance sheets, profit and loss statements, correspondence and other documents of the Bank without the approval of the concurrence of any other agency of the Government. The signature of the Governor may be in facsimile wherever appropriate,"

Section 7. The first paragraph of Section 18 of the same Act is hereby amended to read as follows:

"Sec. 18. Authority of the Governor in emergencies. In the event of war or other emergencies which require immediate action and in which there is insufficient time to call a meeting of the Monetary Board, the Governor of the Central Bank, with the concurrence of the Minister of Finance or, in his absence, with the concurrence of any two other members of the Monetary Board, may decide any matter or take any action within the authority of the Board itself and may suspend any resolution or decision of the Board."

Section 8. Section 19 of the same Act is hereby amended to read as follows:

"Sec. 19. Outside interests of the Governor. The Governor of the Central Bank shall be required to limit his professional activities to those pertaining directly to his position with the Central Bank; accordingly, the Governor of the Bank may not accept any other employment, whether public or private, remunerated or ad honorem, with exception of academic positions and of public commissions and positions held in representation of the interests of the Government or government agencies and which are related to the formation, direction or implementation of monetary banking or general economic policies which concern the national interest of the Philippines."

Section 9. The first two paragraphs of Section 21 of the same Act is hereby amended to read as follows:

"Sec. 21. Deputy-Governor. The Governor of the Central Bank, with the approval of the Monetary Board, shall appoint one or more senior deputy governors and deputy-governors, in a maximum number as may be approved by the President of the Philippines. They shall perform duties as may be assigned to them by the Governor and the Board."

"In the absence of the Governor of the Central Bank, a Senior Deputy Governor designated by the Governor shall act as chief executive of the Central Bank and shall exercise the powers and perform the duties of the Governor. Whenever the Governor or Senior Deputy Governor, as the case may be, is unable to attend meetings of a government boards or councils in which he is an ex-officio member pursuant to provisions of special laws, a Senior Deputy Governor or Deputy Governors as may be designated by the Governor, shall be vested with authority to participate and exercise the right to vote in such meetings. They shall have such line or staff authority as may be delegated by the Governor and the Monetary Board."

Section 10. The second paragraph of Section 23 of Republic Act No. 265, as amended, is hereby amended to read as follows:

"Data on individual firms, other than banks, gathered for statistical purposes by the Department of Economic Research and other departments or units of the Central Bank shall not be made available to any person or entity outside of the Central Bank whether public or private except where specifically authorized by the Monetary Board: Provided, however, That the collective data on firms may be released to interested persons or entities: Provided, finally, That in the case of data on banks, the provisions of Section 27 of this Act shall apply."

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

"Sec. 25. Creation of the appropriate departments. In order to assure the observance of this Act and of other pertinent laws, and of the rules and regulations of the Monetary Board, the Central Bank shall have appropriate supervising and examining departments which shall be charged with the supervision and periodic or special examinations of banking institutions operating in the Philippines, including all Government credit institutions, including their subsidiaries and affiliates, non-bank financial intermediaries, and subsidiaries and affiliates of non-bank financial intermediaries performing quasi-banking functions: Provided, That affiliates of banking institutions, non-bank financial intermediaries, and subsidiaries and affiliates of non-bank financial intermediaries performing quasi-banking functions may be subject to special examination if the circumstances so warrant as determined by the Monetary Board: Provided, further, That a subsidiary means a corporation more than 50% of the voting stock of which is owned by a banking institution or nonbank financial intermediary, and an affiliate means a corporation 10% to 50% of the voting stock of which is owned by such institution or intermediary. The supervising and/or examining departments shall discharge their responsibilities in accordance with the instructions of 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 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."

Section 12. A new section is hereby added after Section 25 of the same Act to read as follows:

"Sec. 25-A. The department heads and the examiners of the supervising and examining departments, in the conduct of the periodic or special examination of banking institutions may be

specifically authorized by the Monetary Board to examine, inquire or look into all deposits of whatever nature with banking institutions in the Philippines including investments in debt instrument issued by the Government of the Philippines, its political subdivisions and its instrumentalities, after being satisfied that there is reasonable ground to believe that a bank fraud or serious irregularity has been or is being committed and that it is necessary to look into the deposit to establish such fraud or irregularity."

