



HOUSE OF REPRESENTATIVES

H. No. 5875

BY REPRESENTATIVES BELMONTE (F.), COLLANTES, APOSTOL, NOGRALES, RODRIGUEZ (R.), RODRIGUEZ (M.), PADILLA, PICHAY, OLIVAREZ, TEODORO, GATCHALIAN (W.), ZAMORA (M.), ALIPING, CUA, GUANLAO, PAGDILAO, LEE, TEJADA, OAMINAL, TAMBUNTING, PAEZ, UNGAB, ANGPING, VIOLAGO, LANETE, TAN (A.), DELOSO-MONTALLA, QUISUMBING, ACOP, ALEJANO, BATAOIL, GUTIERREZ, KATOH, ESCUDERO, NAVA (J.), ACHARON, ERIGUEL AND TREÑAS, PER COMMITTEE REPORT NO. 784

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
2 "The New Central Bank Act", is hereby amended to read as follows:

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

7 "The capital of the *Bangko Sentral* shall be [Fifty]TWO
8 HUNDRED billion pesos (P[50,]200,000,000,000), to be fully
9 subscribed by the Government of the Republic, hereafter referred
10 to as the Government[.]. [Ten billion pesos (P10,000,000,000) of
11 which] THE UNPAID SUBSCRIPTION shall be fully paid for by the

1 Government IN CASH AND/OR GOVERNMENT SECURITIES UPON
2 EFFECTIVITY OF THIS ACT. THE CAPITALIZATION SHALL BE
3 SUBJECT TO REVIEW EVERY FIVE (5) YEARS UPON JOINT
4 RECOMMENDATION BY THE SECRETARY OF FINANCE, THE
5 SECRETARY OF BUDGET AND MANAGEMENT AND THE
6 MONETARY BOARD. THE PAYMENT OF ANY UNPAID
7 SUBSCRIPTION AND/OR INCREASE IN CAPITALIZATION SHALL BE
8 APPROPRIATED IN THE ANNUAL GENERAL APPROPRIATIONS ACT
9 [upon the effectivity of this Act and the balance to be paid for
10 within a period of two (2) years from the effectivity of this Act in
11 such manner and form as the Government, through the Secretary of
12 Finance and the Secretary of Budget and Management, may
13 thereafter determine].”

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

16 “SEC. 3. *Responsibility and Primary Objective.* – The
17 *Bangko Sentral* shall provide policy directions in the areas of
18 money, banking, and credit. It shall have supervision over the
19 operations of banks and exercise such regulatory powers as
20 provided in this Act and other pertinent laws over the operations of
21 finance companies and non-bank financial institutions performing
22 quasi-banking functions, [hereafter referred to as quasi-banks,]
23 CREDIT CARD COMPANIES, MONEY CHANGING BUSINESSES,
24 PAWNSHOPS, E-MONEY ISSUERS, MONEY FORWARDING
25 BUSINESSES, PAYMENT AND SETTLEMENT SYSTEM OPERATORS
26 and OTHER institutions performing similar functions, AS MAY BE
27 DETERMINED BY THE MONETARY BOARD, CONSISTENT WITH
28 THE MANDATE OF THE *BANGKO SENTRAL* TO PROVIDE

1 POLICY DIRECTION IN THE AREAS OF MONEY, BANKING AND
2 CREDIT.

3 "The primary objective of the *Bangko Sentral* is to maintain
4 price stability conducive to a balanced and sustainable growth of
5 the economy. It shall also promote and maintain monetary AND
6 FINANCIAL stability and the convertibility of the peso.

7 "THE *BANGKO SENTRAL* SHALL OVERSEE THE PAYMENT AND
8 SETTLEMENT SYSTEMS IN THE PHILIPPINES IN ACCORDANCE
9 WITH SOUND AND PRUDENT PRACTICES. FOR PURPOSES OF THIS
10 ACT, A PAYMENT AND SETTLEMENT SYSTEM SHALL REFER TO
11 ANY SYSTEM THAT CONSISTS OF A SET OF INSTRUMENTS AND
12 ARRANGEMENTS THAT ENSURES THE EFFICIENT CIRCULATION OF
13 MONEY AND SAFE TRANSFER OF FINANCIAL VALUES."

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

16 "SEC. 11. *Meetings.* – The Monetary Board shall meet at
17 least once a week. The Board may be called to a meeting by the
18 Governor of the *Bangko Sentral* or by two (2) other members of
19 the Board.

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

23 "Unless otherwise provided in this Act, all decisions of the
24 Monetary Board shall require the concurrence of at least four (4)
25 members.

26 "The *Bangko Sentral* shall maintain and preserve a complete
27 record of the proceedings and deliberations of the Monetary Board,
28 including the tapes and transcripts of the stenographic notes, either
29 in their original form or in microfilm.

1 **“THE MEETINGS OF THE MONETARY BOARD MAY BE**
2 **CONDUCTED THROUGH MODERN TECHNOLOGIES SUCH AS**
3 **TELECONFERENCING AND VIDEOCONFERENCING.”**

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

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

19 “Similar responsibility shall apply to members, officers, and
20 employees of the *Bangko Sentral* for: (1) the disclosure of any
21 information of a confidential nature, or any information on the
22 discussions or resolutions of the Monetary Board, or about the
23 confidential operations of the *Bangko Sentral*, unless the disclosure
24 is in connection with the performance of official functions with the
25 *Bangko Sentral*, or is with prior authorization of the Monetary
26 Board or the Governor; or (2) the use of such information for
27 personal gain or to the detriment of the Government, the *Bangko*
28 *Sentral* or third parties: *Provided, however,* That any data or

1 information required to be submitted to the President and/or the
2 Congress, or to be published under the provisions of this Act shall
3 not be considered confidential.

4 "THE *BANGKO SENTRAL*, ITS OFFICIALS AND EMPLOYEES
5 SHALL BE INDEMNIFIED FOR ANY AND ALL LIABILITIES, LOSSES,
6 CLAIMS, DEMANDS, DAMAGES, DEFICIENCIES, COSTS AND
7 EXPENSES OF WHATSOEVER KIND AND NATURE THAT MAY ARISE
8 IN CONNECTION WITH THE PERFORMANCE OF THEIR DUTIES
9 DONE IN GOOD FAITH AND CONSISTENT WITH THE POWERS AND
10 FUNCTIONS AUTHORIZED."

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

13 "SEC. 21. *Deputy Governors.* – The Governor of the *Bangko*
14 *Sentral*, with the approval of the Monetary Board, shall appoint not
15 more than [three (3)] FIVE (5) Deputy Governors who shall
16 perform duties as may be assigned to them by the Governor and
17 the Board.

18 "In the absence of the Governor, a Deputy Governor
19 designated by the Governor shall act as chief executive of the
20 *Bangko Sentral* and shall exercise the powers and perform the
21 duties of the Governor. Whenever the Governor is unable to attend
22 meetings of government boards or councils in which [he] THE
23 GOVERNOR is an *ex officio* member pursuant to provisions of
24 special laws, a Deputy Governor as may be designated by the
25 Governor shall be vested with authority to participate and exercise
26 the right to vote in such meetings."

