



PDIC Charter

(Republic Act 3591, As Amended)

An Act Establishing the Philippine
Deposit Insurance Corporation
(PDIC), Defining Its Powers and
Duties and for other Purposes

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Republic Act No. 3591, as amended

AN ACT ESTABLISHING THE PHILIPPINE DEPOSIT INSURANCE CORPORATION, DEFINING ITS POWERS AND DUTIES AND FOR OTHER PURPOSES

THE CREATION OF THE PHILIPPINE DEPOSIT INSURANCE CORPORATION

SECTION 1. There is hereby created a Philippine Deposit Insurance Corporation hereinafter referred to as the “Corporation” which shall insure, as herein provided, the deposits of all banks which are entitled to the benefits of insurance under this Act, and which shall have the powers hereinafter granted.

The Corporation shall, as a basic policy, promote and safeguard the interests of the depositing public by way of providing permanent and continuing insurance coverage on all insured deposits.¹

BOARD OF DIRECTORS: COMPOSITION AND AUTHORITY

SECTION 2. The powers and functions of the Corporation shall be vested in and exercised by a Board of Directors which shall be composed of five (5) members as follows:

(a) The Secretary of Finance who shall be the *ex-officio* Chairman of the Board without compensation.

(b) The Governor of the *Bangko Sentral ng Pilipinas*, who shall be *ex-officio* member of the Board without compensation. (As amended by R.A. 9302, 12 August 2004)

¹ Section 1 of R.A. 9576 (29 April 2009) also provides: “SECTION 1. *Statement of State Policy and Objectives.* – It is hereby declared to be the policy of the State to strengthen the mandatory deposit insurance coverage system to generate, preserve, maintain faith and confidence in the country’s banking system, and protect it from illegal schemes and machinations.

Towards this end, the government must extend all means and mechanisms necessary for the Philippine Deposit Insurance Corporation to effectively fulfill its vital task of promoting and safeguarding the interests of the depositing public by way of providing permanent and continuing insurance coverage on all insured deposits, and in helping develop a sound and stable banking system at all times.”

(c) The President of the Corporation, who shall be appointed by the President of the Philippines from either the Government or private sector to serve on a full-time basis for a term of six (6) years. The President of the Corporation shall also serve as Vice Chairman of the Board. (*As amended by R.A. 9302, 12 August 2004*)

(d) Two (2) members from the private sector, to be appointed for a term of six (6) years without reappointment by the President of the Philippines: *Provided*, That of those first appointed, the first appointee shall serve for a period of two (2) years.

No person shall be appointed as member of the Board unless he be of good moral character and of unquestionable integrity and responsibility, and who is of recognized competence in economics, banking and finance, law, management administration or insurance, and shall be at least thirty-five (35) years of age. For the duration of their tenure or term in office and for a period of one year thereafter, the appointive members of the Board shall be disqualified from holding any office, position or employment in any insured bank.

The Secretary of Finance and the Governor of the *Bangko Sentral* may each designate a representative, whose position shall not be lower than an undersecretary or deputy governor respectively, to attend such meetings and to vote on behalf of their respective principals. Whenever the Chairman of the Board is unable to attend a meeting of the Board, or in the event of a vacancy in the office of the Secretary of Finance, the President of the Corporation shall act as Chairman. (*As amended by R.A. 9302, 12 August 2004*)

The presence of three (3) members shall constitute a quorum. All decisions of the Board of Directors shall require the concurrence of at least three (3) members. (*As amended by R.A. 9302, 12 August 2004*)

The Secretary of Finance shall fix the rate of *per diem* for every Board meeting attended by the members of the Board of Directors from the private sector. The President of the Philippines may fix such emoluments that may be received by the Board of Directors comparable to the emoluments of members of the Board of Directors of other government financial institutions. (*As amended by R.A. 9302, 12 August 2004*)

The Board of Directors shall have the authority:

