



HOUSE OF REPRESENTATIVES

H. No. 3984

BY REPRESENTATIVES COLLANTES, HARESCO, ALMONTE, HERNANDEZ,
YAP (S.), TAMBUNTING, CORTUNA, OAMINAL AND PAGDILAO

AN ACT ALLOWING THE FULL ENTRY OF FOREIGN BANKS IN THE
PHILIPPINES, AMENDING FOR THE PURPOSE REPUBLIC ACT
NO. 7721

*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. 7721 is hereby amended to
2 read as follows:

3 “SEC. 2. *Modes of Entry.* – The Monetary Board may
4 authorize foreign banks to operate in the Philippine banking
5 system through any ONE of the following modes of entry: (i) by
6 acquiring, purchasing or owning up to [sixty percent (60%)]
7 ONE HUNDRED PERCENT (100%) of the voting stock of an
8 existing bank; (ii) by investing in up to [sixty percent (60%)]
9 ONE HUNDRED PERCENT (100%) of the voting stock of a new
10 banking subsidiary incorporated under the laws of the
11 Philippines; or (iii) by establishing branches with full banking
12 authority[: *Provided,* That a foreign bank may avail itself of
13 only one (1) mode of entry: *Provided, further,* That a foreign
14 bank or a Philippine corporation may own up to sixty percent

1 (60%) of the voting stock of only one (1) domestic bank or new
2 banking subsidiary].

3 SEC. 2. Section 3 of Republic Act No. 7721 is hereby amended to read
4 as follows:

5 “SEC. 3. *Guidelines for Approval.* – In approving entry
6 applications of foreign banks, the Monetary Board shall: (i)
7 ensure geographic representation and complementation; (ii)
8 consider strategic trade and investment relationships between the
9 Philippines and the country of incorporation of the foreign bank;
10 (iii) study the demonstrated capacity, global reputation for
11 financial innovations and stability in a competitive environment
12 of the applicant; (iv) see to it that reciprocity rights are enjoyed
13 by Philippine banks in the applicant’s country; and (v) consider
14 willingness to fully share their technology.

15 “[Only those among the top one hundred fifty (150) foreign
16 banks in the world or the top five (5) banks in their country of
17 origin as of the date of application] **ONLY ESTABLISHED,**
18 **REPUTABLE AND FINANCIALLY SOUND FOREIGN BANKS** shall be
19 allowed entry in accordance with Section 2 [(ii) and (iii) hereof]
20 **OF THIS ACT. THE FOREIGN BANK APPLICANT MUST BE**
21 **WIDELY-OWNED AND PUBLICLY-LISTED, UNLESS THE FOREIGN**
22 **BANK APPLICANT IS OWNED AND CONTROLLED BY THE**
23 **GOVERNMENT OF ITS COUNTRY OF ORIGIN.**

24 “In the exercise of this authority, the Monetary Board shall
25 adopt such measures as may be necessary to[: (i)] ensure that [at
26 all times] the control of **AT LEAST** seventy percent (70%) of the
27 resources or assets of the entire banking system is held by

1 domestic banks which are [at least] majority-owned by
2 Filipinos[;].” [(ii) prevent a dominant market position by one
3 bank or the concentration of economic power in one or more
4 financial institutions, or in corporations, partnerships, groups or
5 individuals with related interests; and (iii) secure the listing in
6 the Philippine Stock Exchange of the shares of stocks of banking
7 corporations established under Section 2(i) and (ii) of this Act:
8 *Provided*, That said banking corporations shall establish stock
9 option plans for their officers and employees as the resources or
10 assets of these corporations may allow in the best business
11 judgment of their respective boards of directors, pursuant to the
12 Corporation Code of the Philippines.]

13 [To qualify to establish a branch or a subsidiary, the
14 foreign bank applicant must be widely-owned and publicly-listed
15 in its country of origin, unless the foreign bank applicant is
16 owned by the government of its country of origin.]

17 SEC. 3. Section 4 of Republic Act No. 7721 is hereby amended to read
18 as follows:

19 “SEC. 4. *Capital Requirements.* – (i) *For Locally*
20 *Incorporated Subsidiaries* – The minimum capital required for
21 locally incorporated subsidiaries of foreign banks shall be equal
22 to that prescribed by the Monetary Board for domestic banks of
23 the same category.

24 “(ii) *For Foreign Bank Branches* – Foreign banks
25 [seeking entry] **THAT SHALL BE AUTHORIZED TO ESTABLISH**
26 **BRANCHES** pursuant to Section 2(iii) of this Act shall
27 permanently assign capital [of not less than the U.S. dollar

1 equivalent of Two hundred ten million pesos (P210,000,000) at
2 the exchange rate on the date of the effectivity of this Act, as
3 ascertained by the Monetary Board.] **OF AN AMOUNT NOT LESS**
4 **THAN THE MINIMUM CAPITAL REQUIRED FOR DOMESTIC**
5 **BANKS OF THE SAME CATEGORY.** The permanently assigned
6 capital shall be inwardly remitted and converted into Philippine
7 currency. [The foreign bank shall be entitled to three (3)
8 branches.]

