

RUFUS B. RODRIGUEZ

EIGHTEENTH CONGRESS)
 REPUBLIC OF THE PHILIPPINES)
 First Regular Session)

HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez

House Bill No. **2842**

AN ACT

FURTHER PROMOTING ENTREPRENEURSHIP BY STRENGTHENING, EMPOWERING AND ENHANCING THE FINANCING PROGRAMS FOR MICRO, SMALL AND MEDIUM ENTERPRISES, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 6977, AS AMENDED, OTHERWISE KNOWN AS THE "MAGNA CARTA FOR MICRO, SMALL AND MEDIUM ENTERPRISES (MSMEs)"

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

SECTION 1. Section 2 of Republic Act No. 6977, as amended, is hereby further amended to read as follows:

"SEC. 2. *Declaration of Policy.* – Recognizing that MSMEs have the potential [for] **TO GENERATE** more employment [generation] and **SPUR** economic growth and therefore can help provide a self-sufficient industrial foundation for the country, it is hereby declared the policy of the State to promote, support, strengthen and encourage the growth and development of MSMEs in all productive sectors of the economy particularly rural/agri-based, **MANUFACTURING, FINANCE AND SERVICES** enterprises. To this end, the State shall recognize the specific needs of the MSMEs and shall undertake to promote entrepreneurship, support entrepreneurs, encourage the establishment of MSMEs and ensure their continuing viability and growth and thereby attain countryside industrialization by:

"x x x."

SEC. 2. Section 4 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 4. *Eligibility for Government Assistance.* – To qualify for assistance, counseling, incentives and promotion under this Act, businesses falling under the above definition must be:

"x x x

"[Eligible MSMEs shall be entitled to a share of at least ten percent (10%) of total procurement value of goods and services supplied to the Government, its bureaus, offices and agencies annually.] **THE NATIONAL GOVERNMENT, ITS BUREAUS, OFFICES AND AGENCIES SHALL ALLOCATE AT LEAST TEN PERCENT (10%) OF ALL ITS PROCUREMENT OPPORTUNITIES FOR GOODS AND SERVICES TO ELIGIBLE MSMEs IN ACCORDANCE WITH THE PROVISIONS OF REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE 'GOVERNMENT PROCUREMENT REFORM ACT', AND ITS IMPLEMENTING RULES AND REGULATIONS.**

"The [Department of Budget and Management] **GOVERNMENT PROCUREMENT POLICY BOARD (GPPB)** shall **FORMULATE RULES FOR THE EFFECTIVE IMPLEMENTATION OF THIS PROVISION AND** monitor the compliance of government agencies on the required procurement for MSMEs and submit its report to the MSME Council on a semestral basis and to the

Congress of the Philippines, through its appropriate committees on a yearly basis."

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

"SEC. 5. *Guiding Principles.* – To set the pace for MSME development, the State shall be guided by the following principles:

"x x x

"c) Coordination of government efforts. Government efforts shall be coordinated to achieve coherence in objectives. All appropriate offices, particularly those under the Departments of Trade and Industry, Finance, Budget and Management, Agriculture, Agrarian Reform, Environment and Natural Resources, Labor and Employment, Transportation [and Communications], **INFORMATION AND COMMUNICATIONS TECHNOLOGY**, Public Works and Highways, Science and Technology, Interior and Local Government and Tourism as well as the National Economic and Development Authority, Philippine Information Agency and the *Bangko Sentral ng Pilipinas*, through their national, regional and provincial offices shall, to the best of their efforts and in coordination with local government units, provide the necessary support and assistance to MSMEs. **THE DEPARTMENT OF TRADE AND INDUSTRY SHALL BE THE LEAD AGENCY THEREFOR.**

"x x x."

SEC. 4. Section 6 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 6. *Micro, Small and Medium Enterprises Development Plan (MSMEDP).* – The President shall approve a six-year micro, small and medium enterprises development plan prepared by the Department of Trade and Industry (DTI) which shall form part of the [Medium Term] Philippine Development Plan ([MT]PDP). It shall be formulated in consultation with the private sector, validated and updated semestrally. Such plan shall include a component on a micro credit financing scheme."