1. To prepare and issue rules and regulations as it considers necessary for the effective discharge of its responsibilities;
2. To direct the management, operations and administration of the Corporation;
3. To establish a human resource management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all personnel. Such system shall aim to establish professionalism and excellence at all levels of the Corporation in accordance with sound principles of management. *(As added by R.A. 9302, 12 August 2004)*

A compensation structure, based on job evaluation studies and wage surveys and subject to the Board's approval, shall be instituted as an integral component of the Corporation's human resource development program: *Provided*, That all positions in the Corporation shall be governed by a compensation, position classification system and qualification standards approved by the Board based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans of other government financial institutions and shall be subject to review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. The Corporation shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its system conform as closely as possible with the principles under Republic Act No. 6758, as amended. *(As added by R.A. 9302, 12 August 2004)*

4. To appoint, establish the rank, fix the remuneration, approve local and foreign training of, and remove any officer or employee of the Corporation, for cause, subject to pertinent civil service laws: *Provided*, That the Board of Directors may delegate this authority to the President subject to specific guidelines; *(As amended by R.A. 9302, 12 August 2004)*

5. To adopt an annual budget for, and authorize such expenditures by the Corporation as are in the interest of the effective administration and operation of the Corporation; (*As amended by R.A. 9302, 12 August 2004*) and

6. To approve the methodology for determining the level and amount of provisioning for insurance and financial assistance losses, which shall establish reasonable levels of deposit insurance reserves. (*As added by R.A. 9302, 12 August 2004*)

7. To review the organizational set-up of the Corporation and adopt a new or revised organizational structure as it may deem necessary for the Corporation to undertake its mandate and functions. (*As added by R.A. 9576, 29 April 2009*)

PRESIDENT OF THE CORPORATION COMPENSATION, POWERS, AND DUTIES

SECTION 3. The President of the Corporation shall be the Chief Executive thereof and his salary shall be fixed by the President of the Philippines at a sum commensurate to the importance and responsibility attached to the position. The sum total of the salary of the President and the allowances and other emoluments which the Board of Directors may grant him shall be the ceiling for fixing the salary, allowances and other emoluments of all other personnel in the Corporation. (*Renumbered from Sec. 2-A by R.A. 9302, 12 August 2004*)

The powers and duties of the President of the Corporation are:

(a) To prepare the agenda for the meeting of the Board and to submit for the consideration of the Board the policies and measures which he believes to be necessary to carry out the purposes and provisions of this Act;

(b) To execute and administer the policies and measures approved by the Board;

(c) To direct and supervise the operations and internal administration of the Corporation in accordance with the policies

established by the Board. The President may delegate certain of his administrative responsibilities to other officers of the Corporation, subject to the rules and regulations of the Board;

(d) To represent the Corporation, upon prior authority of the Board, in all dealings with other offices, agencies and instrumentalities of the government and with all other persons or entities, public or private, whether domestic, foreign or international;

(e) To authorize, with his signature, upon prior authority of the Board, contracts entered into by the Corporation, notes and securities issued by the Corporation, and the annual reports, balance sheets, profits and loss statements, correspondence and other documents of the Corporation. The signature of the President may be in facsimile wherever appropriate;

(f) To represent the Corporation, either personally or through counsel, in all legal proceedings or actions;

(g) To delegate, with the prior approval of the Board of Directors, his power to represent the Corporation, as provided in subsections (d) and (f) of this Section, to other officers of the Corporation; and

(h) To exercise such other powers as may be vested in him by the Board.

The President shall be assisted by a Vice President and other officials whose appointment and removal for cause shall be approved and whose salary shall be fixed by the Board of Directors upon recommendation of the President of the Corporation. During the absence or temporary incapacity of the President, or in case of vacancy or permanent incapacity and pending the appointment of a new President of the Corporation by the President of the Philippines, the Vice President shall act as President and discharge the duties and responsibilities thereof. (*As amended by E.O. 890, 08 April 1983; R.A. 7400, 13 April 1992*)

DEFINITION OF TERMS

SECTION 4. As used in this Act - (*Renumbered from Sec. 3 by R.A. 9302, 12 August 2004*)

(a) The term “Board of Directors” means the Board of Directors of the Corporation.