27 SEC. 6. Section 23 of the same Act is hereby amended to read as
28 follows:

1 “SEC. 23. *Authority to Obtain Data and Information.* – The
2 *Bangko Sentral* shall have the authority to [request] **REQUIRE** from
3 **ANY PERSON OR ENTITY, INCLUDING** government offices and
4 instrumentalities, or government-owned or -controlled
5 corporations, any data [which it may require for] **OR**
6 **INFORMATION FOR STATISTICAL AND POLICY DEVELOPMENT**
7 **PURPOSES IN RELATION TO** the proper discharge of its functions
8 and responsibilities[. The *Bangko Sentral* through the Governor or
9 in his absence, a duly authorized representative shall have the
10 power to issue a *subpoena* for the production of the books and
11 records for the aforesaid purpose. Those who refuse the *subpoena*
12 without justifiable cause, or who refuse to supply the bank with
13 data requested or required, shall be subject to punishment for
14 contempt in accordance with the provisions of the Rules of
15 Court.]: **PROVIDED, THAT DISAGGREGATED DATA OR**
16 **INFORMATION GATHERED ARE SUBJECT TO PREVAILING**
17 **CONFIDENTIALITY LAWS.**

18 “Data **OR INFORMATION** on individuals [firms,] **AND**
19 **ENTITIES,** other than banks, gathered by the [Department of
20 Economic Research and other departments or units of the] *Bangko*
21 *Sentral* shall not be made available to any person or entity outside
22 of the *Bangko Sentral* whether public or private. [except under
23 order of the court or under such conditions as may be prescribed by
24 the Monetary Board: *Provided, however,* That the] **INDIVIDUAL**
25 **OR FIRM-LEVEL DATA OR INFORMATION FURNISHED BY A**
26 **RESPONDENT TO A STATISTICAL INQUIRY OR SURVEY SHALL BE**
27 **CONSIDERED PRIVILEGED COMMUNICATION AND SHALL BE**
28 **INADMISSIBLE AS EVIDENCE IN ANY COURT PROCEEDINGS. DATA**

1 OR INFORMATION GATHERED SHALL BE SUBJECT TO PREVAILING
2 DEPOSIT SECRECY LAWS. HOWEVER, collective data OR
3 INFORMATION on [firms] ENTITIES may be released to interested
4 persons or entities IN WHICH NO REFERENCE TO AN INDIVIDUAL,
5 CORPORATION, ASSOCIATION, PARTNERSHIP, INSTITUTION OR
6 BUSINESS ENTERPRISE SHALL APPEAR: *Provided, [finally,]* That in
7 the case of data OR INFORMATION on banks, the provisions of
8 Section 27 of this Act shall apply. CONSISTENT WITH THE
9 PREVAILING PRACTICE IN THE PHILIPPINE STATISTICAL
10 SYSTEM, THOSE WHO REFUSE TO SUPPLY THE *BANGKO SENTRAL*
11 WITH THE REQUIRED DATA OR INFORMATION SHALL BE SUBJECT
12 TO A PENALTY OF ONE (1) YEAR IMPRISONMENT AND A FINE OF
13 ONE HUNDRED THOUSAND PESOS (P100,000). IN CASES WHERE
14 THE VIOLATION IS DONE BY A CORPORATION, THE ABOVE
15 PENALTY SHALL BE IMPOSED AGAINST THE RESPONSIBLE
16 OFFICER, DIRECTOR, MANAGER AND/OR AGENT OF SAID
17 CORPORATION. IN ADDITION, SUCH ERRING CORPORATION OR
18 ANY OTHER JURIDICAL ENTITY, DEPENDING ON THE CATEGORY
19 OF THE ENTERPRISE OR BUSINESS CONCERNED WHETHER SMALL,
20 MEDIUM OR LARGE, SHALL BE IMPOSED A FINE RANGING FROM
21 ONE HUNDRED THOUSAND PESOS (P100,000) TO FIVE HUNDRED
22 THOUSAND PESOS (P500,000).

23 "ANY PERSON, INCLUDING PARTIES WITHIN THE MONETARY
24 BOARD AND THE *BANGKO SENTRAL*, WHO BREACH THE
25 CONFIDENTIALITY OF DATA OR INFORMATION, WHETHER BY
26 IMPROPER BEHAVIOR, BEHAVIOR WITH MALICIOUS INTENT, OR
27 USE OF CONFIDENTIAL INFORMATION FOR PROFIT ARE
28 CONSIDERED GUILTY OF OFFENSE AND SHALL BE LIABLE TO A
29 FINE OF NOT LESS THAN FIVE THOUSAND PESOS (P5,000) NOR

1 **MORE THAN TEN THOUSAND PESOS (P10,000) OR IMPRISONMENT**
2 **OF NOT LESS THAN THREE (3) MONTHS NOR MORE THAN ONE (1)**
3 **YEAR, OR BOTH, SUBJECT TO THE DEGREE OF BREACH OF**
4 **INFORMATION, AT THE DISCRETION OF THE COURT.”**

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

7 “SEC. 25. *Supervision and Examination.* – The *Bangko*
8 *Sentral* shall have supervision over, and conduct periodic or
9 special examinations of, banking institutions and quasi-banks,
10 including their subsidiaries and affiliates [engaged in allied
11 activities].

12 “THE *BANGKO SENTRAL* SHALL HAVE REGULATORY
13 AUTHORITY OVER, AND CONDUCT REGULAR OR SPECIAL
14 EXAMINATIONS OF, ENTITIES WHICH UNDER THIS ACT OR BY
15 SPECIAL LAWS ARE SUBJECT TO ITS JURISDICTION.

16 “For purposes of this section, a subsidiary means a corporation
17 more than fifty percent (50%) of the voting stock of which is
18 owned by a bank or quasi-bank and an affiliate means a
19 corporation the voting stock of which, to the extent of fifty percent
20 (50%) or less, is owned by a bank or quasi-bank or which is related
21 or linked to such [institution] ENTITY or intermediary through
22 common stockholders or such other factors as may be determined
23 by the Monetary Board.

24 “The department heads and the examiners of the supervising
25 and/or examining departments are hereby authorized to administer
26 oaths to any director, officer, or employee of any [institution]
27 ENTITY under their respective supervision or subject to their
28 examination, [and] to compel the presentation of all books,

1 documents, papers or records necessary in their judgment to
2 ascertain the facts relative to the true condition of any [institution]
3 ENTITY as well as the books and records of persons and entities
4 relative to or in connection with the operations, activities or
5 transactions of the [institution] ENTITY under examination[,
6 subject to the provision of existing laws protecting or safeguarding
7 the secrecy or confidentiality of bank deposits as well as
8 investments of private persons, natural or juridical, in debt
9 instruments issued by the Government] AND TO INQUIRE INTO
10 BANK DEPOSITS AND INVESTMENT ACCOUNTS IN THE COURSE OF
11 AN EXAMINATION IN ORDER TO ASCERTAIN COMPLIANCE WITH
12 LAWS AND BANKING REGULATIONS.

13 “No restraining order or injunction shall be issued by the court
14 enjoining the *Bangko Sentral* from examining any [institution]
15 ENTITY subject to supervision or examination by the *Bangko*
16 *Sentral*, unless there is convincing proof that the action of the
17 *Bangko Sentral* is plainly arbitrary and made in bad faith and the
18 petitioner or plaintiff files with the clerk or judge of the court in
19 which the action is pending a bond executed in favor of the *Bangko*
20 *Sentral*, in an amount to be fixed by the court. The provisions of
21 Rule 58 of the New Rules of Court insofar as they are applicable
22 and not inconsistent with the provisions of this section shall govern
23 the issuance and dissolution of the restraining order or injunction
24 contemplated in this section.”

