

[PRESIDENTIAL DECREE NO. 1937, June 27, 1984]

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

WHEREAS, monetary, banking and credit policies should be more responsive and more attuned to the needs of economic development;

WHEREAS, the Central Bank of the Philippines should be given greater flexibility in administering the monetary, banking and credit system of the Republic and in providing policy direction in the areas of money, banking and credit;

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

SECTION 1. The second paragraph of Section 23 of the same Act is hereby amended to read as follows:

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

SEC. 2. The first paragraph of Section 28-A of the same Act is hereby amended to read as follows:

"SEC. 28-A. Appointment of conservator.—Whenever, on the basis of a report submitted by the appropriate supervising or examining department, the Monetary Board finds that a bank or a non-bank financial intermediary performing quasi-banking functions is in a state of continuing inability or unwillingness to maintain a condition of liquidity deemed adequate to protect the interest of depositors and creditors, the Monetary Board may appoint a conservator to take charge of the assets, liabilities, and the management of that institution, collect all monies and debts due said institution and exercise all powers necessary to preserve the assets of the institution, reorganize the management thereof, and restore its viability. He shall have the power to overrule or revoke the actions of the previous management and board of directors of the bank or non-bank financial intermediary in performing quasi-banking functions, any provision of law to the contrary notwithstanding, and such other powers as the Monetary Board shall deem necessary."

SEC. 3. The fourth paragraph of Section 29 of the same Act is hereby amended to read as follows:

"The provisions of any law to the contrary notwithstanding, the actions of the Monetary Board under this Section, Section 28-A, and the second paragraph of Section 34 of this Act shall be final and executory, and can be set aside by the court only if there is convincing proof that the action is plainly arbitrary and made in bad faith: Provided, That the same is raised in an appropriate pleading filed before the proper court within a period of ten (10) days from the date the conservator or receiver takes charge of the assets and liabilities of the bank or non-bank financial intermediary performing quasi-banking functions or, in case of liquidation, within ten (10) days from receipt of notice by the said bank or non-bank financial intermediary of the order of its liquidation. No restraining order or injunction shall be issued by the court enjoining the Central Bank from implementing its actions under this Section and the second paragraph of Section 34 of this Act, unless there is convincing proof that the action of the Monetary Board is plainly arbitrary and made in bad faith and the petitioner or plaintiff files with the clerk or judge of the court in which the action is pending a bond executed in favor of the Central Bank, in an amount to be fixed by the court. The restraining order or injunction shall be refused or, if granted, shall be dissolved upon filing by the Central Bank of a bond, which shall be in the form of cash or Central Bank cashier's check, in an amount twice the amount of the bond of the petitioner or plaintiff conditioned that it will pay the damages which the petitioner or plaintiff may suffer by the refusal or the dissolution of the injunction. The provisions of Rule 58 of the New Rules of Court insofar as they are applicable and not inconsistent with the provisions of this Section shall govern the issuance and dissolution of the restraining order or injunction contemplated in this Section."

SEC. 4. The fifth paragraph of Section 29 of the same Act is hereby amended to read as follows:

"Insolvency, under this Act shall be understood to mean that the realizable assets of a bank or a non-bank financial intermediary performing quasi-banking functions as determined by the Central Bank are insufficient to meet its liabilities."

SEC. 5. Subparagraph (a) of the first paragraph of Section 34-A of the same Act is hereby amended to read as follows:

"(a) Fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed five thousand pesos a day for each type of violation, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the size of the bank;"

SEC. 6. Section 34-A of the same Act is hereby amended by adding the following paragraph after the second paragraph thereof:

"Any director or officer who shall resign from or cease to be connected with the bank after having been found to have been involved in, and required to explain, any of the acts hereinabove mentioned and before formal administrative proceedings are taken against him, or who shall resign from or cease to be connected with said institution during the

pendency of administrative proceedings, may be declared by the Monetary Board as disqualified to become a director or officer, or to hold any position, whether elective, appointive or on consultancy basis, in any financial institution subject to supervision or regulation by the Central Bank until such time, after appropriate proceedings, that said director or officer is declared by the Monetary Board to be qualified to hold any of said positions."

SEC. 7. Subparagraph (a) of the first paragraph of Section 34-B of the same Act is hereby amended to read as follows:

"(a) Fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed five thousand pesos a day for each type of violation, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the size of the financial intermediary;"

SEC. 8. Section 34-B of the same Act is hereby amended by adding the following paragraph after the second paragraph thereof:

"Any director or officer who shall resign from or cease to be connected with the non-bank financial intermediary performing quasi-banking functions after having been found to have been involved in, and required to explain, any of the acts hereinabove mentioned and before formal administrative proceedings are taken against him, or who shall resign from or cease to be connected with said intermediary during the pendency of administrative proceedings, may be declared by the Monetary Board as disqualified to become a director or officer, or to hold any position, whether elective, appointive or on consultancy basis, in any financial institution subject to supervision or regulation by the Central Bank until such time, after appropriate proceedings, that said director or officer is declared by the Monetary Board to be qualified to hold any of said positions."

SEC. 9. Paragraph (c) of Section 41 of the same Act is hereby amended to read as follows:

"(c) Any net profits remaining after fulfilling the conditions of subsections (a) and (b) of this section shall be used to reduce the Account to secure the Coinage or the Monetary Adjustment Account of the Exchange Stabilization Adjustment Account until said accounts shall have been liquidated. The Monetary Board shall determine the distribution among these three accounts;"

SEC. 10. Section 43 of the same Act is hereby amended to read as follows;

"SECTION 43. Extraordinary expenses of currency issue and monetary stabilization.—The Monetary Board may, whenever it deems it advisable, exclude from the computation of the annual profits and losses of any given fiscal year all or part of the following extraordinary expenses incurred during that year:

"(a) Extraordinary costs of printing notes or of minting coins;