9 "The foreign bank **BRANCH** may open [three (3)
10 additional] **UP TO FIVE (5) SUB-branches** [in locations
11 designated] **AS MAY BE APPROVED** by the Monetary Board [by
12 inwardly remitting and converting into Philippine currency as
13 permanently assigned capital, the U.S. dollar equivalent of thirty-
14 five million pesos (P35,000,000) per additional branch at the
15 exchange rate on the date of the effectivity of this Act, as
16 ascertained by the Monetary Board. The total number of
17 branches for each new foreign bank entrant shall not exceed six
18 (6)]. **LOCALLY INCORPORATED SUBSIDIARIES OF FOREIGN**
19 **BANKS PURSUANT TO SECTION 2(II) OF THIS ACT SHALL HAVE**
20 **THE SAME BRANCHING PRIVILEGES AS DOMESTIC BANKS OF**
21 **THE SAME CATEGORY."**

22 [For purposes of meeting the prescribed capital ratios, the
23 term "capital" shall include permanently assigned capital plus
24 "net due to head office, branches and subsidiaries and offices
25 outside the Philippines" in the ratio prescribed by law or as
26 may be prescribed by the Monetary Board: *Provided*, That in all
27 cases, the permanently assigned capital and fifteen percent (15%)

1 of “net due to” required to comply with prescribed capital ratios
2 shall be inwardly remitted and converted to Philippine currency:
3 *Provided, further,* That amounts invested in productive
4 enterprises or utilized by Philippine companies for export
5 activities, shall not be subject to conversion into Philippine
6 currency: *Provided, finally,* That the Monetary Board shall
7 monitor the effective use of the “net due to” funds. Whenever
8 there results “net due from head office” outside the Philippines,
9 this shall be deducted from the capital accounts for purposes of
10 determining the required capital ratios.]

11 SEC. 4. Section 6 of Republic Act No. 7721 is hereby repealed.

12 [SEC. 6. *Entrants under Section 2(iii).* – Foreign banks
13 shall be allowed entry under Section 2(iii) within five (5) years
14 from the effectivity of this Act. During this period, six (6) new
15 foreign banks shall be allowed entry under Section 2(iii) upon
16 the approval of the Monetary Board. An additional four (4)
17 foreign banks may be allowed entry on recommendation of the
18 Monetary Board, subject to compliance with Sections 2, 3, 4,
19 and 5 of this Act, upon approval of the President as the national
20 interest may require.]

21 SEC. 5. Section 8 of Republic Act No. 7721 is hereby amended to read
22 as follows:

23 “SEC. 8. *Equal Treatment.* – Foreign banks authorized to
24 operate under Section 2 of this Act, shall perform the same
25 functions, enjoy the same privileges, and be subject to the same
26 limitations imposed upon a Philippine bank of the same
27 category[.]: **PROVIDED, HOWEVER, THAT THE MONETARY**

1 **BOARD MAY PRESCRIBE A HIGHER SINGLE BORROWER'S LIMIT**
2 **FOR A FOREIGN BANK BRANCH UP TO THE EQUIVALENT OF ITS**
3 **PERMANENTLY ASSIGNED CAPITAL FOR THE PURPOSE OF**
4 **PROMOTING FOREIGN INVESTMENTS. [These limits include,**
5 among others, the single borrower's limit and capital to risk asset
6 ratio as well as the capitalization required for expanded
7 commercial banking activities under the General Banking Act
8 and other related laws of the Philippines.]

9 [The basis for computing the ratio shall be the capital of
10 the foreign bank branch in the Philippines.]

11 “The foreign banks shall guarantee the observance of the
12 rights of their employees under the Constitution.

13 “Any right, privilege or incentive granted to foreign banks
14 or their subsidiaries or affiliates under this Act, shall be equally
15 enjoyed by and extended under the same conditions to Philippine
16 banks. [Philippine corporations whose shares of stocks are listed
17 in the Philippine Stock Exchange or are of long standing for at
18 least ten (10) years shall have the right to acquire, purchase or
19 own up to sixty percent (60%) of the voting stock of a domestic
20 bank.]”