(b) The term “Bank” and “Banking Institution” shall be synonymous and interchangeable and shall include banks, commercial banks, savings bank, mortgage banks, rural banks, development banks, cooperative banks, stock savings and loan associations and branches and agencies in the Philippines of foreign banks and all other corporations authorized to perform banking functions in the Philippines. (*As amended by R.A. 7400, 13 April 1992*)

(c) The term “receiver” includes a receiver, commission, person or other agency charged by law with the duty to take charge of the assets and liabilities of a bank which has been forbidden from doing business in the Philippines, as well as the duty to gather, preserve and administer such assets and liabilities for the benefit of the depositors and creditors of said bank, and to continue into liquidation whenever authorized under this Act or other laws, and to dispose of the assets and to wind up the affairs of such bank. (*As amended by R.A. 7400, 13 April 1992*)

(d) The term “insured bank” means any bank the deposits of which are insured in accordance with the provisions of this Act.

(e) The term “non-insured bank” means any bank the deposits of which are not insured.

(f) The term “deposit” means the unpaid balance of money or its equivalent received by a bank in the usual course of business and for which it has given or is obliged to give credit to a commercial, checking, savings, time or thrift account, or issued in accordance with *Bangko Sentral* rules and regulations and other applicable laws, together with such other obligations of a bank, which, consistent with banking usage and practices, the Board of Directors shall determine and prescribe by regulations to be deposit liabilities of the bank: Provided, That any obligation of a bank which is payable at the office of the bank

located outside of the Philippines shall not be a deposit for any of the purposes of this Act or included as part of the total deposits or of insured deposit: Provided, further, That, subject to the approval of the Board of Directors, any insured bank which is incorporated under the laws of the Philippines which maintains a branch outside the Philippines may elect to include for insurance its deposit obligations payable only at such branch.

The Corporation shall not pay deposit insurance for the following accounts or transactions, whether denominated, documented, recorded or booked as deposit by the bank:

- (1) Investment products such as bonds and securities, trust accounts, and other similar instruments;
- (2) Deposit accounts or transactions which are unfunded, or that are fictitious or fraudulent;
- (3) Deposit accounts or transactions constituting, and/or emanating from, unsafe and unsound banking practice/s, as determined by the Corporation, in consultation with the BSP, after due notice and hearing, and publication of a cease and desist order issued by the Corporation against such deposit accounts or transactions; and
- (4) Deposits that are determined to be the proceeds of an unlawful activity as defined under Republic Act 9160, as amended.

The actions of the Corporation taken under this section shall be final and executory, and may not be restrained or set aside by the court, except on appropriate petition for *certiorari* on the ground that the action was taken in excess of jurisdiction or with such grave abuse of discretion as to amount to a lack or excess of jurisdiction. The petition for *certiorari* may only be filed within thirty (30) days from notice of denial of claim for deposit insurance. (*As amended by P.D. 1940, 27 June 1984; R.A. 7400, 13 April 1992; R.A. 9302, 12 August 2004; R.A. 9576, 29 April 2009*)

(g) The term “insured deposit” means the amount due to any bona fide depositor for legitimate deposits in an insured bank net of any obligation of the depositor to the insured bank as of the date of closure,