25 SEC. 8. A new Section 25-A is hereby inserted in the same Act to read
26 as follows:

27 “SEC. 25-A. *TRANSFER OF SHARES. – TRANSFERS OR*
28 *ACQUISITIONS, OR A SERIES THEREOF, OF AT LEAST TEN*

1 **PERCENT (10%) OF VOTING RIGHTS IN BANKS OR QUASI-BANKS**
2 **SHALL BE REPORTED TO THE *BANGKO SENTRAL* WITHIN SUCH**
3 **PERIOD AS MAY BE PRESCRIBED BY THE MONETARY BOARD.**
4 **PRIOR TO SUCH NOTIFICATION, NO SUCH TRANSFER OR**
5 **ACQUISITION SHALL HAVE LEGAL EFFECT NOR SHALL THE SAME**
6 **BE RECOGNIZED IN THE BOOKS OF THE ENTITY OR BY ANY**
7 **GOVERNMENT AGENCY, AND THE TRANSFEROR – STOCKHOLDERS**
8 **SHALL REMAIN ACCOUNTABLE AND RESPONSIBLE THEREFOR.**
9 **TRANSFER OF ACTUAL CONTROL OR MANAGEMENT OF THE**
10 **ENTITY TO THE NEW STOCKHOLDERS OR THEIR**
11 **REPRESENTATIVES PRIOR TO NOTIFICATION SHALL MAKE THE**
12 **TRANSFEROR, THE TRANSFEREE AND ANY PERSON RESPONSIBLE**
13 **THEREFOR, LIABLE UNDER SECTIONS 36 AND 37 OF THIS ACT.**
14 **NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY,**
15 **THE *BANGKO SENTRAL* MAY SHARE WITH THE PHILIPPINE**
16 **DEPOSIT INSURANCE CORPORATION ANY INFORMATION THAT**
17 **THE *BANGKO SENTRAL* MAY OBTAIN PERTAINING TO TRANSFER**
18 **OR ACQUISITION OF SHARES OR SERIES OF TRANSFERS OR**
19 **ACQUISITION OF SHARES IN BANKS AND QUASI-BANKS.”**

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

22 “SEC. 28. *Examination and Fees.* – The supervising and
23 examining department head, personally or by deputy, shall
24 examine the [books] OPERATIONS of every bank[ing institution
25 once in every twelve (12) months, and at such other times as the
26 Monetary Board by an affirmative vote of five (5) members, may
27 deem expedient and to make a report on the same to the Monetary
28 Board:] AND QUASI-BANK, INCLUDING THEIR SUBSIDIARIES AND
29 AFFILIATES AND OTHER ENTITIES WHICH UNDER THIS ACT OR

1 **SPECIAL LAWS ARE SUBJECT TO *BANGKO SENTRAL* SUPERVISION,**
2 **IN ACCORDANCE WITH THE GUIDELINES SET BY THE MONETARY**
3 **BOARD TAKING INTO CONSIDERATION SOUND AND PRUDENT**
4 **PRACTICES: *Provided*, That there shall be an interval of at least**
5 **twelve (12) months between [annual] REGULAR examinations[.];**
6 ***PROVIDED, FURTHER, THAT THE MONETARY BOARD, BY AN***
7 **AFFIRMATIVE VOTE OF AT LEAST FIVE (5) MEMBERS, MAY**
8 **AUTHORIZE A SPECIAL EXAMINATION IF THE CIRCUMSTANCES**
9 **WARRANT.**

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

22 “[Banking and quasi-banking institutions which are subject to
23 examination by the *Bangko Sentral*] SUPERVISED INSTITUTIONS
24 shall pay to the *Bangko Sentral*, [within the first thirty (30) days
25 of] NO LATER THAN MAY 31 OF each year, an annual
26 SUPERVISION fee [in an amount equal to a percentage] as may be
27 prescribed by the Monetary Board. [of its average total assets

1 during the preceding year as shown on its end-of-month
 2 balance sheets, after deducting cash on hand and amounts due from
 3 banks, including the *Bangko Sentral* and banks abroad.]

4 **IN DETERMINING THE ANNUAL SUPERVISION FEE, THE**
 5 **MONETARY BOARD SHALL CONSIDER THE COST OF**
 6 **SUPERVISION.”**

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

9 **“SEC. 28-A. *BANGKO SENTRAL COORDINATION.* – THE**
 10 **SUSPENSION OR REVOCATION OF ANY GOVERNMENT LICENSE**
 11 **NECESSARY FOR THE OPERATION OF A *BANGKO SENTRAL-***
 12 **SUPERVISED ENTITY MUST BE DONE ONLY WITH PRIOR**
 13 **NOTIFICATION TO THE *BANGKO SENTRAL.*”**

14 SEC. 11. Section 30 of the same Act is hereby amended to read as
 15 follows:

16 **“SEC. 30. *Proceedings in Receivership and Liquidation.* –**
 17 **Whenever, upon report of the head of the supervising or examining**
 18 **department, the Monetary Board finds that a bank, [or] quasi-bank**
 19 **OR NON-BANK FINANCIAL INSTITUTION:**

20 **“(a) HAS NOTIFIED THE *BANGKO SENTRAL* OR PUBLICLY**
 21 **ANNOUNCED A UNILATERAL CLOSURE, OR HAS BEEN DORMANT**
 22 **FOR AT LEAST SIXTY (60) DAYS OR IN ANY MANNER HAS**
 23 **SUSPENDED THE PAYMENT OF ITS DEPOSIT/DEPOSIT SUBSTITUTE**
 24 **LIABILITIES, OR is unable to pay its liabilities as they become due**
 25 **in the ordinary course of business: *Provided,* That this shall not**
 26 **include inability to pay caused by extraordinary demands induced**
 27 **by financial panic in the banking community; OR**

28 **“(b) has insufficient realizable assets, as determined by the**
 29 ***Bangko Sentral,* to meet its liabilities; or**

1 “(c) cannot continue in business without involving probable
2 losses to its depositors or creditors; or

3 “(d) has willfully violated a cease and desist order under
4 Section 37 that has become final, involving acts or transactions
5 which amount to fraud or a dissipation of the assets of the
6 institution; in which cases, the Monetary Board may summarily
7 and without need for prior hearing forbid the institution from doing
8 business in the Philippines and, **IN CASE OF BANKING**
9 **INSTITUTIONS**, designate the Philippine Deposit Insurance
10 Corporation (**PDIC**) as receiver [of the banking institution] **AND**
11 **DIRECT THE PDIC TO PROCEED WITH THE LIQUIDATION OF**
12 **CLOSED BANKING INSTITUTION PURSUANT TO THIS SECTION AND**
13 **THE RELEVANT PROVISIONS OF REPUBLIC ACT NO. 3591, AS**
14 **AMENDED. THE MONETARY BOARD SHALL NOTIFY IN WRITING**
15 **THE BOARD OF DIRECTORS OF THE CLOSED BANK OF THE**
16 **MONETARY BOARD’S FINDINGS.**

17 “[For a quasi-bank, any person of recognized competence
18 in banking or finance may be designated as receiver.] **THE**
19 **RECEIVER FOR QUASI-BANKS AND NON-BANK FINANCIAL**
20 **INSTITUTIONS SHALL BE DESIGNATED BY THE MONETARY**
21 **BOARD.**

22 “The receiver shall immediately gather and take charge of all
23 the assets and liabilities of the institution, administer the same for
24 the benefit of its creditors, **DEPOSIT OR PLACE THE FUNDS OF**
25 **THE INSTITUTION IN NONSPECULATIVE INVESTMENTS, PAY**
26 **ADMINISTRATIVE REMEDIES** and exercise the general powers of a
27 receiver under the Revised Rules of Court [but shall not, with the
28 exception of administrative expenditures, pay or commit any act

1 that will involve the transfer or disposition of any asset of the
2 institution: *Provided*, That the receiver may deposit or place the
3 funds of the institution in non-speculative investments]. The
4 receiver **OF QUASI-BANKS AND NON-BANK FINANCIAL**
5 **INSTITUTIONS** shall determine as soon as possible, but not later
6 than ninety (90) days from take-over, whether [the] **SUCH**
7 institution may be rehabilitated or otherwise placed in such a
8 condition so that it may be permitted to resume business with
9 safety to its [depositors and] creditors and the general public:
10 *Provided*, That any determination for the resumption of business of
11 the institution shall be subject to prior approval of the Monetary
12 Board.