SEC. 5. Section 7 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 7. *Micro, Small and Medium Enterprise Development (MSMED) Council.* – The existing Small and Medium Enterprise Development Council, which was created by Republic Act No. 6977, as amended by Republic Act No. 8289 **AND REPUBLIC ACT NO. 9501, AND FURTHER AMENDED BY REPUBLIC ACT NO. 10644**, shall be strengthened to effectively spur the growth and development of MSMEs throughout the country, and to carry out the policy declared in this Act and shall now be known as the Micro, Small and Medium Enterprise Development (MSMED) Council. The Council shall be attached to the Department of Trade and Industry and shall be constituted within sixty (60) days after the approval of this Act.

"x x x."

SEC. 6. Section 7-A of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 7-A. *Composition of the Micro, Small and Medium Enterprises Development (MSMED) Council.* – The members of the Council shall be the following:

"(a) The Secretary of Trade and Industry as Chair;

"(b) The Secretary of Agriculture;

"(c) The Secretary of the Interior and Local Government;

"(D) **THE SECRETARY OF FINANCE;**

"[(d)] (E) Three (3) representatives from the MSME sector, [to represent Luzon, Visayas and Mindanao, with at least one (1) representative from the microenterprise sector] **TO BE DESIGNATED BY A NATIONAL ORGANIZATION REPRESENTING AND DOMINATED BY MSMEs; AND**

"[(e)] One (1) representative from the women sector designated by the Philippine Commission on Women;]

"[(f)] One (1) representative from the youth sector designated by the National Youth Commission; and]

"[(g)] (F) The Chairman of **THE** Small Business Corporation.

"A. *Advisory Unit.* – There shall be an Advisory Unit to the Council, which shall consist of the following:

"(a) The Secretary of Science and Technology;

"(b) The Governor of the *Bangko Sentral ng Pilipinas*;

"(c) The President of the Land Bank of the Philippines;

"(d) The President of the Development Bank of the Philippines;

"(e) The Director General of the National Economic and Development Authority;

"(F) **THE EXECUTIVE DIRECTOR OF THE COOPERATIVE DEVELOPMENT AUTHORITY;**

"(G) **A REPRESENTATIVE OF A NATIONAL ORGANIZATION REPRESENTING AND DOMINATED BY MSMEs;**

"[(f)] (H) One (1) representative from the labor sector, to be nominated by accredited labor groups;

"[(g)] (I) A representative from the private banking sector to serve [alternatively] **ALTERNATELY** between the chamber of thrift banks, and the Rural Banker's Association of the Philippines (RBAP);

"[(h)] (J) A representative of the microfinance nongovernment organizations (NGOs), **DESIGNATED BY THE MICROFINANCE NGO REGULATORY COUNCIL;**

"[(i)] (K) A representative of the University of the Philippines-Institute for Small Scale Industries (UP-ISSI); [and]

"[(j)] (L) The President of the Credit Information Corporation[.];

"(M) **ONE (1) REPRESENTATIVE FROM THE WOMEN SECTOR DESIGNATED BY THE PHILIPPINE COMMISSION ON WOMEN; AND**

"(N) **ONE (1) REPRESENTATIVE FROM THE YOUTH SECTOR DESIGNATED BY THE NATIONAL YOUTH COMMISSION.**

"(O) **A REPRESENTATIVE FROM NONSTOCK SAVINGS AND LOAN ASSOCIATIONS DESIGNATED BY THE ALLIANCE OF NON-STOCK SAVINGS AND LOAN INSTITUTIONS, INC. (ANSLI).**

"x x x."