Section 13. The first paragraph of Section 27 of the same Act is hereby amended to read as follows:

"Sec. 27. Prohibitions. Personnel of the Central Bank are hereby prohibited from:

"(a) Being an officer, director, employee, or stockholder, directly or indirectly, of any institution subject to supervision or examination by the Central Bank, except non-stock savings and loan associations and provident funds organized exclusively for employees of the Central Bank, and except as otherwise provided in this Act;

"(b) Receiving any gift or thing of value from any officer, director or employee thereof;

"(c) Revealing in any manner, except under order of the court, or under such conditions as may be prescribed by the Monetary Board, information relating to the condition or business of any such institution. This prohibition shall not be held to apply to the giving of information to the Monetary Board of the Governor of the Central Bank, or to any person authorized by either of them, in writing, to receive such information."

Section 14. Section 29 of the same Act is hereby amended to read as follows:

"Sec. 29. Proceeding upon insolvency. Whenever, upon examination by the head of the appropriate supervising and examining department or his examiners or agents into the condition of any banking institution, it shall be disclosed that the condition of the same is one of insolvency, or that its continuance in business would involve probable loss to its depositors or creditors, it shall be the duty of the department head concerned forthwith, in writing, to inform the Monetary Board of the facts, and the Board may, upon finding the statements of the department head to be true, forbid the institution to do business in the Philippines and shall designate an official of the Central Bank, or a person or recognized competence in banking, as receiver to immediately take charge of its assets and liabilities, as expeditiously as possible collect and gather all the assets and administer the same

for the benefit of its creditors, exercising all the powers necessary for these purposes including, but not limited to, bringing suits and foreclosing mortgages in the name of the banking institution.

"The Monetary Board shall thereupon determine within sixty days whether the institution may be reorganized 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 and shall prescribe the conditions under which such resumption of business shall take place as well as the time for fulfillment of such conditions. In such case, the expenses and fees in the collection and administration of the assets of the institution shall be determined by the Board and shall be paid to the Central Bank out of the assets of such banking institution.

"If the Monetary Board shall determine and confirm within the said period that the banking institution is insolvent or can not resume business with safety to its depositors, creditors, and the general public, it shall, if the public interest requires, orders its liquidation, indicate the manner of its liquidation and approve a liquidation plan. The Central Bank shall, by the Solicitor General, file a petition in the Court of First Instance reciting the proceedings which have been taken and praying the assistance of the court in the liquidation of the banking institution. The court shall have jurisdiction in the same proceedings to adjudicate disputed claims against the bank and enforce individual liabilities of the stockholders and do all that is necessary to preserve the assets of the banking institution and to implement the liquidation plan approved by the Monetary Board. The Monetary Board shall designate an official of the Central Bank, or a person of recognized competence in banking, as liquidator who shall take over the functions of the receiver previously appointed by the Monetary Board under this Section. The liquidator shall, with all convenient speed, convert the assets of the banking institution to money or sell, assign or otherwise dispose of the same to creditors and other parties for the purpose of paying the debts of such bank and he may, in the name of the banking institution, institute such actions as may be necessary in the appropriate court to collect and recover accounts and assets of the banking institution.

"The provisions of any law to the contrary notwithstanding, the actions of the Monetary Board under this Section and the second paragraph of Section 34 of this Act shall be final and executory, and can be set aside by the court only if there is convincing proof that the action is plainly arbitrary and made in bad faith. No restraining order or injunction shall be issued by the court enjoining the Central Bank from implementing its actions under this Section and the second paragraph of Section 34 of this Act, unless there is convincing proof that the action of the Monetary Board 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 Central Bank, in an amount to be fixed by the court. The restraining order or injunction shall be refused or, if granted, shall be dissolved upon filing by the Central Bank of a bond, which shall be in the form of cash or Central Bank cashier's check, in an amount twice the amount of the bond of the petitioner or plaintiff conditioned that it will pay the damages which the petitioner or plaintiff may suffer by the refusal or the 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.

"Insolvency, under this Act, shall be understood to mean the inability of a banking institution to pay its liabilities as they fall due in the usual and ordinary course of business: Provided, however, That this shall not include the inability to pay of an otherwise non-insolvent bank caused by extraordinary demands induced by financial panic commonly evidenced by a run on the banks in the banking community.

"The appointment of a conservator under Section 28-A of this Act or the appointment of a receiver under this Section shall be vested exclusively with the Monetary Board, the provision of any law, general or special, to the contrary notwithstanding."

Done in the City of Manila this 14th day of January, in the year of Our Lord, nineteen hundred and eighty-one.