21 SEC. 6. A new provision in Section 9 is hereby inserted in the same
22 Act, in lieu of the original provisions of Section 9 repealed by Section 11 of
23 Republic Act No. 10000. Section 9 shall now read as follows:

24 “SEC. 9. *PARTICIPATION IN FORECLOSURE*
25 *PROCEEDINGS. – FOREIGN BANKS WHICH ARE AUTHORIZED*
26 *TO DO BANKING BUSINESS IN THE PHILIPPINES THROUGH ANY*
27 *OF THE MODES OF ENTRY UNDER SECTION 2 HEREOF SHALL BE*

1 **ALLOWED TO BID AND TAKE PART IN FORECLOSURE SALES OF**
2 **REAL PROPERTY MORTGAGED TO THEM, AS WELL AS TO AVAIL**
3 **OF ENFORCEMENT AND OTHER PROCEEDINGS, AND**
4 **ACCORDINGLY TAKE POSSESSION OF THE MORTGAGED**
5 **PROPERTY, FOR A PERIOD NOT EXCEEDING FIVE (5) YEARS**
6 **FROM ACTUAL POSSESSION: *PROVIDED*, THAT IN NO EVENT**
7 **SHALL TITLE TO THE PROPERTY BE TRANSFERRED TO SUCH**
8 **FOREIGN BANK. IN CASE SAID BANK IS THE WINNING BIDDER,**
9 **IT SHALL, DURING THE SAID FIVE (5)-YEAR PERIOD, TRANSFER**
10 **ITS RIGHTS TO A QUALIFIED PHILIPPINE NATIONAL, WITHOUT**
11 **PREJUDICE TO A BORROWER'S RIGHTS UNDER APPLICABLE**
12 **LAWS. SHOULD THE BANK FAIL TO TRANSFER SUCH PROPERTY**
13 **WITHIN THE FIVE (5)-YEAR PERIOD, IT SHALL BE PENALIZED**
14 **ONE HALF (1/2) OF ONE PERCENT (1%) PER ANNUM OF THE**
15 **PRICE AT WHICH THE PROPERTY WAS FORECLOSED UNTIL IT IS**
16 **ABLE TO TRANSFER THE PROPERTY TO A QUALIFIED**
17 **PHILIPPINE NATIONAL."**

18 **SEC. 7. *Transitory Provisions.*** – Foreign banks which are already
19 authorized to do banking business in the Philippines through any of the modes
20 of entry under Section 2 hereof may apply to change their original mode of
21 entry.

22 Foreign banks operating through branches in the Philippines upon the
23 effectivity of this Act shall retain their original privilege upon entry to
24 establish a limited number of sub-branches. However, the previous restriction
25 on the locations of such additional branches is hereby lifted.

26 The existing Philippine branches of foreign banks shall comply within
27 one (1) year from the effectivity of this Act with the minimum capital
28 requirements as prescribed under Section 4(ii) of this Act, unless otherwise
29 extended by the Monetary Board.

1 SEC. 8. Section 12 of Republic Act No. 7721 is hereby amended to
2 read as follows:

3 “SEC. 12. *Applicability of Other Banking Laws.* – [The
4 provisions of Republic Act No. 337, as amended, otherwise
5 known as the General Banking Act,] **THE PROVISIONS OF**
6 **REPUBLIC ACT NO. 7653, OTHERWISE KNOWN AS THE NEW**
7 **CENTRAL BANK ACT AND THE PROVISIONS OF REPUBLIC ACT**
8 **NO. 8791, OTHERWISE KNOWN AS ‘THE GENERAL BANKING**
9 **LAW OF 2000’,** insofar as they are applicable and not in conflict
10 with any provision of this Act, shall apply to banks authorized
11 pursuant to this Act.”

12 SEC. 9. Section 13 of Republic Act No. 7721 is hereby amended to
13 read as follows:

14 “SEC. 13. [*Delegation of*] *Rule-Making Powers OF THE*
15 *MONETARY BOARD OF THE BANGKO SENTRAL NG PILIPINAS and*
16 *Compliance Reports.* – The Monetary Board is hereby
17 authorized to issue such rules and regulations as may be needed
18 to implement the provisions of this Act [after consultation with
19 the chairpersons of the Banks Committee of the House of
20 Representatives and the Senate of the Philippines]. On or before
21 May 30 of each year, the Monetary Board shall file a written
22 report to Congress and its respective Banks Committees, on the
23 developments in the implementation of this Act. **THE**
24 **IMPLEMENTING RULES AND REGULATIONS OF THIS ACT SHALL**
25 **BE PUBLISHED IN AT LEAST TWO (2) NEWSPAPERS OF GENERAL**
26 **CIRCULATION.”**

1 SEC. 10. *Repealing Clause.* -- All laws, decrees, executive orders,
2 proclamations, rules and regulations and other issuances or parts thereof
3 insofar as they are inconsistent with the provisions of this Act are hereby
4 repealed or modified accordingly.

5 SEC. 11. *Effectivity.* -- This Act shall take effect fifteen (15) days after
6 its publication in the *Official Gazette* or in at least two (2) national newspapers
7 of general circulation.

 Approved,

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