SEC. 7. Section 7-B of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 7-B. *Powers and Functions.* – A. The MSMED Council shall have the following powers, duties and functions:

"x x x;

"h) To promote the productivity and viability of MSMEs **IN DTI'S TOP PRIORITY INDUSTRIES FOR DEVELOPMENT** by way of directing and/or assisting relevant government agencies and institutions at the national, regional and provincial levels towards the:

"x x x;

"12) Through appropriate government agencies:

"x x x;

"f) Set-up new MSME **NEGOSYO** centers and revitalize already established MSME **NEGOSYO** centers to provide MSMEs in the regions easier access to services such as, but not limited to, the following:

"x x x."

"B. *Additional Functions of the MSMED Council.* – **THE** MSMED Council shall have the following additional functions:

"(a) Coordinating and Oversight Body for the **MSME** Negosyo Center. – The MSMED Council, through the DTI, shall act as the coordinating and supervising body for all the agencies involved in the establishment and operation of the **MSME** Negosyo Centers. Further, the MSMED Council shall monitor and assess the progress of the Negosyo Centers, which shall be included in its annual report submitted to the Congress.

"(b) Provision of a Compliance Guide. – For each rule or group of related rules issued by any government agency for compliance by MSMEs, the Council shall publish compliance guidelines which shall be written in plain language or in the local dialect, if necessary.

"The Council shall prepare separate compliance guides covering groups or classes of similarly affected MSMEs and shall cooperate with industry associations to develop and distribute such compliance guides. The publication of each compliance guide shall include the posting of the guide in an easily identified location on the website of the agency, and distribution of the guide to known industry contacts, such as small entities, associations or industry leaders affected by the rule. The issuing government agency shall publish and disseminate the compliance rules within ninety (90) days from the date of issuance.

"(c) Conduct of Research on Women Entrepreneurship. – The Council shall conduct research to support women entrepreneurship including, but not limited to entrepreneurial behavior, barriers, participation and cessation rates, discriminatory practices and contribution to the national economy and growth.

"(d) Policy Formulation on Women Entrepreneurship. – The Council shall provide policy direction towards recognizing women's propensity in doing business as well as establish linkages that will enable more opportunities for women to engage in entrepreneurship.

"(e) Development of Entrepreneurial Education and Training. – The MSMED Council shall develop, in coordination with the Department of Education, TESDA and CHED, a course curriculum or training program in entrepreneurship that will promote entrepreneurial culture and competence. Entrepreneurship shall be integrated in the curriculum of educational and training institutions in all levels."

SEC. 8. Section 11-A of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 11-A. *Composition of the Board of Directors and its Powers.* – The SB Corporation [corporate powers shall be vested on] **SHALL HAVE** a Board of Directors composed of [eleven (11)] **THIRTEEN (13)** members which shall include the following:

"a) The Secretary of Trade and Industry;

"b) The Secretary of Finance;

"C) **THE PRESIDENT OF THE GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS);**

"D) **THE PRESIDENT OF THE SOCIAL SECURITY SYSTEM (SSS);**

"[c] E) A private sector representative to be appointed by the President **OF THE PHILIPPINES** upon the recommendation of the MSMED Council;

"[d] F) Seven (7) representatives of the SB Corporation common stock shareholders who shall be elected based on proportional distribution, in accordance with Section 24 of the Corporation Code; and

"[e)] G) The president of the SB Corporation as *ex-officio* member and to serve as vice chairman of the Board.

"The President shall appoint the chairman of the Board from among its members.

"All members of the Board so appointed, except for the *ex-officio* members, shall serve for a term of three (3) years [without reappointment.] **AND MAY BE REAPPOINTED TO ANOTHER TERM UNLESS EARLIER REVOKED. IF THE TERM OF THE INCUMBENT MEMBER HAS EXPIRED, THE MEMBER SHALL CONTINUE TO FUNCTION IN A HOLDOVER CAPACITY UNTIL A REPLACEMENT HAS BEEN APPOINTED AND QUALIFIED.** [The]ANY person [so] appointed to replace a member who has resigned, died, or been removed for cause shall serve only for the unexpired portion of the term.