13 **“IN ORDER TO REHABILITATE THE CLOSED INSTITUTION OR**
14 **TO RESTORE ITS OPERATIONS WITH SAFETY TO ITS CREDITORS**
15 **AND THE GENERAL PUBLIC, OR TO MERGE OR CONSOLIDATE THE**
16 **CLOSED INSTITUTION WITH ANOTHER QUALIFIED INSTITUTION,**
17 **THE RECEIVER OF BANKS, QUASI-BANKS AND OTHER NON-BANK**
18 **FINANCIAL INSTITUTIONS MAY IMMEDIATELY TRANSFER OR**
19 **DISPOSE OF ANY OR ALL OF THE ASSETS OF THE CLOSED**
20 **INSTITUTION, CAUSE QUASI-REORGANIZATION OF THE**
21 **INSTITUTION, AND SUCH OTHER ACTS AS MAY BE AUTHORIZED BY**
22 **LAW.**

23 If the receiver **OF BANKS, QUASI-BANKS AND OTHER**
24 **NON-BANK FINANCIAL INSTITUTIONS** determines that the
25 institution cannot be rehabilitated or permitted to resume business
26 in accordance with the next preceding paragraph, the Monetary
27 Board shall notify in writing the board of directors of [its] **THE**
28 **RECEIVER’S** findings and direct the receiver to proceed with the
29 liquidation of the institution. The receiver **ACTING AS THE**

1 **LIQUIDATOR OF BANKS, QUASI-BANKS AND OTHER NON-BANK**
2 **FINANCIAL INSTITUTIONS shall:**

3 “(1) file *ex parte* with the proper regional trial court, and
4 without requirement of prior notice or any other action, a petition
5 for assistance in the liquidation of the institution pursuant to a
6 liquidation plan [adopted by the Philippine Deposit Insurance
7 Corporation for general application to all closed banks] **PREPARED**
8 **BY THE RECEIVER AND ADOPTED BY THE MONETARY BOARD.**
9 [In case of quasi-banks, the liquidation plan shall be adopted by
10 the Monetary Board. Upon acquiring jurisdiction, the court shall,
11 upon motion by the receiver after due notice,] **THE COURT SHALL**
12 **HAVE EXCLUSIVE JURISDICTION TO** adjudicate disputed claims
13 against the institution, assist the enforcement of individual
14 liabilities of the stockholders, directors and officers, and decide on
15 other issues as may be material to implement the liquidation plan
16 adopted. The receiver shall pay the cost of the proceedings from
17 the assets of the institution.

18 “(2) convert the assets of the institution to money, dispose of
19 the same to creditors and other parties, for the purpose of paying
20 the debts of such institution in accordance with the rules on
21 concurrence and preference of credit under the Civil Code of the
22 Philippines and he may, in the name of the institution, and with the
23 assistance of counsel as he may retain, institute such actions as
24 may be necessary to collect and recover accounts and assets of, or
25 defend any action against, the institution. The assets of an
26 institution under receivership or liquidation shall be deemed in
27 *custodia legis* in the hands of the receiver and shall, from the
28 moment the institution was placed under such receivership or

1 liquidation, be exempt from any order of garnishment, levy,
2 attachment, or execution.

3 “The actions of the Monetary Board taken under this section
4 or under Section 29 of this Act shall be final and executory, and
5 may not be restrained or set aside by the court except on petition
6 for *certiorari* on the ground that the action taken was in excess of
7 jurisdiction or with such grave abuse of discretion as to amount to
8 lack or excess of jurisdiction. The petition for *certiorari* may only
9 be filed by the stockholders of record representing the majority of
10 the *capital stock within ten (10) days from receipt by the board of*
11 *directors of the institution of the order directing receivership,*
12 *liquidation or conservatorship.*

13 “The designation of a conservator under Section 29 of this Act
14 or the appointment of a receiver under this section shall be vested
15 exclusively with the Monetary Board. Furthermore, the designation
16 of a conservator is not a precondition to the designation of a
17 receiver.”

18 SEC. 12. Section 34 of the same Act is hereby amended to read as
19 follows:

20 “SEC. 34. *Refusal to Make Reports or Permit Examination.*
21 – Any officer, owner, agent, manager, director or officer-in-charge
22 of any institution [subject to the supervision or examination by the
23 *Bangko Sentral* within the purview of this Act] who, being
24 required in writing by the Monetary Board or by the head of the
25 supervising and examining department, **WITHIN THE PURVIEW OF**
26 **THIS ACT AND RELEVANT LAWS**, willfully refuses to file the
27 required report or permit any lawful examination into the affairs of
28 such institution shall be punished by a fine of not less than Fifty

1 thousand pesos (P50,000) nor more than [One hundred thousand
2 pesos (P100,000)] **TWO MILLION PESOS (P2,000,000)** or by
3 imprisonment of not less than one (1) year nor more than five (5)
4 years, or both, [in] AT the discretion of the court.”

5 SEC. 13. Section 35 of the same Act is hereby amended to read as
6 follows:

7 “SEC. 35. *False Statement.* – The willful making of a false
8 or misleading statement on a material fact to the Monetary Board
9 or to the examiners of the *Bangko Sentral* shall be punished by a
10 fine of not less than One hundred thousand pesos (P100,000) nor
11 more than [Two hundred thousand pesos (P200,000)] **TWO**
12 **MILLION PESOS (P2,000,000)**, or by imprisonment of not more
13 than five (5) years, or both, at the discretion of the court.”

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

16 “SEC. 36. *Proceedings Upon Violation of This Act and Other*
17 *Banking Laws, Rules, Regulations, Orders or Instructions.* –
18 Whenever a bank, [or] quasi-bank, **OR OTHER ENTITY WHICH**
19 **UNDER THIS ACT OR SPECIAL LAWS IS SUBJECT TO BANGKO**
20 **SENTRAL SUPERVISION** or whenever any person or entity willfully
21 violates this Act or other pertinent banking laws being enforced or
22 implemented by the *Bangko Sentral* or any order, instruction, rule
23 or regulation issued by the Monetary Board, the person or persons
24 responsible for such violation shall unless otherwise provided in
25 this Act be punished by a fine of not less than Fifty thousand pesos
26 (P50,000) nor more than [Two hundred thousand pesos
27 (P200,000)] **TWO MILLION PESOS (P2,000,000)** or by

1 imprisonment of not less than two (2) years nor more than ten (10)
2 years, or both, at the discretion of the court.

3 "Whenever AN ENTITY UNDER *BANGKO SENTRAL*
4 SUPERVISION [a bank or quasi-bank] persists in carrying on its
5 business in an unlawful or unsafe manner, the Board may, without
6 prejudice to the penalties provided in the preceding paragraph of
7 this section and the administrative sanctions provided in Section 37
8 of this Act, take action under Section 30 of this Act."

