

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **3456**

HOUSE OF REPRESENTATIVES	
RECEIVED	
DATE:	05 SEP 2016
TIME:	2:45 PM
BY:	[Signature]
REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by Representative Henry S. Oaminal

EXPLANATORY NOTE

Since the enactment of Republic Act (R.A.) No. 7653 or The New Central Bank Act that created the *Bangko Sentral ng Pilipinas* (BSP) in 1993, many developments in both the banking and economic sectors have changed the milieu upon which the Bank has been founded.

The onset of globalization and advancements in technology, as well as international best practices, as well as the exposition of structural weaknesses that may have aided instances of unsafe and unsound practices, poor governance, and fraud are present challenges that the BSP faces. While the BSP has responded well to these challenges in the past, this does not eliminate the need for the BSP to be empowered not only to respond to present challenges, but also in anticipation of the future.

The amendments proposed by this bill seek to enhance the tools of the BSP in performing its mandates, supplement the mechanisms in protecting savings of depositors, and in ensuring the smooth flow of transactions in the financial system, as well as to enhance the corporate viability of the BSP.

The amendments seek to improve the administration of the monetary, credit and banking system of the country by affirming the authority of the BSP 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 BSP 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. The authority of the examiners to access deposit accounts, which was granted before and was exercised without abuse, is also proposed to be restored to address early the commission of frauds and irregularities.

The BSP should also be able to function as a more responsive organization. The bill also seeks to grant the same legal protection given to the Philippine Deposit Insurance Corporation under Republic Act No. 9576 to officials and personnel of the BSP. 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 BSP should also be exempted from taxation.

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



HENRY S. OAMNAL

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **3456**

Introduced by Representative Henry S. Oaminal

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

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

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

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

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

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

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

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

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

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

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

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

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

30 “The *Bangko Sentral* shall maintain and preserve a complete record of the
31 proceedings and deliberations of the Monetary Board, including the tapes and
32 transcripts of the stenographic notes, either in their original form or in microfilm.

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

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

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

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

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

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

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

32 “In the absence of the Governor, a Deputy Governor designated by the
33 Governor shall act as chief executive of the *Bangko Sentral* and shall exercise the
34 powers and perform the duties of the Governor. Whenever the Governor is unable to
35 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 REQUIRE [request] from ANY PERSON OR ENTITY, INCLUDING government offices and instrumentalities, or government-owned or – controlled corporations, any data OR INFORMATION [which it may,] FOR STATISTICAL AND POLICY DEVELOPMENT PURPOSES require for IN RELATION TO the proper discharge of its functions and responsibilities: PROVIDED, THAT DISAGGREGATED DATA OR INFORMATION GATHERED ARE SUBJECT TO PREVAILING CONFIDENTIALITY LAWS. ~~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.~~

"Data OR INFORMATION on individuals AND ~~firms~~ 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:~~ 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. ~~Provided, However, That the~~ 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

1 THOUSAND PESOS (P100,000.00). IN CASES WHERE THE VIOLATION IS DONE BY A
2 CORPORATION, THE ABOVE PENALTY SHALL BE IMPOSED AGAINST THE RESPONSIBLE
3 OFFICER, DIRECTOR, MANAGER AND/OR AGENT OF SAID CORPORATION. IN
4 ADDITION, SUCH ERRING CORPORATION OR ANY OTHER JURIDICAL ENTITY,
5 DEPENDING ON THE CATEGORY OF THE ENTERPRISE OR BUSINESS CONCERNED
6 WHETHER SMALL, MEDIUM OR LARGE, SHALL BE IMPOSED A FINE RANGING FROM
7 ONE HUNDRED THOUSAND PESOS (P100,000.00) TO FIVE HUNDRED THOUSAND
8 PESOS (P500,000.00).