"The Board of Directors shall have, among others, the following specific powers and authorities:

"x x x; and

"f) [Notwithstanding the provisions of Republic Act No. 6758 and Compensation Circular No. 10, Series of 1989 issued by the Department of Budget and Management, the Board shall have the authority to p]Provide for the organizational structure, [and] staffing pattern [of SB Corporation and to extend to the employees and personnel thereof salaries, allowances and fringe benefits similar to those extended to and currently enjoyed by employees and personnel of other government financial institutions.] **AND COMPENSATION OF EMPLOYEES AND PERSONNEL OF THE SB CORPORATION, FOR SUBMISSION TO THE GOVERNANCE COMMISSION FOR GOCCs."**

SEC. 9. Section 11-B of the same Act, as amended, is hereby further amended, to read as follows:

"SEC. 11-B. *Corporate Structure and Powers.* – Corporation shall:

"A. The SB

"x x x.

"B. For this purpose, the SB Corporation [subject to compliance with the rules and regulations to be issued by the *Bangko Sentral ng Pilipinas (BSP)* and the Securities and Exchange Commission,] shall have the following functions and duties:

"a) Source and adopt development initiatives for globally competitive MSMEs in finance and business technologies;

"b) [To] [e]Extend all forms of financial assistance, **EXCEPT GRANTS AND SUBSIDIES**, to eligible MSMEs[.], **AND NOT TO PRECLUDE RETAIL LENDING IN AREAS WHERE PRIVATE BANKS ARE NOT ABLE TO SERVE, SUBJECT TO CONSULTATION WITH THE PRIVATE BANKS;** [SB Corporation may also engage in wholesale lending. The SB Corporation shall be given two (2) years from the effectivity of this Act to comply with this requirement;]

"c) Guarantee loans obtained by qualified MSMEs under such terms and conditions adopted by the SB Corporation Board of Directors, **AS WELL AS ESTABLISH A GUARANTEE SYSTEM FOR DISTRESSED ENTERPRISES AS INSURANCE AGAINST EXTRAORDINARY DISASTERS;**

"x x x;

"f) Apply for, receive and accept grants and donations from sources within and outside the country; [and]

"g) Hold, own, purchase, acquire, sell, mortgage, dispose or otherwise invest or re-invest in stocks, bonds, treasury bills, debentures, securities and similar forms of indebtedness of the government, its agencies and instrumentalities or any government financial institution[.]; **AND**

"H) **SUBMIT AN ANNUAL REPORT TO THE MSMED COUNCIL, THE CONGRESS OF THE PHILIPPINES AND THE GOVERNANCE COMMISSION**

FOR GOCCS ON THE PERFORMANCE AND FINANCIAL CONDITION OF THE CORPORATION.

"THE SB CORPORATION SHALL BE EXEMPT FROM SECURING PRIOR BSP AUTHORIZATION FOR ENGAGING IN QUASI-BANKING ACTIVITIES AND SHALL NOT BE SUBJECT TO BSP SUPERVISION AND REGULATION FOR SUCH ACTIVITIES."

SEC. 10. A new subsection is hereby inserted after Section 11-B of the same Act, as amended, and numbered as Section 11-C to read as follows:

"SEC. 11-C. STRATEGIC MANAGEMENT OF THE SB CORPORATION. – THE BOARD OF THE SB CORPORATION, THROUGH ITS CHAIRMAN, SHALL BE FULLY RESPONSIBLE AND ACCOUNTABLE FOR THE PERFORMANCE OF THE CORPORATION'S MANDATE. TO ENSURE THIS, THE BOARD SHALL BE CONSTITUTED AS A MANAGING BOARD, LED BY ITS CHAIRMAN, TO CONCEPTUALIZE THE STRATEGIC PLANS AND POLICIES OF THE CORPORATION.

"THE SB CORPORATION SHALL ADOPT A BALANCED SCORECARD APPROACH, SUBJECT TO THE REVIEW AND APPROVAL OF THE GOVERNANCE COMMISSION FOR GOCCs, IN ITS STRATEGIC MANAGEMENT TO ENABLE IT TO MANAGE ITS FINANCIAL PERFORMANCE WHILE PURSUING THEIR PUBLIC POLICY OBJECTIVES OF SUPPORTING MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT."