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

11 "SEC. 37. *Administrative Sanctions on [Banks and*
12 *Quasi-banks] SUPERVISED ENTITIES.* – Without prejudice to
13 the criminal sanctions against the culpable persons provided in
14 Sections 34, 35, and 36 of this Act, the Monetary Board may, at its
15 discretion, impose upon any bank or quasi-bank, INCLUDING
16 THEIR SUBSIDIARIES AND AFFILIATES, OR OTHER ENTITIES
17 WHICH UNDER THIS ACT OR SPECIAL LAWS ARE SUBJECT TO THE
18 *BANGKO SENTRAL* SUPERVISION, AND their directors, [and/or]
19 officers OR EMPLOYEES, for any willful violation of its charter or
20 bylaws, willful delay in the submission of reports or publications
21 thereof as required by law, rules and regulations; any refusal to
22 permit examination into the affairs of the [institution] ENTITY; any
23 willful making of a false or misleading statement to the Board or
24 the appropriate supervising and examining department or its
25 examiners; any willful failure or refusal to comply with, or
26 violation of, any banking law or any order, instruction or
27 regulation issued by the Monetary Board, or any order, instruction
28 or ruling by the Governor; or any commission of irregularities,

1 and/or conducting business in an unsafe or unsound manner as may
2 be determined by the Monetary Board, the following
3 administrative sanctions, whenever applicable:

4 “(a) fines in amounts as may be determined by the Monetary
5 Board to be appropriate, but in no case to exceed [Thirty thousand
6 pesos (P30,000)] **ONE MILLION PESOS (P1,000,000) FOR EACH**
7 **TRANSACTIONAL VIOLATION OR ONE HUNDRED THOUSAND**
8 **PESOS (P100,000) PER BANKING [a] day for each CONTINUING**
9 violation, taking into consideration the attendant circumstances,
10 such as the nature and gravity of the violation or irregularity and
11 the size of the [bank or quasi-bank] ENTITY: **PROVIDED, THAT IN**
12 **CASE PROFIT IS GAINED OR LOSS IS AVOIDED AS A RESULT OF THE**
13 **VIOLATION, A FINE OF NOT MORE THAN THREE (3) TIMES THE**
14 **PROFIT GAINED OR LOSS AVOIDED MAY BE IMPOSED;**

15 (b) suspension of rediscounting privileges or access to
16 *Bangko Sentral* credit facilities;

17 (c) suspension of lending or foreign exchange operations or
18 authority to accept new deposits or make new investments;

19 (d) suspension of interbank clearing privileges; and/or

20 (e) **SUSPENSION OR** revocation of quasi-banking **OR OTHER**
21 **SPECIAL** licenses.

22 “Resignation or termination from office shall not exempt such
23 director, [or] officer **OR EMPLOYEE** from administrative or
24 criminal sanctions.

25 “The Monetary Board may, whenever warranted by
26 circumstances, preventively suspend any director or officer of
27 [a bank or quasi-bank] **THE ENTITY** pending an investigation:
28 *Provided*, That should the case be not finally decided by the

1 *Bangko Sentral* within a period of one hundred twenty (120) days
2 after the date of suspension, said director or officer shall be
3 reinstated in his position: *Provided, further,* That when the delay
4 in the disposition of the case is due to the fault, negligence or
5 petition of the director or officer, the period of delay shall not be
6 counted in computing the period of suspension herein provided.

7 “The above administrative sanctions need not be applied in the
8 order of their severity.

9 “Whether or not there is an administrative proceeding, if the
10 [institution] ENTITY and/or the directors, [and/or] officers AND/OR
11 EMPLOYEES concerned continue with or otherwise persist in the
12 commission of the indicated practice or violation, the Monetary
13 Board may issue an order requiring the [institution] ENTITY and/or
14 the directors, and/or officers AND/OR EMPLOYEES concerned to
15 cease and desist from the indicated practice or violation, and may
16 further order that immediate action be taken to correct the
17 conditions resulting from such practice or violation. The cease and
18 desist order shall be immediately effective upon service on the
19 respondents.

20 “The respondents shall be afforded an opportunity to defend
21 their action in a hearing before the Monetary Board or any
22 committee chaired by any Monetary Board member created for the
23 purpose, upon request made by the respondents within five (5)
24 days from their receipt of the order. If no such hearing is requested
25 within said period, the order shall be final. If a hearing is
26 conducted, all issues shall be determined on the basis of records,
27 after which the Monetary Board may either reconsider or make
28 final its order.

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

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

16 “**SEC. 38-A. *ISSUANCE OF PROVISIONAL REMEDIES AGAINST***
17 ***BANGKO SENTRAL ACTIONS.* – NO COURT, OTHER THAN THE**
18 **COURT OF APPEALS AND THE SUPREME COURT, SHALL ISSUE**
19 **ANY TEMPORARY RESTRAINING ORDER, PRELIMINARY**
20 **INJUNCTION OR PRELIMINARY MANDATORY INJUNCTION**
21 **AGAINST THE *BANGKO SENTRAL* FOR ANY ACTION UNDER THIS**
22 **ACT.**

23 “**ANY RESTRAINING ORDER OR INJUNCTION ISSUED IN**
24 **VIOLATION OF THIS SECTION IS VOID AND OF NO FORCE AND**
25 **EFFECT.**

26 “**THE PROVISIONS OF RULE 58 OF THE 1997 RULES ON CIVIL**
27 **PROCEDURE INSOFAR AS THEY ARE APPLICABLE AND NOT**
28 **INCONSISTENT WITH THE PROVISIONS OF THIS ACT SHALL**
29 **GOVERN THE ISSUANCE AND DISSOLUTION OF THE**

1 **RESTRAINING ORDER OR INJUNCTION AGAINST THE *BANGKO***
2 ***SENTRAL*.**”

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

5 “SEC. 43. *Computation of Profits and Losses.* – Within
6 the first thirty (30) days following the end of each year, the *Bangko*
7 *Sentral* shall determine its net profits or losses. [In the calculation
8 of net profits, the *Bangko Sentral* shall make adequate allowance
9 or establish adequate reserves for bad and doubtful accounts.]

10 **NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY,**
11 **THE NET PROFIT OF THE *BANGKO SENTRAL* SHALL BE**
12 **DETERMINED AFTER ALLOWING FOR EXPENSES OF OPERATION,**
13 **ADEQUATE ALLOWANCES AND PROVISIONS FOR BAD AND**
14 **DOUBTFUL DEBTS, DEPRECIATION IN ASSETS, AND SUCH OTHER**
15 **ALLOWANCES AND CONTINGENCIES OR PURPOSES AS THE**
16 **MONETARY BOARD MAY DETERMINE IN ACCORDANCE WITH**
17 **PRUDENT FINANCIAL MANAGEMENT.”**

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

20 “SEC. 43-A. *BANGKO SENTRAL RESERVE FUND.* – THE
21 *BANGKO SENTRAL* SHALL ESTABLISH A RESERVE FUND TO
22 MITIGATE FUTURE RISKS AND CONTINGENCIES INHERENT IN
23 CARRYING OUT THE *BANGKO SENTRAL*-MANDATED FUNCTIONS AS
24 CENTRAL MONETARY AUTHORITY. THE RESERVE FUND SHALL
25 CONSIST OF FLUCTUATION RESERVE, CONTINGENCY RESERVE
26 AND SUCH OTHER RESERVES AS THE MONETARY BOARD DEEMS
27 PRUDENT OR NECESSARY.

28 “THE FLUCTUATION RESERVE SHALL COVER LOSSES FROM
29 EXCHANGE RATE AND PRICE VOLATILITY AND SHALL BE DERIVED

1 FROM THE NET PROFITS BEFORE DISTRIBUTION, AS PROVIDED
2 UNDER SECTION 44 OF THIS ACT. ALL OTHER RESERVE FUNDS
3 SHALL BE SOURCED FROM SURPLUS.”

