

REPUBLIC OF THE PHILIPPINES }
CONGRESS OF THE PHILIPPINES }
 Second Regular Session

H. No. 8226
S. No. 1606

REPUBLIC ACT NO. 7721

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) 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) 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 from head office" outside the Philippines, this shall be deducted from the capital accounts for purposes of determining the required capital ratios.

SEC. 5. *Head Office Guarantee.* – The head office of foreign bank branches shall guarantee prompt payment of all liabilities of its Philippine branches.

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

SEC. 7. *Board of Directors.* – Non-Filipino citizens may become members of the Board of Directors of a bank to the extent of the foreign participation in the equity of said bank.

SEC. 8. *Equal Treatment.* – Foreign banks authorized to operate under Section 2 of this Act, shall perform the same functions, enjoy the same privileges, and be subject to the same limitations imposed upon a Philippine bank of the same category. These limits include, among others, the single borrower's limit and capital to risk asset ratio as well as the capitalization required for expanded commercial banking activities under the General Banking Act and other related laws of the Philippines.

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

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

Any right, privilege or incentive granted to foreign banks or their subsidiaries or affiliates under this Act, shall be equally

enjoyed by and extended under the same conditions to Philippine banks. Philippine corporations whose shares of stocks are listed in the Philippine Stock Exchange or are of long standing for at least ten (10) years shall have the right to acquire, purchase or own up to sixty percent (60%) of the voting stock of a domestic bank.

SEC. 9. *Development Loans Incentives.* – Loans extended by a foreign bank's majority-owned subsidiary incorporated under the laws of the Philippines and/or a Philippine bank sixty percent (60%) of the voting stock of which is held by a foreign bank, to finance educational institutions, cooperatives, hospitals and other medical services, socialized or low-cost housing, and to local government units without national government guarantee, shall be included for purposes of determining compliance with the provisions of Presidential Decree No. 717, as amended.

SEC. 10. *Transitory Provisions.* – Foreign banks operating through branches in the Philippines upon the effectivity of this Act, shall be eligible for the privilege of establishing up to six (6) additional branches under the same terms and conditions required by Section 4(ii) hereof: *Provided*, That for any branch additional to what is existing at the time of the effectivity of this Act, the prescribed permanently assigned capital shall be complied with immediately: *Provided, further*, That a foreign bank may open three (3) branches in the location of its choice and the next three (3) branches in locations designated by the Monetary Board to insure balanced economic development in all the regions.

The existing Philippine branches of foreign banks shall be given one-and-a-half (1 1/2) years from the effectivity of this Act to comply with the minimum capital requirements as prescribed under Section 4(ii) of this Act.

SEC. 11. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the same shall not affect the validity of the other provisions not affected thereby.

SEC. 12. *Applicability of Other Banking Laws.* – The provisions of Republic Act No. 337, as amended, otherwise known as the General Banking Act, insofar as they are applicable and

not in conflict with any provision of this Act, shall apply to banks authorized pursuant to this Act.

SEC. 13. *Delegation of Rule-Making Powers and Compliance Reports.* – The Monetary Board is hereby authorized to issue such rules and regulations as may be needed to implement the provisions of this Act after consultation with the chairpersons of the Banks Committee of the House of Representatives and the Senate of the Philippines. On or before May 30 of each year, the Monetary Board shall file a written report to Congress and its respective Banks Committees, on the developments in the implementation of this Act.

SEC. 14. *Amendment and Repeal of Inconsistent Laws.* – Sections 11, 12, 12-A, 12-B, 13, 14-A, 21-B, and 68 of Republic Act No. 337, as amended, otherwise known as the General Banking Act; Sections 4 and 5 of Republic Act No. 7353, otherwise known as the Rural Banks Act; Sections 4 and 14 of Republic Act No. 3779, as amended, otherwise known as the Savings and Loan Association Act; and Section 4 of Republic Act No. 4093, as amended, otherwise known as the Private Development Banks Act insofar as they are inconsistent with this Act, are hereby repealed or modified accordingly.

SEC. 15. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or in two (2) national newspapers of general circulation.

Approved, May 18, 1994.