SEC. 11. Section 12 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 12. Capitalization and Funding of the SB Corporation. – The SB Corporation shall have an authorized capital stock of Ten billion pesos (P10,000,000,000.00). The initial capital of One billion pesos (P1,000,000,000.00) shall be established from a pool of funds to be contributed in the form of equity investments in common stock by the Land Bank of the Philippines (LBP), the Development Bank of the Philippines (DBP), in the amount of Two hundred million pesos (P200,000,000.00) each. The Social Security System (SSS) and the Government Service Insurance System (GSIS) shall also set aside Two hundred million pesos (P200,000,000.00) each for the SB Corporation. Authorized capital stock of the [s]Small [b]Business [c]Corporation shall be divided into 80,000,000 common shares and 20,000,000 preferred shares with a par value of One hundred pesos (P100.00) per share: *Provided*, That the common shares which have been issued, including those issued against the assets of the KKK Guaranty Fund consolidated under the [s]Small [b]Business [c]Corporation by virtue of Executive Order No. 233, Series of 2000 and Executive Order No. 19, Series of 2001 and including those already subscribed, shall form part of the capitalization of the corporation: *Provided, further*, That holders of preferred shares issued under Republic Act No. 6977, as amended, shall have the option to convert the same into common shares. Additional equity funding shall come from trust placements of excess and unused funds of existing government agencies, bilateral and multilateral official development assistance funds, subscriptions from government owned or controlled corporations **AND THE NATIONAL GOVERNMENT THROUGH THE DEPARTMENT OF BUDGET AND MANAGEMENT (DBM)**, and investments of private financial institutions and corporations: *Provided, finally*, That any investment from the private sector shall only be in the form of preferred shares.

"THE NATIONAL GOVERNMENT SHALL PROVIDE FOR THE FULL CAPITALIZATION OF THE SB CORPORATION WITHIN A PERIOD OF FIVE (5) YEARS FROM THE APPROVAL OF THIS ACT.

"[To allow for capital build-up, SB Corporation shall be given a five (5) year grace period on dividend commitments beginning on the date of effectivity of this amendment. Thereafter, it] **THE SB CORPORATION** may [only] declare as dividend not more than thirty percent (30%) of its net income and the rest withheld as retained earnings."

SEC. 12. Section 13 of the same Act, as amended, is hereby deleted.

"[SEC. 13. The SB Corporation shall be subject to the supervision and examination of the *Bangko Sentral ng Pilipinas* taking into consideration its developmental objectives.]"

SEC. 13. Section 14 of the same Act, as amended, is hereby renumbered as Section 13, and further amended to read as follows:

"SEC. [14]13. *Venture Capital and Micro Finance Trust Fund.* – The SB Corporation may set aside an amount of money to encourage the setting up of a venture capital and micro finance trust fund for the purpose of promoting business opportunities available to MSME sector. The Venture Capital Fund shall be used mainly for venture capital finance especially in technology-oriented industries. The micro finance trust fund shall be used to provide collateral-free fixed and working capital loans to micro and small enterprises run by those emerging out of poverty. **A SEED AMOUNT OF AT LEAST TEN PERCENT (10%) OF THE ADDITIONAL EQUITY CONTRIBUTION OF THE NATIONAL GOVERNMENT TO THE CAPITALIZATION OF THE SMALL BUSINESS CORPORATION BUT NOT MORE THAN FIVE HUNDRED MILLION PESOS (P500,000,000.00) SHALL BE SET ASIDE TO FUND THE VENTURE CAPITAL AND MICRO FINANCE TRUST FUND.**"

SEC. 14. Section 15 of the same Act, as amended, is hereby renumbered as Section 14, and further amended to read as follows:

"SEC. [15]14. *Mandatory Allocation of Credit Resources to Micro, Small and Medium Enterprises.* –For the period of **ANOTHER** ten (10) years from the date of the effectivity of this amendatory Act, all lending institutions as defined under *Bangko Sentral ng Pilipinas* rules, whether public or private, shall set aside at least eight percent (8%) for micro and small enterprises and at least two percent (2%) for medium enterprises of their total loan portfolio based on their balance sheet as of the end of the previous quarter, and make it available for MSME credit as herein contemplated.