but not to exceed Five Hundred Thousand Pesos (P500,000.00).² Such net amount shall be determined according to such regulations as the Board of Directors may prescribe. In determining such amount due to any depositor, there shall be added together all deposits in the bank maintained in the same right and capacity for his benefit either in his own name or in the name of others. A joint account regardless of whether the conjunction "and," "or," "and/or" is used, shall be insured separately from any individually-owned deposit account: *Provided*, That (1) If the account is held jointly by two or more natural persons, or by two or more juridical persons or entities, the maximum insured deposit shall be divided into as many equal shares as there are individuals, juridical persons or entities, unless a different sharing is stipulated in the document of deposit, and (2) if the account is held by a juridical person or entity jointly with one or more natural persons, the maximum insured deposit shall be presumed to belong entirely to such juridical person or entity: *Provided, further*, That the aggregate of the interest of each co-owner over several joint accounts, whether owned by the same or different combinations of individuals, juridical persons or entities, shall likewise be subject to the maximum insured deposit of Five Hundred Thousand Pesos (P500,000.00): *Provided, furthermore*, That the provisions of any law to the contrary notwithstanding, no owner/holder of any negotiable certificate of deposit shall be recognized as a depositor entitled to the rights provided in this Act unless his name is registered as owner/holder thereof in the books of the issuing bank: *Provided, finally*, That, in case of a condition that threatens the monetary and financial stability of the banking system that may have systemic consequences, as defined in section 17 hereof, as determined by the Monetary Board, the maximum deposit insurance cover may be adjusted in such amount, for such a period, and/or for such deposit products, as may be determined by a unanimous vote of the Board of Directors in a meeting called for the purpose and chaired by the Secretary of Finance, subject to the approval of the President of the Philippines. (As amended by R.A. 9302, 12 August 2004; R.A. 9576, 2009)

² Section 4 of R.A. 9576 (29 April 2009) further states: "SEC. 4. The maximum deposit insurance coverage of Five Hundred Thousand Pesos (P500,000.00) provided in Section 4(g) of Republic Act 3591, as amended herein, shall be paid by the Corporation: Provided, That, for the first three (3) years from the effectivity of this Act, the first Two Hundred Fifty Thousand Pesos (P250,000.00) of the deposit insurance coverage shall be for the account of the Corporation, and those in excess of Two Hundred Fifty Thousand Pesos (P250,000.00) but not more than Five Hundred Thousand Pesos (P500,000.00) shall be for the account of the National Government. The Congress shall annually appropriate the necessary funding to reimburse the Corporation for any payment to insured depositors paid in excess of Two Hundred Fifty Thousand Pesos (P250,000.00)."

(h) The term “transfer deposit” means a deposit in an insured bank made available to a depositor by the Corporation as payment of insured deposit of such depositor in a closed bank and assumed by another insured bank.

(i) The term “trust funds” means funds held by an insured bank in a fiduciary capacity and includes without being limited to, funds held as trustee, executor, administrator, guardian or agent.

DEPOSIT INSURANCE COVERAGE

SECTION 5. The deposit liabilities of any bank or banking institution, which is engaged in the business of receiving deposits as herein defined on the effective date of this Act, or which thereafter may engage in the business of receiving deposits, shall be insured with the Corporation. (*As amended by R.A. 6037, 04 August 1969; renumbered from Sec. 4 by R.A. 9302, 12 August 2004*)

ASSESSMENT OF MEMBER BANKS

SECTION 6. (a) The assessment rate shall be determined by the Board of Directors: *Provided*, That the assessment rate shall not exceed one-fifth (1/5) of one *per centum* (1%) *per annum*. The semi-annual assessment for each insured bank shall be in the amount of the product of one-half (1/2) the assessment rate multiplied by the assessment base but in no case shall it be less than Five thousand pesos (P5,000.00). The assessment base shall be the amount of the liability of the bank for deposits as defined under subsection (f) of Section 4 without any deduction for indebtedness of depositors. (*As amended by R.A. 9302, 12 August 2004*)