9 "ANY PERSON, INCLUDING PARTIES WITHIN THE MONETARY BOARD AND THE
10 BANGKO SENTRAL, WHO BREACH THE CONFIDENTIALITY OF DATA OR INFORMATION,
11 WHETHER BY IMPROPER BEHAVIOR, BEHAVIOR WITH MALICIOUS INTENT, OR USE OF
12 CONFIDENTIAL INFORMATION FOR PROFIT ARE CONSIDERED GUILTY OF OFFENSE
13 AND SHALL BE LIABLE TO A FINE OF NOT LESS THAN FIVE THOUSAND PESOS
14 (P5,000.00) NOR MORE THAN TEN THOUSAND PESOS (P10,000.00) OR
15 IMPRISONMENT OF NOT LESS THAN THREE (3) MONTHS NOR MORE THAN ONE (1)
16 YEAR, OR BOTH, SUBJECT TO THE DEGREE OF BREACH OF INFORMATION, AT THE
17 DISCRETION OF THE COURT."

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

19 "SEC. 25. *Supervision and Examination.*—The Bangko Sentral shall have
20 supervision over, and conduct periodic or special examinations of, banking
21 institutions and quasi-banks, including their subsidiaries and affiliates ~~engaged in~~
22 ~~allied activities~~].

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

26 For purposes of this section, a subsidiary means a corporation more than fifty
27 percent (50%) of the voting stock of which is owned by a bank or quasi-bank and an
28 affiliate means a corporation the voting stock of which, to the extent of fifty percent
29 (50%) or less, is owned by a bank or quasi-bank or which is related or linked to such
30 ~~[institution]~~ ENTITY or intermediary through common stockholders or such other
31 factors as may be determined by the Monetary Board.

32 The department heads and the examiners of the supervising and/or
33 examining departments are hereby authorized to administer oaths to any director,
34 officer, or employee of any ~~[institution]~~ ENTITY under their respective supervision or
35 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, 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 [~~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~~].

No restraining order or injunction shall be issued by the court enjoining the *Bangko Sentral* from examining any [institution] ENTITY subject of 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."

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

2 “SEC. 28. *Examination and Fees.* — The supervising and examining
3 department head, personally or by deputy, shall examine the ~~[books]~~ OPERATIONS of
4 every bank~~[ing]~~ AND QUASI-BANK, INCLUDING THEIR SUBSIDIARIES AND AFFILIATES
5 AND OTHER ENTITIES WHICH UNDER THIS ACT OR SPECIAL LAWS ARE SUBJECT TO
6 BANGKO SENTRAL SUPERVISION, IN ACCORDANCE WITH THE GUIDELINES SET BY THE
7 MONETARY BOARD TAKING INTO CONSIDERATION SOUND AND PRUDENT PRACTICES
8 ~~[once in every twelve (12) months, and at such other times as the Monetary Board by~~
9 ~~an affirmative vote of five (5) members, may deem expedient and to make a report~~
10 ~~on the same to the Monetary Board]~~: *Provided*, That there shall be an interval of at
11 least twelve (12) months between ~~[annual]~~ REGULAR examinations; *PROVIDED*,
12 *FURTHER*, THAT THE MONETARY BOARD, BY AN AFFIRMATIVE VOTE OF AT LEAST FIVE
13 (5) MEMBERS, MAY AUTHORIZE A SPECIAL EXAMINATION IF THE CIRCUMSTANCES
14 WARRANT.

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

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

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

34 “SEC. 28-A. *BANGKO SENTRAL COORDINATION.*—THE SUSPENSION OR
35 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 THE 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.

~~"[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 NON-SPECULATIVE 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 takeover, 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 THE RECEIVER’S [its] 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.]~~ THE COURT SHALL HAVE EXCLUSIVE JURISDICTION TO ~~[Upon acquiring jurisdiction, the court shall, upon motion by the receiver after due notice,]~~ 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 institutions 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*

1 *Sentral* shall be punished by a fine of not less than One hundred thousand pesos
2 (P100,000.00) nor more than ~~[Two hundred thousand pesos (P200,000)]~~ TWO
3 MILLION PESOS (P2,000,000.00), or by imprisonment of not more than FIVE (5) years,
4 or both, at the discretion of the court.