"Compliance of this provision shall be:

"a) actual extension of loans to eligible MSMEs; or

"x x x; or

"f) subscribe/purchase of liability instruments as may be offered by the SB Corporation. **THE SAME SHALL NOT BE DEEMED AS QUASI-BANKING OPERATIONS, AND SHALL NOT REQUIRE A QUASI-BANKING LICENSE FROM THE BSP; OR**

"(G) **LOANS TO MSME VALUE CHAIN ACTORS WHO ALLOW MSMEs TO PARTICIPATE IN ORGANIZED OR FORMAL VALUE CHAINS. VALUE CHAIN ACTORS INCLUDE, AMONG OTHERS, TRADERS, SUPPLIERS, PROCESSORS, AGGREGATORS WHO CONDUCT LINKED SEQUENCE OF VALUE ADDING ACTIVITIES INVOLVED IN BRINGING A PRODUCT TO FINAL CONSUMERS.**

"The *Bangko Sentral ng Pilipinas*, **IN CONSULTATION WITH THE MSMED COUNCIL AND THE SECRETARY OF TRADE AND INDUSTRY**, shall formulate rules for the effective implementation of this provision: *Provided*, That the purchase of government notes, securities and other negotiable instruments shall not be deemed compliance with the foregoing provisions: *Provided, further*, That the *Bangko Sentral ng Pilipinas*, **IN CONSULTATION WITH ALL**

STAKEHOLDERS, shall establish [an] **A MEANINGFUL** incentive [program] **SYSTEM** to encourage [lending to micro, small and medium industries beyond the mandatory credit allocation to said enterprises,] **COMPLIANCE WITH THIS PROVISION**, such as possible reduction in bank's reserve requirement[.]: **PROVIDED, FINALLY, THAT THE BANGKO SENTRAL NG PILIPINAS SHALL ALIGN ITS REGULATIONS ON THE PENALTIES FOR BANKS AND OTHER ENTITIES, FOR NONCOMPLIANCE WITH THE PROVISION FOR MANDATORY LENDING.**

"The MSMED Council shall set up the appropriate systems to monitor all loan applications of MSMEs in order to account for the absorptive capacity of the MSME sector. **EACH LENDING INSTITUTION SHALL DESIGNATE A CHIEF COMPLIANCE OFFICER WHO WILL PREPARE AND SIGN THE REPORT ON COMPLIANCE AND NONCOMPLIANCE WITH THE MANDATORY CREDIT ALLOCATION, FOR SUBMISSION TO THE BANGKO SENTRAL NG PILIPINAS.** The *Bangko Sentral ng Pilipinas* shall furnish to the MSMED Council on a quarterly basis comprehensive reports on the banks' compliance[,] **AND noncompliance [and penalties of] WITH the above provisions on the mandatory credit allocation for MSMEs[.], AND SHALL SUBMIT AN ANNUAL REPORT, SIGNED BY AN OFFICER WITH THE RANK OF AT LEAST A MANAGING DIRECTOR, ON THE AMOUNTS OF THE PENALTIES FOR NONCOMPLIANCE WITH THE MANDATORY LENDING PROVISION OF THIS ACT.**

"Lending institutions which are not qualified to acquire or hold lands of the public domain in the Philippines shall be permitted to bid and take part in sales of mortgaged real property in case of judicial or extra-judicial foreclosure, as well as avail of receivership, enforcement and other proceedings, solely upon default of a borrower, and for a period not exceeding five (5) years from actual possession: *Provided*, That in no event shall title to the property be transferred to such lending institution. If the lending institution is the winning bidder, it may, during said five (5) year period, transfer its rights to a qualified Philippine national, without prejudice to a borrower's rights under applicable laws."