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

6 “SEC. 45. *Revaluation Profits and Losses.* – UNREALIZED
7 [P]Profits or losses arising from any revaluation of the *Bangko*
8 *Sentral's* [net] assets, [or] liabilities OR DERIVATIVE
9 INSTRUMENTS DENOMINATED in [gold or] foreign currencies with
10 respect to the MOVEMENTS OF PRICES AND EXCHANGE RATES
11 FROM THIRD CURRENCIES TO Philippine peso shall not be
12 included in the computation of the annual profits and losses of the
13 *Bangko Sentral*. Any profit[s] or loss[es] arising in this manner
14 shall be offset by any amounts which, as a consequence of such
15 revaluations, are owed by the Philippines to any international or
16 regional intergovernmental financial institution of which the
17 Philippines is a member or are owed by these institutions to the
18 Philippines. Any remaining UNREALIZED profit or loss shall be
19 carried in a special frozen account which shall be named
20 "Revaluation of International Reserve (RIR)", and the net balance
21 of which shall appear either among the liabilities or among the
22 assets of the *Bangko Sentral*, depending on whether the
23 revaluations have produced net profits or net losses.

24 “The [Revaluation of International Reserve] RIR account
25 shall be [neither] credited [nor] OR debited [for any purposes
26 other than those specifically authorized in this section.] ONLY FOR
27 THE PERIODIC REVALUATION AS AUTHORIZED IN THIS SECTION
28 AND TO REFLECT THE CORRESPONDING ADJUSTMENT RESULTING

1 TO REDUCTION IN THE *BANGKO SENTRAL'S* NET FOREIGN
2 ASSETS, LIABILITIES AND FOREIGN CURRENCY-DENOMINATED
3 DERIVATIVE INSTRUMENTS. THE RIR SHALL BE ADJUSTED AND
4 RECOGNIZED IN THE INCOME STATEMENT UPON SALE OF GOLD
5 AND FOREIGN SECURITIES, OR WHEN THE FOREIGN CURRENCY IS
6 REPATRIATED TO LOCAL CURRENCY OR IS USED TO PAY FOREIGN
7 OBLIGATIONS OR UPON MATURITY OF A FOREIGN CURRENCY-
8 DENOMINATED FORWARD OR OPTION CONTRACT INVOLVING
9 THE PHILIPPINE PESO.”

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

12 “SEC. 61. *Guiding Principle.* – [The Monetary Board shall
13 endeavor to control any expansion or contraction in monetary
14 aggregates which is prejudicial to the attainment or maintenance of
15 price stability.] **THE MONETARY BOARD SHALL REGULARLY**
16 **ASSESS PRICE DEVELOPMENTS AND OUTLOOK AND, BASED ON ITS**
17 **ANALYSIS AND EVALUATION OF INFLATIONARY PRESSURES, USE**
18 **ITS POLICY INSTRUMENTS TO ATTAIN AND MAINTAIN PRICE**
19 **STABILITY.”**

20 SEC. 21. Section 63 of the same Act is hereby amended to read as
21 follows:

22 “SEC. 63. *Action When Abnormal Movements Occur in the*
23 *[Monetary Aggregates, Credit, or] Price Level.* – Whenever
24 abnormal movements in the [monetary aggregates, in credit, or in]
25 prices endanger the stability of the Philippine economy or
26 important sectors thereof, the Monetary Board shall:

27 “(a) take such remedial measures as are appropriate and
28 within the powers granted to the Monetary Board and the *Bangko*
29 *Sentral* under the provisions of this Act; and

1 “(b) submit to the President of the Philippines and the
2 Congress, and make public, a detailed report which shall include,
3 as a minimum, a description and analysis of:

4 “(1) the causes of the rise or fall of [the monetary aggregates,
5 of credit or of] prices;

6 “(2) the extent to which the changes in [the monetary
7 aggregates, in credit, or in] prices have been reflected in changes
8 in the level of domestic output, employment, wages and economic
9 activity in general, and the nature and significance of any [such]
10 changes; and

11 “(3) the measures which the Monetary Board has taken and
12 the other monetary, fiscal or administrative measures which it
13 recommends to be adopted.

14 “Whenever the [monetary aggregates, or the level of credit,
15 increases or decreases by more than fifteen percent (15%), or the]
16 cost of living index increases by more than ten percent (10%), in
17 relation to the level existing at the end of the corresponding month
18 of the preceding year, or even though [any of these] THIS
19 quantitative guideline[s have] HAS not been reached when in its
20 judgment the circumstances so warrant, the Monetary Board shall
21 submit the reports mentioned in this section, and shall state therein
22 whether, in the opinion of the Board, said changes in the
23 [monetary aggregates, credit or] cost of living represent a threat to
24 the stability of the Philippine economy or of important sectors
25 thereof.

26 “The Monetary Board shall continue to submit periodic
27 reports to the President of the Philippines and to Congress until it

1 considers that the [monetary, credit or] price disturbances have
2 disappeared or have been adequately controlled.”

3 SEC. 22. Section 81 of the same Act is hereby amended to read as
4 follows:

5 “SEC. 81. *Guiding Principles.* – The rediscounts, discounts,
6 loans and advances which the *Bangko Sentral* is authorized to
7 extend to banking institutions under the provisions of the present
8 article of this Act shall be used to influence the volume of credit
9 consistent with the objective of price stability **AND MAINTENANCE**
10 **OF FINANCIAL STABILITY.**”

11 SEC. 23. Section 84 of the same Act is hereby amended to read as
12 follows:

13 “SEC. 84. *Emergency Loans and Advances.* – In periods of
14 national and/or local emergency or of imminent financial panic
15 which directly threaten monetary and [banking] **FINANCIAL**
16 stability, the Monetary Board may, by a vote of at least five (5) of
17 its members, authorize the *Bangko Sentral* to grant extraordinary
18 loans or advances to banking institutions, secured by assets as
19 defined hereunder: *Provided*, That while such loans or advances
20 are outstanding, the debtor institution shall not, except upon prior
21 authorization by the Monetary Board, expand the total volume of
22 its loans or investments.

23 “The Monetary Board may, at its discretion, likewise
24 authorize the *Bangko Sentral* to grant emergency loans or advances
25 to banking institutions, even during normal periods, for the
26 purpose of assisting a bank in a precarious financial condition or
27 under serious financial pressures brought by unforeseen events, or
28 events which, though foreseeable, could not be prevented by the

1 bank concerned: *Provided, however,* That the Monetary Board has
2 ascertained that the bank is not insolvent and has the assets defined
3 hereunder to secure the advances: *Provided, further,* That a
4 concurrent vote of at least five (5) members of the Monetary Board
5 is obtained.

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

1 conservator whose appointment the Monetary Board may find
2 necessary at any time.

3 “Prior to the release of the first tranche, the banking institution
4 shall submit to the *Bangko Sentral* a resolution of its board of
5 directors authorizing the *Bangko Sentral* to evaluate other assets of
6 the banking institution certified by its external auditor to be good
7 and available for collateral purposes should the release of the
8 subsequent tranche be thereafter applied for.

9 “The Monetary Board may, by a vote of at least five (5)
10 of its members, authorize the release of a subsequent
11 tranche on condition that the principal stockholders of the
12 institution:

13 “(a) furnish an acceptable undertaking to indemnify and hold
14 harmless from suit a conservator whose appointment the Monetary
15 Board may find necessary at any time; and

16 “(b) provide acceptable security which, in the judgment of
17 the Monetary Board, would be adequate to supplement, where
18 necessary, the assets tendered by the banking institution to
19 collateralize the subsequent tranche.

20 “In connection with the exercise of these powers, the
21 prohibitions in Section 128 of this Act shall not apply insofar as it
22 refers to acceptance as collateral of shares and their acquisition as
23 a result of foreclosure proceedings, including the exercise of voting
24 rights pertaining to said shares: *Provided, however,* That should
25 the *Bangko Sentral* acquire any of the shares it has accepted as
26 collateral as a result of foreclosure proceedings, the *Bangko*
27 *Sentral* shall dispose of said shares by public bidding within one
28 (1) year from the date of consolidation of title by the *Bangko*
29 *Sentral*.