The semi-annual assessment base for one semi-annual period shall be the average of the assessment base of the bank as of the close of business on March thirty-one and June thirty and the semi-annual assessment base for the other semi-annual period shall be the average of the assessment base of the bank as of the close of business on September thirty and December thirty-one: *Provided*, That when any of said days is a non-business day or legal holiday, either national or provincial, the preceding business day shall be used. The certified

statements required to be filed with the Corporation under subsections (b) and (c) of this Section shall be in such form and set forth such supporting information as the Board of Directors shall prescribe. The assessment payments required from the insured banks under subsections (b) and (c) of this Section shall be made in such manner and at such time or times as the Board of Directors shall prescribe, provided the time or times so prescribed shall not be later than sixty (60) days after filing the certified statement setting forth the amount of assessment. (*As amended by R.A. 7400, 13 April 1992*)

(b) On or before the 31st of July of each year, each insured bank shall file with the Corporation a certified statement showing for the six months ending on the preceding June thirty the amount of the assessment base and the amount of the semi-annual assessment due to the Corporation for the period ending on the following December thirty-one, determined in accordance with subsection (a) of this Section, which shall contain or be verified by a written declaration that it is made under the penalties of perjury. Each insured bank shall pay to the Corporation the amount of the semi-annual assessment it is required to certify. On or before the 31st day of January of each year, each insured bank shall file with the Corporation a similar certified statement for the six months ending on the preceding December thirty-one and shall pay to the Corporation the amount of the semi-annual assessment for the period ending on the following June thirty which it is required to certify. (*As amended by P.D. 1940, 27 June 1984*)

(c) Each bank which becomes an insured bank shall not be required to file any certified statement or pay any assessment for the semi-annual period in which it becomes an insured bank. On the expiration of such period, each such bank shall comply with the provisions of subsection (b) of this section except that the semi-annual assessment base for its first certified statement shall be the assessment base of the bank as of the close of business on the preceding June thirty or December thirty-one, whichever is applicable, determined in accordance with subsection (a) of this section. If such bank has assumed the liabilities for deposits of another bank or banks, it shall include such liabilities in its assessment base. The first certified statement shall show as the amount of the first semi-annual assessment due to the Corporation, an amount equal to the product of one-half of the annual assessment rate multiplied by such assessment base.

(d) All assessment collections and income from operations after expenses and charges shall be added to the Deposit Insurance Fund under Section 13 hereof. Such expenses and charges are: (1) the operating costs and expenses of the Corporation for the calendar year; (2) additions to reserve to provide for insurance and financial assistance losses, net of recoverable amounts from applicable assets and collaterals, during the calendar year; and (3) the net insurance and financial assistance losses sustained in said calendar year. *(As amended by R.A. 9302, 12 August 2004)*

(e) The Corporation (1) may refund to an insured bank any payment of assessment in excess of the amount due to the Corporation or (2) may credit such excess toward the payment of the assessment next becoming due from such bank and upon succeeding assessments until the credit is exhausted.

(f) Any insured bank which fails to file any certified statement required to be filed by it in connection with determining the amount of any assessment payable by the bank to the Corporation may be compelled to file such statement by mandatory injunction or other appropriate remedy in a suit brought for such purpose by the Corporation against the bank and any officer or officers thereof in any court of the Philippines of competent jurisdiction in which such bank is located.

(g) The Corporation, in a suit brought in any court of competent jurisdiction, shall be entitled to recover from any insured bank the amount of any unpaid assessment lawfully payable by such insured bank to the Corporation, whether or not such bank shall have filed any such certified statement and whether or not suit shall have been brought to compel the bank to file any such statement. No action or proceeding shall be brought for recovery of any assessment due to the Corporation or for the recovering of any amount paid to the Corporation in excess of the amount due to it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except where the insured bank has made or filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of assessment, in which case the claim shall not have been deemed to have accrued until the discovery by the Corporation, that the certified statement is false or fraudulent.