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

6 “SEC. 36. *Proceedings Upon Violation of This Act and Other Banking Laws,*
7 *Rules, Regulations, Orders or Instructions.* —Whenever a bank, ~~[or]~~ quasi-bank, OR
8 OTHER ENTITY WHICH UNDER THIS ACT OR SPECIAL LAWS IS SUBJECT TO BANGKO
9 SENTRAL SUPERVISION or whenever any person or entity willfully violates this Act or
10 other pertinent banking laws being enforced or implemented by the *Bangko Sentral*
11 or any order, instruction, rule or regulation issued by the Monetary Board, the person
12 or persons responsible for such violation shall unless otherwise provided in this Act
13 be punished by a fine of not less than Fifty thousand pesos (P50,000.00) nor more
14 than ~~[Two hundred thousand pesos (P200,000)]~~ TWO MILLION PESOS (P2,000,000.00)
15 or by imprisonment of not less than two (2) years nor more than ten (10) years, or
16 both, at the discretion of the court.

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

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

23 “SEC. 37. *Administrative Sanctions on SUPERVISED ENTITIES* ~~[Banks and~~
24 ~~Quasi-Banks]~~. —Without prejudice to the criminal sanctions against the culpable
25 persons provided in Sections 34, 35, and 36 of this Act, the Monetary Board may, at
26 its discretion, impose upon any bank or quasi-bank, INCLUDING THEIR SUBSIDIARIES
27 AND AFFILIATES, OR OTHER ENTITIES WHICH UNDER THIS ACT OR SPECIAL LAWS ARE
28 SUBJECT TO THE BANGKO SENTRAL SUPERVISION, AND their directors, ~~[and/or]~~
29 officers OR EMPLOYEES, for any willful violation of its charter or by-laws, willful delay
30 in the submission of reports or publications thereof as required by law, rules and
31 regulations; any refusal to permit examination into the affairs of the
32 ENTITY ~~[institution]~~; any willful making of a false or misleading statement to the Board
33 or the appropriate supervising and examining department or its examiners; any willful
34 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 (P1,000,000.00) FOR EACH TRANSACTIONAL VIOLATION OR ONE HUNDRED THOUSAND PESOS (P100,000.00) 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 ENTITY, ~~[bank or quasi-bank]~~ PROVIDED: THAT IN CASE PROFIT IS GAINED OR LOSS IS AVOIDED AS A RESULT OF THE VIOLATION, A FINE OF NO 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, 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 ENTITY ~~[institution]~~ 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 ENTITY ~~[institution]~~ and/or the directors, officers and/or EMPLOYEES concerned to cease and desist from

1 the indicated practice or violation, and may further order that immediate action be
2 taken to correct the conditions resulting from such practice or violation. The cease
3 and desist order shall be immediately effective upon service on the respondents.

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

11 "The Governor is hereby authorized, at his discretion, to impose upon
12 ~~[banking institutions]~~, BANKS AND QUASI-BANKS, INCLUDING THEIR SUBSIDIARIES
13 AND AFFILIATES, AND OTHER ENTITIES WHICH UNDER SPECIAL LAWS ARE SUBJECT TO
14 BANGKO SENTRAL SUPERVISION for any failure to comply with the requirements of
15 law, Monetary Board regulations and policies, and/or instructions issued by the
16 Monetary Board or by the Governor, fines not in excess of ~~[Ten thousand pesos~~
17 ~~(P10,000)]~~ ONE HUNDRED THOUSAND PESOS (P100,000.00) FOR EACH
18 TRANSACTIONAL VIOLATION OR THIRTY THOUSAND PESOS (P30,000.00) PER
19 BANKING [a] day for each CONTINUING violation, the imposition of which shall be final
20 and executory until reversed, modified or lifted by the Monetary Board on appeal.

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

22 "SEC. 38-A. *ISSUANCE OF PROVISIONAL REMEDIES AGAINST BANGKO*
23 *SENTRAL ACTIONS.*—NO COURT, OTHER THAN THE COURT OF APPEALS AND THE
24 SUPREME COURT, SHALL ISSUE ANY TEMPORARY RESTRAINING ORDER, PRELIMINARY
25 INJUNCTION OR PRELIMINARY MANDATORY INJUNCTION AGAINST THE BANGKO
26 SENTRAL FOR ANY ACTION UNDER THIS ACT.

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

29 "THE PROVISIONS OF RULE 58 OF THE 1997 RULES ON CIVIL PROCEDURE IN
30 SO FAR AS THEY ARE APPLICABLE AND NOT INCONSISTENT WITH THE PROVISIONS OF
31 THIS ACT SHALL GOVERN THE ISSUANCE AND DISSOLUTION OF THE RESTRAINING
32 ORDER OR INJUNCTION AGAINST THE BANGKO SENTRAL."

