S. No. 1606 H. No. 8226 / Journal 5/21/94 ; Malaya 5/21/94 ; Impl. Rules-Bulletin 10/19/94;10/21/94;10/22/94 ; 4 VLD 226 2d

[REPUBLIC ACT NO. 7721, May 18, 1994]

AN ACT LIBERALIZING THE ENTRY AND SCOPE OF OPERATIONS OF FOREIGN BANKS IN THE PHILIPPINES AND FOR OTHER PURPOSES

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

Section 1. *Declaration of Policy.* — The State shall develop a self-reliant and independent national economy effectively controlled by Filipinos and encourage, promote, and maintain a stable, competitive, efficient, and dynamic banking and financial system that will stimulate economic growth, attract foreign investments, provide a wider variety of financial services to Philippine enterprises, households and individuals, strengthen linkages with global financial centers, enhance the country's competitiveness in the international market and serve as a channel for the flow of funds and investments into the economy to promote industrialization.

Pursuant to this policy, the Philippine banking and financial system is hereby liberalized to create a more competitive environment and encourage greater foreign participation through increase in ownership in domestic banks by foreign banks and the entry of new foreign bank branches.

In allowing increased foreign participation in the financial system, it shall be the policy of the State that the financial system shall remain effectively controlled by Filipinos.

Sec. 2*. Modes of Entry.* — The Monetary Board may authorize foreign banks to operate in the Philippine banking system through any of the following modes of entry: (i) by acquiring, purchasing or owning up to sixty percent (60%) of the voting stock of an existing bank; (ii) by investing in up to sixty percent (60%) of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines; or (iii) by establishing branches with full banking authority: *Provided,* That a foreign bank may avail itself of only one (1) mode of entry*: Provided, further,* That a foreign bank or a Philippine corporation may own up to sixty percent (60%) of the voting stock of only one (1) domestic bank or new banking subsidiary.

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

Only those among the top one hundred fifty (150) foreign banks in the world or the top five (5) banks in their country of origin as of the date of application shall be allowed entry in accordance with Section 2(ii) and (iii) hereof.

In the exercise of this authority, the Monetary Board shall adopt such measures as may be necessary to: (i) ensure that at all times the control of seventy percent (70%) of the resources or assets of the entire banking system is held by domestic banks which are at least majority-owned by Filipinos; (ii) prevent a dominant market position by one bank or the concentration of economic power in one or more financial institutions, or in corporations, partnerships, groups or individuals with related interests; and (iii) secure the listing in the Philippine Stock Exchange of the shares of stocks of banking corporations established under Section 2(i) and (ii) of this Act: *Provided*, That said banking corporations shall establish stock option plans for their officers and employees as the resources or assets of these corporations may allow in the best business judgment of their respective boards of directors, pursuant to the Corporation Code of the Philippines.

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

Sec. 4. *Capital Requirements.* —

i. For Locally Incorporated Subsidiaries — The minimum capital required for locally incorporated subsidiaries of foreign banks shall be equal to that prescribed by the Monetary Board for domestic banks of the same category.
ii. For Foreign Bank Branches — Foreign banks seeking entry pursuant to Section 2(iii) of this Act shall permanently assign capital of not less than the U.S. dollar equivalent of Two hundred ten million pesos (P210,000,000.00) at the exchange rate on the date of the effectivity of this Act, as ascertained by the Monetary Board. The permanently assigned capital shall be inwardly remitted and converted into Philippine currency. The foreign bank shall be entitled to three (3) branches.

The foreign bank may open three (3) additional branches in locations designated by the Monetary Board by inwardly remitting and converting into Philippine currency as permanently assigned capital, the U.S. dollar equivalent of thirty-five million pesos (P35,000,000.00) per additional branch at the exchange rate on the date of the effectivity of this Act, as ascertained by the Monetary Board. The total number of branches for each new foreign bank entrant shall not exceed six (6).

For purposes of meeting the prescribed capital ratios, the term "capital" shall include permanently assigned capital plus "net due to head office, branches and subsidiaries and offices outside the Philippines" in the ratio prescribed by law or as may be prescribed by the Monetary Board: *Provided,* That in all cases, the permanently assigned capital and fifteen percent (15%) of "net due to" required to comply with prescribed capital ratios shall be inwardly remitted and converted to Philippine currency: *Provided, further,* That amounts invested in productive enterprises or utilized by Philippine companies for export activities, shall not be subject to conversion into Philippine currency: *Provided, finally,* That the Monetary Board shall monitor the effective use of the "net due to" funds. Whenever there results "net due