(h) The Corporation shall not terminate the insured status of any bank which continues to operate or receive deposits. Should any insured bank fail or refuse to pay any assessment required to be paid by such bank under any provision of this Act, and should the bank not correct such failure or refusal within thirty (30) days after written notice has been given by the Corporation to an officer of the bank citing this subsection, and stating that the bank has failed or refused to pay as required by the law, the Corporation may, at its discretion, file a case for collection before the appropriate court without prejudice to the imposition of administrative sanctions allowed under the provisions of this Law on the bank officials responsible for the non-payment of assessment fees. *(As amended by R.A. 9302, 12 August 2004)*

SANCTIONS AGAINST UNSAFE AND UNSOUND BANKING PRACTICES

SECTION 7. (a) Whenever upon examination by the Corporation into the condition of any insured bank, it shall be disclosed that an insured bank or its directors or agents have committed, are committing or about to commit unsafe or unsound practices in conducting the business of the bank, or have violated, are violating or about to violate any provisions of any law or regulation to which the insured bank is subject, the Board of Directors shall submit the report of the examination to the Monetary Board to secure corrective action thereon. If no such corrective action is taken by the Monetary Board within forty-five (45) days from the submission of the report, the Board of Directors shall, *motu proprio*, institute corrective action which it deems necessary. The Board of Directors may thereafter issue a cease and desist order, and require the bank or its directors or agents concerned to correct the practices or violations within forty-five (45) days. However, if the practice or violation is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously weaken the condition of the bank or otherwise seriously prejudice the interests of its depositors and the Corporation, the period to take corrective action shall not be more than fifteen (15) days. The order may also include the imposition of fines provided in Section 21 (f) hereof. The Board of Directors shall duly inform the Monetary Board of the *Bangko Sentral ng Pilipinas* of action it has taken under this subsection with respect to such practices or violations. *(As amended by R.A. 7400, 13 April 1992; R.A. 9302, 12 August 2004)*

(b) The actions and proceedings provided in the preceding subsection may be undertaken by the Corporation if, in its opinion, an insured bank or its directors or agents have violated, are violating or about to violate any provision of this Act or any order, rule or instruction issued by the Corporation or any written condition imposed by the Corporation in connection with any transaction with or grant by the Corporation. (*As amended by E.O. 890, 08 April 1983; R.A. 7400, 13 April 1992*)

POWERS AS A CORPORATE BODY

SECTION 8. The Corporation as a corporate body shall have the power -

First - To adopt and use a corporate seal;

Second - To have succession until dissolved by an Act of Congress;

Third - To make contracts;

Fourth - To sue and be sued, complain and defend, in any court of law in the Philippines. All suits of a civil nature to which the Corporation shall be a part shall be deemed to arise under the laws of the Philippines. No attachment or execution shall be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any court. The Board of Directors shall designate an agent upon whom service of process may be made in any province or city or jurisdiction in which any insured bank is located;

Fifth - To appoint by its Board of Directors such officers and employees as are not otherwise provided for in this Act to define their duties, fix their compensation, require bonds of them and fix penalty thereof and to dismiss such officers and employees for cause;

Sixth - To prescribe, by its Board of Directors, by-laws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed;

Seventh - To exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this Act, and such incidental powers as shall be necessary to carry on the powers so granted;

Eighth – To conduct examination of banks with prior approval of the Monetary Board: *Provided*, That no examination can be conducted within twelve (12) months from the last examination date: *Provided, however*, That the Corporation may, in coordination with the Bangko Sentral, conduct a special examination as the Board of Directors, by an affirmative vote of a majority of all of its members, if there is a threatened or impending closure of a bank; *Provided*, further, That, notwithstanding the provisions of Republic Act No. 1405, as amended, Republic Act No. 6426, as amended, Republic Act No. 8791, and other laws, the Corporation and/or the Bangko Sentral, may inquire into or examine deposit accounts and all information related thereto in case there is a finding of unsafe or unsound banking practice; *Provided*, finally, That to avoid overlapping of efforts, the examination shall maximize the efficient use of the relevant reports, information, and findings of the Bangko Sentral, which it shall make available to the Corporation; (*As amended by R.A. 9302, 12 August 2004, R.A. 9576, 29 April 2009*)