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

34 "SEC. 43. *Computation of Profits and Losses.*—Within the first thirty (30) days
35 following the end of each year, the *Bangko Sentral* shall determine its net profits or

1 losses. ~~[In the calculation of net profits, the Bangko Sentral shall make adequate~~
2 ~~allowance or establish adequate reserves for bad and doubtful accounts].~~

3 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE NET PROFIT OF
4 THE *BANGKO SENTRAL* SHALL BE DETERMINED AFTER ALLOWING FOR EXPENSES OF
5 OPERATION ADEQUATE ALLOWANCES AND PROVISIONS FOR BAD AND DOUBTFUL
6 DEBTS, DEPRECIATION IN ASSETS, AND SUCH OTHER ALLOWANCES AND
7 CONTINGENCIES OR PURPOSES AS THE MONETARY BOARD MAY DETERMINE IN
8 ACCORDANCE WITH PRUDENT FINANCIAL MANAGEMENT.

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

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

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

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

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

The ~~[Revaluation of International Reserve]~~ RIR account shall be ~~[neither] credited [nor]~~ OR debited 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. ~~[for any purposes other than those specifically authorized in this section.]"~~

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

*"SEC. 61.Guiding Principle.—*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. ~~[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.]"~~

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%[.], [I] 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 FINANCIAL ~~[banking]~~ 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

1 concurrent vote of at least five (5) members of the Monetary Board is obtained.

2 "The amount of any emergency loan or advance shall not exceed the sum of
3 fifty percent (50%) of total deposits and deposit substitutes of the banking institution,
4 and shall be disbursed in two (2) or more tranches. The amount of the first tranche
5 shall be limited to twenty-five percent (25%) of the total deposit and deposit
6 substitutes of the institution and shall be secured by (A) government securities, (B)
7 ACCEPTABLE GUARANTEES BACKED UP BY THE NATIONAL GOVERNMENT OR ITS
8 SECURITIES; (C) ~~[to the extent of their applicable loan values and]~~ other
9 unencumbered first class collaterals and (D) OTHER KINDS OF COLLATERALS AS MAY
10 BE AUTHORIZED BY THE MONETARY BOARD IN ACCORDANCE WITH SOUND RISK
11 MANAGEMENT PRINCIPLES ~~[which the Monetary Board may approve]~~: *Provided*, That
12 if as determined by the Monetary Board, the circumstances surrounding the
13 emergency warrant a loan or advance greater than the amount provided hereinabove,
14 the amount of the first tranche may exceed twenty-five percent (25%) of the bank's
15 total deposit and deposit substitutes if the same is adequately secured by applicable
16 loan values of government securities and unencumbered first class collaterals
17 approved by the Monetary Board, and the principal stockholders of the institution
18 furnish an acceptable undertaking to indemnify and hold harmless from suit a
19 conservator whose appointment the Monetary Board may find necessary at any time.

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

25 "The Monetary Board may, by a vote of at least five (5) of its members,
26 authorize the release of a subsequent tranche on condition that the principal
27 stockholders of the institution:
28 (a) furnish an acceptable undertaking to indemnify and hold harmless from suit a
29 conservator whose appointment the Monetary Board may find necessary at any time;
30 and
31 (b) provide acceptable security which, in the judgment of the Monetary Board, would
32 be adequate to supplement, where necessary, the assets tendered by the banking
33 institution to collateralize the subsequent tranche.

34 "In connection with the exercise of these powers, the prohibitions in Section
35 128 of this Act shall not apply insofar as it refers to acceptance as collateral of shares

1 and their acquisition as a result of foreclosure proceedings, including the exercise of
2 voting rights pertaining to said shares: *Provided, however,* That should the *Bangko*
3 *Sentral* acquire any of the shares it has accepted as collateral as a result of foreclosure
4 proceedings, the *Bangko Sentral* shall dispose of said shares by public bidding within
5 one (1) year from the date of consolidation of title by the *Bangko Sentral*.

6 "Whenever a financial institution incurs an overdraft in its account with the
7 *Bangko Sentral*, the same shall be eliminated within the period prescribed in Section
8 102 of this Act."