1 “Whenever a financial institution incurs an overdraft in its
2 account with the *Bangko Sentral*, the same shall be eliminated
3 within the period prescribed in Section 102 of this Act.”

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

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

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

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

1 SUCH ACTION AS IF IT WERE AN ACT OF ITS OWN SHERIFF IN ALL
2 RESPECTS.

3 “NO RESTRAINING ORDER OR INJUNCTION SHALL BE ISSUED
4 BY THE COURT ENJOINING THE *BANGKO SENTRAL* FROM
5 PROCEEDING WITH THE FORECLOSURE OF THE MORTGAGE
6 UNLESS A BOND IS POSTED IN FAVOR OF THE *BANGKO SENTRAL* IN
7 AN AMOUNT EQUIVALENT TO THE TOTAL CLAIM OF THE *BANGKO*
8 *SENTRAL*. THE RESTRAINING ORDER OR INJUNCTION SHALL BE
9 REFUSED OR, IF GRANTED, SHALL BE DISSOLVED UPON FILING BY
10 THE *BANGKO SENTRAL* OF A BOND, WHICH SHALL BE IN THE
11 FORM OF A *BANGKO SENTRAL* CHECK, IN AN AMOUNT TWICE THE
12 AMOUNT OF THE ORIGINAL BOND POSTED CONDITIONED THAT
13 THE *BANGKO SENTRAL* WILL PAY THE DAMAGES WHICH THE
14 PARTY MAY SUFFER BY THE REFUSAL OR DISSOLUTION OF THE
15 INJUNCTION. THE PROVISIONS OF RULE 58 OF THE NEW RULES
16 OF COURT INSOFAR AS THEY ARE APPLICABLE AND NOT
17 INCONSISTENT WITH THE PROVISIONS OF THIS SECTION SHALL
18 GOVERN THE ISSUANCE AND DISSOLUTION OF THE
19 RESTRAINING ORDER OR INJUNCTION CONTEMPLATED IN THIS
20 SECTION.”

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

23 “SEC. 88-C. *RIGHT OF REDEMPTION OF FORECLOSED*
24 *REAL PROPERTY; RIGHT OF POSSESSION DURING REDEMPTION*
25 *PERIOD.* -- THE MORTGAGOR SHALL HAVE THE RIGHT TO REDEEM
26 THE PROPERTY WITHIN ONE (1) YEAR FROM THE DATE OF
27 FORECLOSURE SALE OF THE REAL ESTATE, IN CASE THE
28 MORTGAGOR IS A NATURAL PERSON, AND WITHIN NINETY (90)
29 DAYS BUT NOT LATER THAN THE DATE OF REGISTRATION OF
30 THE CERTIFICATE OF FORECLOSURE SALE, IN CASE THE

1 MORTGAGOR IS A JURIDICAL PERSON: *PROVIDED, HOWEVER,*
2 THAT FORECLOSED REAL PROPERTIES IN THE NAME OF A
3 BORROWER BANK, OR OTHER CORPORATE THIRD PARTY
4 MORTGAGOR WHOSE PROPERTIES ARE DIRECTLY MORTGAGED
5 TO THE *BANGKO SENTRAL*, PURSUANT TO ACT NO. 3135, THE
6 APPLICABLE REDEMPTION PERIOD IS ONE (1) YEAR.
7 REDEMPTION SHALL BE EFFECTED BY PAYING THE PRINCIPAL,
8 INTERESTS, INCLUDING ALL COSTS AND OTHER EXPENSES
9 INCURRED BY REASON OF THE FORECLOSURE SALE.

10 "THE *BANGKO SENTRAL*, AS PURCHASER IN THE
11 FORECLOSURE SALE AND WITHOUT NEED OF POSTING A BOND,
12 MAY TAKE POSSESSION OF THE FORECLOSED PROPERTY DURING
13 THE REDEMPTION PERIOD. THE *BANGKO SENTRAL* SHALL BE
14 ENTITLED TO THE FRUITS OF THE PROPERTY, THE SAME TO BE
15 APPLIED AGAINST THE REDEMPTION PRICE."

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

18 "SEC. 89-A. *FINANCIAL FACILITIES FOR ISLAMIC BANKS.* -
19 THE *BANGKO SENTRAL* MAY, TAKING INTO CONSIDERATION THE
20 PECULIAR CHARACTERISTICS OF ISLAMIC BANKING, FORMULATE
21 RULES AND REGULATIONS FOR THE EXTENSION OF FINANCIAL
22 FACILITIES TO ISLAMIC BANKS PROVIDED SUCH EXPOSURES
23 SHALL BE PROPERLY SECURED."

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

26 "SEC. 89-B. *LOANS TO THE PHILIPPINE DEPOSIT INSURANCE*
27 *CORPORATION (PDIC).* - THE *BANGKO SENTRAL*, PURSUANT TO
28 ITS MANDATE OF MAINTAINING FINANCIAL STABILITY, MAY LEND
29 TO THE PDIC FUNDS FOR INSURANCE PURPOSE AND FOR
30 FINANCIAL ASSISTANCE THAT THE LATTER IS AUTHORIZED TO

1 **EXTEND UNDER SECTION 17(D) OF REPUBLIC ACT NO. 3591, AS**
2 **AMENDED, TO AN INSURED BANK IN DANGER OF CLOSING IN**
3 **ORDER TO MINIMIZE LOSSES TO ITS DEPOSITORS AND**
4 **CREDITORS. NOTWITHSTANDING SECTION 18 OF REPUBLIC ACT**
5 **NO. 3591, AS AMENDED, THE MONETARY BOARD SHALL**
6 **PRESCRIBE INTEREST RATES AND SUCH OTHER TERMS AND**
7 **CONDITIONS OF THE LOAN.”**

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

10 “SEC. 92. *Issue and Negotiation of Bangko Sentral*
11 *Obligations.* – In order to provide the *Bangko Sentral* with
12 effective instruments for open market operations, the *Bangko*
13 *Sentral* may, subject to such rules and regulations as the Monetary
14 Board may prescribe and in accordance with the principles stated
15 in Section 90 of this Act, issue, place, buy and sell freely
16 negotiable evidences of indebtedness of the *Bangko Sentral*.
17 [*Provided*, That issuance of such certificates of indebtedness
18 shall be made only in cases of extraordinary movement in price
19 levels.] Said evidences of indebtedness may be issued directly
20 against the international reserve of the *Bangko Sentral* or against
21 the securities which it has acquired under the provisions of Section
22 91 of this Act, or may be issued without relation to specific types
23 of assets of the *Bangko Sentral*.

24 “The Monetary Board shall determine the interest rates,
25 maturities and other characteristics of said obligations of the
26 *Bangko Sentral*, and may, if it deems it advisable, denominate the
27 obligations in gold or foreign currencies.

28 “Subject to the principles stated in Section 90 of this Act, the
29 evidences of indebtedness of the *Bangko Sentral* to which this

1 section refers may be acquired by the *Bangko Sentral* before their
2 maturity, either through purchases in the open market or through
3 redemptions at par and by lot if the *Bangko Sentral* has reserved
4 the right to make such redemptions. The evidences of indebtedness
5 acquired or redeemed by the *Bangko Sentral* shall not be included
6 among its assets, and shall be immediately retired and cancelled.”