SEC. 15. Sections 16, 17 and 18 of the same Act, as amended, are hereby renumbered as Sections 15, 16 and 17, respectively, to read as follows:

"SEC. [16]15. *Micro, Small, and Medium Enterprise Week.* - x x x."

"SEC. [17]16. *Presidential Awards for Outstanding MSME.* - x x x."

"SEC. [18]17. *Congressional Oversight Committee.* - x x x."

SEC. 16. Section 19 of the same Act, as amended, is hereby renumbered as Section 18, and further amended, to read as follows:

"SEC. [19]18. *Penalty Clause.* - The **BANGKO SENTRAL NG PILIPINAS** shall impose administrative sanctions and other penalties on the lending institutions for non[-]compliance with **THE** provisions of this Act [including a fine of not less than Five hundred thousand pesos (P500,000.00)]. **THE MINIMUM PENALTY FOR NONCOMPLIANCE IS SET AT FIVE HUNDRED THOUSAND PESOS (P500,000.00) AND THE MAXIMUM PENALTY FIVE MILLION PESOS (P5,000,000.00), IN PROPORTION TO THE BANK'S OR OTHER ENTITY'S LEVEL OF COMPLIANCE: PROVIDED, THAT A SMALLER PENALTY IS SET AT ONE HUNDRED THOUSAND PESOS (P100,000.00) FOR SMALLER BANKS' NONCOMPLIANCE. AS USED IN THIS ACT, SMALL BANKS SHALL BE DEFINED AS BANKS WITH CAPITALIZATION OF NOT MORE THAN FIVE HUNDRED MILLION PESOS (P500,000,000.00): PROVIDED, FURTHER, THAT THE DEFINITION OF SMALL BANKS SHALL BE REGULARLY REVIEWED BY THE MSMED COUNCIL: PROVIDED, FINALLY, THAT THE AFOREMENTIONED PENALTIES SHALL NOT BE IMPOSED ON NEWLY-**

ESTABLISHED DOMESTIC AND FOREIGN BANKS WITHIN ONE (1) YEAR FROM THE DATE THEY COMMENCED THEIR OPERATIONS.

"Penalties on noncompliance shall be directed to the development of the MSME sector. Ninety percent (90%) of the penalties collected should go to the MSMED Council Fund, while the remaining ten percent (10%) should be given to the BSP to cover for administrative expenses.

"THE MSMED COUNCIL SHALL SUBMIT TO THE CONGRESS OF THE PHILIPPINES AN ANNUAL REPORT ON THE STATUS OF THE PENALTIES REMITTED AND HOW THE SAME WERE USED OR ARE BEING USED IN RELATION TO THE IMPLEMENTATION OF SERVICES TO MSMES IN THE AREAS OF CAPACITY BUILDING, TECHNOLOGY INFORMATION, COLLECTION AND DISSEMINATION, AND OTHER INTERVENTIONS FOR MSME DEVELOPMENT, GROWTH AND SUSTAINABILITY."

SEC. 17. *Implementing Rules and Regulations (IRR).* – The Department of Trade and Industry, through the Bureau of Micro, Small and Medium Business Development and in consultation with the *Bangko Sentral ng Pilipinas* and other concerned government agencies, nongovernment organizations and private sector agencies involved in the promotion of MSMEs, shall formulate the implementing rules and regulations (IRR) necessary to implement the provisions of this Act within ninety (90) days from the approval of this Act: *Provided*, That the IRR shall be reviewed yearly: *Provided, further*, That the IRR shall be approved by the MSMED Council. The IRR issued pursuant to this section shall take effect thirty (30) days after its publication in a national newspaper of general circulation.

SEC. 18. *Separability Clause.* – The provisions of this Act are hereby declared to be separable. If any provision of this Act shall be held unconstitutional, the remainder of this Act not otherwise affected shall remain in full force and effect.

SEC. 19. *Repealing Clause.* – All laws, executive orders, rules and regulations, or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 20. *Effectivity.* – This Act shall take effect within fifteen (15) days from its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,