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

10 "SEC. 88-A. *EXEMPTION FROM ATTACHMENT. - EXEMPTION FROM*
11 *ATTACHMENT. - COLLATERALS ON LOANS AND ADVANCES GRANTED BY THE BANGKO*
12 *SENTRAL, WHETHER OR NOT THE INTEREST OF THE BANGKO SENTRAL IS REGISTERED,*
13 *SHALL NOT BE SUBJECT TO ATTACHMENT, EXECUTION OR ANY OTHER COURT*
14 *PROCESS OR ADMINISTRATIVE RESTRICTIONS ON LAND USE, NOR SHALL THEY BE*
15 *INCLUDED IN THE ASSETS OF THE CLOSED BANK FOR DISTRIBUTION TO OTHER*
16 *CREDITORS: PROVIDED, HOWEVER, THAT THE PROCEEDS IN EXCESS OF THE AMOUNT*
17 *SECURED SHALL BE RETURNED BY THE BANGKO SENTRAL TO THE RECEIVER.*

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

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

29 "NO RESTRAINING ORDER OR INJUNCTION SHALL BE ISSUED BY THE COURT
30 ENJOINING THE *BANGKO SENTRAL* FROM PROCEEDING WITH THE FORECLOSURE OF
31 THE MORTGAGE UNLESS A BOND IS POSTED IN FAVOR OF THE *BANGKO SENTRAL* IN
32 AN AMOUNT EQUIVALENT TO THE TOTAL CLAIM OF THE *BANGKO SENTRAL*. THE
33 RESTRAINING ORDER OR INJUNCTION SHALL BE REFUSED OR, IF GRANTED, SHALL BE
34 DISSOLVED UPON FILING BY THE *BANGKO SENTRAL* OF A BOND, WHICH SHALL BE IN
35 THE FORM OF A *BANGKO SENTRAL* CHECK, IN AN AMOUNT TWICE THE AMOUNT OF

1 THE ORIGINAL BOND POSTED CONDITIONED THAT THE *BANGKO SENTRAL* WILL PAY
2 THE DAMAGES WHICH THE PARTY MAY SUFFER BY THE REFUSAL OR DISSOLUTION OF
3 THE INJUNCTION. THE PROVISIONS OF RULE 58 OF THE NEW RULES OF COURT
4 INSOFAR AS THEY ARE APPLICABLE AND NOT INCONSISTENT WITH THE PROVISIONS
5 OF THIS SECTION SHALL GOVERN THE ISSUANCE AND DISSOLUTION OF THE
6 RESTRAINING ORDER OR INJUNCTION CONTEMPLATED IN THIS SECTION.

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

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

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

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

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

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

33 "SEC. 89-B. *LOANS TO THE PHILIPPINE DEPOSIT INSURANCE CORPORATION.* –
34 THE *BANGKO SENTRAL*, PURSUANT TO ITS MANDATE OF MAINTAINING FINANCIAL

1 STABILITY, MAY LEND TO THE PHILIPPINE DEPOSIT INSURANCE CORPORATION FUNDS
2 FOR INSURANCE PURPOSE AND FOR FINANCIAL ASSISTANCE THAT THE LATTER IS
3 AUTHORIZED TO EXTEND UNDER SECTION 17(D) OF REPUBLIC ACT NO. 3591, AS
4 AMENDED, TO AN INSURED BANK IN DANGER OF CLOSING IN ORDER TO MINIMIZE
5 LOSSES TO ITS DEPOSITORS AND CREDITORS. NOTWITHSTANDING SECTION 18 OF
6 REPUBLIC ACT NO. 3591, AS AMENDED, THE MONETARY BOARD SHALL PRESCRIBE
7 INTEREST RATES AND SUCH OTHER TERMS AND CONDITIONS OF THE LOAN.