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

9 “SEC. 95. *Definition of Deposit Substitutes.* – The term
10 ‘deposit substitutes’ is defined as an alternative form of obtaining
11 funds from the public, other than deposits, through the issuance,
12 endorsement, or acceptance of debt instruments for the borrower’s
13 own account, for the purpose of relending or purchasing of
14 receivables and other obligations. These instruments may include,
15 but need not be limited to, bankers acceptances, promissory notes,
16 participations, certificates of assignment and similar instruments
17 with recourse, and repurchase agreements. **THE TERM ‘PUBLIC’**
18 **MEANS BORROWING FROM TWENTY (20) OR MORE LENDERS AT**
19 **ANY ONE TIME. FOR THIS PURPOSE, ‘LENDERS’ SHALL REFER TO**
20 **INDIVIDUALS AND CORPORATE ENTITIES THAT ARE NOT ACTING**
21 **AS FINANCIAL INTERMEDIARIES, SUBJECT TO THE SAFEGUARDS**
22 **AND REGULATIONS ISSUED BY THE MONETARY BOARD.** The
23 Monetary Board shall determine what specific instruments shall be
24 considered as deposit substitutes for the purposes of Section 94
25 of this Act: *Provided, however,* That deposit substitutes of
26 commercial, industrial and other nonfinancial companies issued for
27 the limited purpose of financing their own needs or the needs of
28 their agents or dealers shall not be covered by the provisions of
29 Section 94 of this Act.”

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

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

17 “If a bank or quasi-bank chronically has a reserve deficiency,
18 the *Monetary Board may limit or prohibit* the making of new loans
19 or investments by the institution and may require that part or all of
20 the net profits of the institution be assigned to surplus.

21 “The Monetary Board may modify or set aside the reserve
22 deficiency penalties provided in this section, for part or the entire
23 period of a strike or lockout affecting a bank or a quasi-bank as
24 defined in the Labor Code, or of a national emergency affecting
25 operations of banks or quasi-banks **OR IN SUCH OTHER INSTANCES**
26 **WHERE THE GRANT OF WAIVER IS DETERMINED BY THE**
27 **MONETARY BOARD TO BE JUSTIFIABLE.** The Monetary Board
28 may also modify or set aside reserved deficiency penalties for
29 rehabilitation program of a bank.”

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

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

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

13 “SEC. 108. *Minimum Capital Ratios.* – The Monetary Board
14 may prescribe minimum [ratios which the capital and surplus of
15 the banks must bear to the volume of their assets, or to specific
16 categories thereof,] **RISK-BASED CAPITAL ADEQUACY RATIOS**
17 **BASED ON INTERNATIONALLY ACCEPTED STANDARDS** and may
18 alter *said ratios whenever it deems necessary.* **IN THE EXERCISE**
19 **OF ITS AUTHORITY UNDER THIS SECTION, THE MONETARY**
20 **BOARD MAY REQUIRE BANKS TO HOLD CAPITAL BEYOND THE**
21 **MINIMUM REQUIREMENTS COMMENSURATE TO THEIR RISK**
22 **PROFILE.**”

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

25 “SEC. 113. *Official Deposits.* – The *Bangko Sentral* shall
26 be the official depository of the Government, its political
27 subdivisions and instrumentalities as well as of government-owned
28 or -controlled corporations. [and, a]As a general policy, their cash

1 balances should be deposited with the *Bangko Sentral*, with only
2 minimum working balances to be held by government-owned
3 banks and such other banks [incorporated] **LICENSED TO OPERATE**
4 in the Philippines as the Monetary Board may [designate, subject
5 to such rules and regulations as the Board may prescribe:
6 *Provided*, That such banks may hold deposits of the political
7 subdivisions and instrumentalities of the Government beyond their
8 minimum working balances whenever such subdivisions and
9 instrumentalities have outstanding loans with said banks]
10 **AUTHORIZE.**

11 "The *Bangko Sentral* may **ACCEPT DEPOSITS AND** pay
12 interest on **SUCH** deposits **AND OTHER SIMILAR PLACEMENTS** of
13 the Government or of its political subdivisions and
14 instrumentalities, [as well as on deposit of] banks [with the
15 *Bangko Sentral*] **AND OTHER BANGKO SENTRAL-SUPERVISED**
16 **INSTITUTIONS."**

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

19 "SEC. 123. *Financial Advice on Official Credit Operations.* --
20 Before undertaking any credit operation abroad, the Government,
21 through the Secretary of Finance, shall request the opinion, in
22 writing, of the Monetary Board on the monetary implications of
23 the contemplated action. Such opinions must similarly be
24 requested by all political subdivisions and instrumentalities of the
25 Government before any credit operation abroad is undertaken by
26 them.

27 "The opinion of the Monetary Board shall be based on the
28 gold and foreign exchange resources and obligations of the nation

1 and on the effects of the proposed operation on the balance of
2 payments and on monetary aggregates.

3 “Whenever the Government, or any of its political
4 subdivisions or instrumentalities, contemplates borrowing within
5 the Philippines, the prior opinion of the Monetary Board shall
6 likewise be requested in order that the Board may render an
7 opinion on the probable effects of the proposed operation on
8 monetary aggregates, the price level, and the balance of payments.

9 “A CREDIT OPERATION OR BORROWING AS PROVIDED
10 HEREIN MAY TAKE THE FORM OF DIFFERENT CREDIT FACILITIES
11 SUCH AS, BUT NOT LIMITED TO, A SINGLE LOAN, SERIES OF LOANS
12 UNDER A BORROWING PROGRAM, OR CREDIT LINES. NO PRIOR
13 MONETARY BOARD OPINION SHALL BE REQUIRED FOR
14 INDIVIDUAL DRAWDOWNS OR BORROWINGS WITHIN APPROVED
15 CREDIT LINES OR BORROWING PROGRAMS.”

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

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

23 “(A) ADMINISTRATIVE FEES AND CHARGES IMPOSED BY ANY
24 GOVERNMENT AGENCY;

25 “(B) MUNICIPAL/CITY FEES FOR SERVICES PROVIDED;

26 “(C) INCOME FROM SALE OF: (1) BSP FORMS; (2) BID
27 DOCUMENTS; (3) SCRAP ITEMS; WASTE MATERIALS, SHREDDED
28 RECORDS; (4) CAR STICKERS, SECURITY PASS, IDENTIFICATION

1 PARAPHERNALIA; (5) DEMONETIZED COMMEMORATIVE NOTES
2 AND COINS; (6) COMMEMORATIVE MEDALS; AND (7)
3 UNSERVICEABLE FURNITURE AND EQUIPMENT THROUGH
4 AUCTION;

5 “(D) INCOME FROM: (1) LEASE OF BSP OFFICES AND OTHER
6 PROPERTIES; (2) LEASE OF BSP VAULTS; AND (3) USE OF
7 BSP-OWNED PROPERTIES;

8 “(E) PENALTIES AND CHARGES FOR: (1) LATE DELIVERY OF
9 PURCHASES/SERVICES; AND (2) LATE PAYMENT OF LEASE.

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

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

1 “SEC. 128. *Prohibitions.* – The *Bangko Sentral* shall not
2 acquire shares of any kind or accept them as collateral, and shall
3 not participate in the ownership or management of any enterprise,
4 either directly or indirectly[.]; **PROVIDED, THAT THIS**
5 **PROHIBITION SHALL NOT APPLY WHENEVER THE MONETARY**
6 **BOARD, BY A VOTE OF AT LEAST FIVE (5) OF ITS MEMBERS,**
7 **DEEMS AN ACQUISITION OR INVESTMENT TO BE NECESSARY TO**
8 **QUALIFY OR AS REQUIRED FOR MEMBERSHIP IN INTERNATIONAL**
9 **AND REGIONAL ORGANIZATIONS.**

10 “The *Bangko Sentral* shall not engage in development banking
11 or financing: *Provided, however,* That outstanding loans obtained
12 or extended for development financing shall not be affected by the
13 prohibition of this section.”

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

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

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

Approved,

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