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

9 "SEC. 92. *Issue and Negotiation of Bangko Sentral Obligations.* — In order to
10 provide the *Bangko Sentral* with effective instruments for open market operations,
11 the *Bangko Sentral* may, subject to such rules and regulations as the Monetary Board
12 may prescribe and in accordance with the principles stated in Section 90 of this Act,
13 issue, place, buy and sell freely negotiable evidences of indebtedness of the *Bangko*
14 *Sentral*. [~~Provided, That issuance of such certificates of indebtedness shall be made~~
15 ~~only in cases of extraordinary movement in price levels.~~] Said evidences of
16 indebtedness may be issued directly against the international reserve of the *Bangko*
17 *Sentral* or against the securities which it has acquired under the provisions of Section
18 91 of this Act, or may be issued without relation to specific types of assets of the
19 *Bangko Sentral*.

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

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

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

31 "SEC. 95. *Definition of Deposit Substitutes.* — The term "deposit substitutes"
32 is defined as an alternative form of obtaining funds from the public, other than
33 deposits, through the issuance, endorsement, or acceptance of debt instruments for
34 the borrower's own account, for the purpose of relending or purchasing of receivables
35 and other obligations. These instruments may include, but need not be limited to,

1 bankers acceptances, promissory notes, participations, certificates of assignment and
2 similar instruments with recourse, and repurchase agreements. THE TERM 'PUBLIC'
3 MEANS BORROWING FROM TWENTY (20) OR MORE LENDERS AT ANY ONE TIME. FOR
4 THIS PURPOSE, "LENDERS" SHALL REFER TO INDIVIDUALS AND CORPORATE ENTITIES
5 THAT ARE NOT ACTING AS FINANCIAL INTERMEDIARIES, SUBJECT TO THE
6 SAFEGUARDS AND REGULATIONS ISSUED BY THE MONETARY BOARD. The Monetary
7 Board shall determine what specific instruments shall be considered as deposit
8 substitutes for the purposes of SECTION 94 of this Act[²]. *Provided, however,* That
9 deposit substitutes of commercial, industrial and other non-financial companies for
10 the limited purpose of financing their own needs or the needs of their agents or
11 dealers shall not be covered by the provisions of Section 94 of this Act."

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

13 "SEC. 101. *Reserve Deficiencies.* - Whenever the reserve position of any bank
14 or quasi-bank, computed in the manner specified in the preceding section of this Act,
15 is below the required minimum, the bank or quasi-bank shall pay the *Bangko Sentral*
16 one-tenth of one percent (1/10 of 1%) per day on the amount of the deficiency or the
17 prevailing ninety-one-day treasury bill rate plus three percentage points, whichever is
18 higher: *Provided, however,* That banks and quasi-banks shall ordinarily be permitted
19 to offset any reserve deficiency occurring on one or more days of the week with any
20 excess reserves which they may hold on other days of the same week and shall be
21 required to pay the penalty only on the average daily deficiency during the week. In
22 cases of abuse, the Monetary Board may deny any bank or quasi-bank the privilege of
23 offsetting reserve deficiencies in the aforesaid manner.

24 "If a bank or quasi-bank chronically has a reserve deficiency, the Monetary
25 Board may limit or prohibit the making of new loans or investments by the institution
26 and may require that part or all of the net profits of the institution be assigned to
27 surplus.

28 "The Monetary Board may modify or set aside the reserve deficiency
29 penalties provided in this section, for part or the entire period of a strike or lockout
30 affecting a bank or a quasi-bank as defined in the Labor Code, or of a national
31 emergency affecting operations of banks or quasi-banks OR IN SUCH OTHER
32 INSTANCES WHERE THE GRANT OF WAIVER IS DETERMINED BY THE MONETARY
33 BOARD TO BE JUSTIFIABLE. The Monetary Board may also modify or set aside reserve
34 deficiency penalties for rehabilitation program of a bank.

35 **SEC. 32.** Section 104 of the same Act is hereby amended to read as follows:

1 “SEC. 104. *Guiding Principle.*— The Monetary Board shall use the powers
2 granted to it under this Act to ensure that the supply, availability and cost of money
3 are in accord with the needs of the Philippine economy and that bank credit is not
4 granted for speculative purposes prejudicial to the national interests. Regulations on
5 bank operations shall be applied to all banks of the same category AS MAY BE DEFINED
6 BY THE MONETARY BOARD uniformly and without discrimination.”

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

8 “SEC. 108. *Minimum Capital Ratios.* — The Monetary Board may prescribe
9 minimum RISK-BASED CAPITAL ADEQUACY ratios BASED ON INTERNATIONALLY
10 ACCEPTED STANDARDS [~~which the capital and surplus of the banks must bear to the~~
11 ~~volume of their assets, or to specific categories thereof,~~] and may alter said ratios
12 whenever it deems necessary. IN THE EXERCISE OF ITS AUTHORITY UNDER THIS
13 SECTION, THE MONETARY BOARD MAY REQUIRE BANKS TO HOLD CAPITAL BEYOND
14 THE MINIMUM REQUIREMENTS COMMENSURATE TO THEIR RISK PROFILE. ~~PRESCRIBE~~
15 ~~A HIGHER MINIMUM CAPITAL ADEQUACY RATIO FOR DIFFERENT BANK CATEGORIES~~
16 ~~AS MAY BE WARRANTED BY THEIR RISK PROFILE.”~~

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

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

29 “The *Bangko Sentral* may ACCEPT DEPOSITS AND pay interest on SUCH
30 deposits AND OTHER SIMILAR PLACEMENTS of the Government or of its political
31 subdivisions and instrumentalities, banks AND OTHER *BANGKO SENTRAL*-SUPERVISED
32 INSTITUTIONS.”

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

34 “SEC. 123. *Financial Advice on Official Credit Operations.*— Before

1 undertaking any credit operation abroad, the Government, through the Secretary of
2 Finance, shall request the opinion, in writing, of the Monetary Board on the monetary
3 implications of the contemplated action. Such opinions must similarly be requested
4 by all political subdivisions and instrumentalities of the Government before any credit
5 operation abroad is undertaken by them.

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

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

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

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

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

25 1. ADMINISTRATIVE FEES AND CHARGES IMPOSED BY ANY GOVERNMENT
26 AGENCIES;

27 2. MUNICIPAL/CITY FEES FOR SERVICES PROVIDED;

28 3. INCOME FROM SALE OF (a) BSP FORMS, (b) BID DOCUMENTS, (c) SCRAP
29 ITEMS, WASTE MATERIALS, SHREDDED RECORDS; (d) CAR STICKERS, SECURITY PASS,
30 IDENTIFICATION PARAPHERNALIA; (e) DEMONITIZED COMMEMORATIVE NOTES AND
31 COINS; (f) COMMEMORATIVE MEDALS; AND (g) UNSERVICEABLE FURNITURE AND
32 EQUIPMENT THROUGH AUCTION;

33 4. INCOME FROM (a) LEASE OF BSP OFFICES AND OTHER PROPERTIES; (b)
34 LEASE OF BSP VAULTS; AND (c) USE OF BSP-OWNED PROPERTIES;

35 5. PENALTIES AND CHARGES FOR (a) LATE DELIVERY OF

1 PURCHASES/SERVICES; AND (b) LATE PAYMENT OF LEASE

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

15 **SEC. 37.** Section 128 of the same Act is hereby amended to read as follows:

16 "SEC. 128. *Prohibitions.* — The *Bangko Sentral* shall not acquire shares of any
17 kind or accept them as collateral, and shall not participate in the ownership or
18 management of any enterprise, either directly or indirectly; [-] *PROVIDED, THAT THIS*
19 *PROHIBITION SHALL NOT APPLY WHENEVER THE MONETARY BOARD, BY A VOTE OF*
20 *AT LEAST FIVE (5) OF ITS MEMBERS, DEEMS AN ACQUISITION OR INVESTMENT TO BE*
21 *NECESSARY TO QUALIFY OR AS REQUIRED FOR MEMBERSHIP IN INTERNATIONAL AND*
22 *REGIONAL ORGANIZATIONS.*"

23 "The *Bangko Sentral* shall not engage in development banking or financing:
24 *Provided, however, That* outstanding loans obtained or extended for development
25 financing shall not be affected by the prohibition of this section.

26 **SEC. 38. *Repealing Clause.*** All provisions of existing laws, orders, rules and
27 regulations, or parts thereof which are in conflict or inconsistent with the provisions
28 of this Act are hereby repealed, amended or modified accordingly.

29 **SEC. 39. *Separability Clause.*** If any provision or section of this Act is held to be
30 unconstitutional or invalid, the other provisions or sections hereof, which are not
31 affected thereby shall continue to be in full force and effect.

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

Approved,