Ninth - To act as receiver;

Tenth - To prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this Act; (*As amended by R.A. 6037, 04 August 1969*)

Eleventh - The Corporation may establish its own provident fund which shall consist of contributions made both by the Corporation and by its officers and employees to a common fund for the payment of benefits to such officers or employees or their heirs. The Board of Directors shall prepare and issue rules and regulations as it may deem necessary to make effective the establishment and operation of the fund; (*As amended by P.D. 1940, 27 June 1984*)

Twelfth - To compromise, condone or release, in whole or in part, any of claim or settled liability to the Corporation, regardless of the amount involved, under such terms and conditions as may be

imposed by the Board of Directors to protect the interest of the Corporation. (As added by R.A. 7400, 13 April 1992)

POWERS AND RESPONSIBILITIES AND PROHIBITIONS

SECTION 9. (a) The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination. The Corporation shall be entitled to the free use of Philippine mails in the same manner as the other offices of the national government.

(b) The Board of Directors shall appoint examiners who shall have power, on behalf of the Corporation to examine any insured bank. Each such examiner shall have the power to make a thorough examination of all the affairs of the bank and in doing so, he shall have the power to administer oaths, to examine and take and preserve the testimony of any of the officers and agents thereof, and, to compel the presentation of books, documents, papers, or records necessary in his judgment to ascertain the facts relative to the condition of the bank; and shall make a full and detailed report of the condition of the bank to the Corporation. The Board of Directors in like manner shall appoint claim agents who shall have the power to investigate and examine all claims for insured deposits and transferred deposits. Each claim agent shall have the power to administer oaths and to examine under oath and take and preserve testimony of any person relating to such claim. (As amended by E.O. 890, 08 April 1983; R.A. 7400, 13 April 1992)

(b-1) The investigators appointed by the Board of Directors shall have the power on behalf of the Corporation to conduct investigations on frauds, irregularities and anomalies committed in banks, based on reports of examination conducted by the Corporation and *Bangko Sentral ng Pilipinas* or complaints from depositors or from other government agency. Each such investigator shall have the power to administer oaths, and to examine and take and preserve the testimony of any person relating to the subject of investigation. (As added by R.A. 9302, 12 August 2004)

(c) Each insured bank shall make to the Corporation reports of condition in such form and at such times as the Board of Directors may require such reports to be published in such manner, not inconsistent

with any applicable law, as it may direct. Every such bank which fails to make or publish any such report within such time, not less than five days, as the Board of Directors may require, shall be subject to a penalty of not more than P100 for each day of such failure recoverable by the Corporation for its use.

(d) The Corporation shall have access to reports of examination made by, and reports of condition made to the *Bangko Sentral ng Pilipinas* or its appropriate supervising departments, and the *Bangko Sentral ng Pilipinas* shall also have access to reports of examination made by, and reports of condition made to the Corporation: *Provided*, That the provisions of any law to the contrary notwithstanding, the Corporation shall likewise have access to reports, findings and any other information derived from any special or general examination or inquiry conducted by the *Bangko Sentral* in respect to bank fraud or serious irregularity in an insured bank: *Provided*, That the Corporation shall use reports and findings under similar terms and conditions prescribed by applicable laws on the *Bangko Sentral*. (As amended by E.O. 890, 08 April 1983; R.A. 7400, 13 April 1992; R.A. 9302, 12 August 2004)

(d-1) Each insured bank shall keep and maintain a true and accurate record or statement of its daily deposit transactions consistent with the standards set by the *Bangko Sentral ng Pilipinas* and the Corporation. Compliance with such standards shall be duly certified by the president of the bank or the compliance officer: *Provided*, That refusal or willful failure to issue the required certification shall constitute a violation of this Section and shall subject such officers of the bank to the sanctions provided for under Section 21 (f) of this Act. (As added by R.A. 9302, 12 August 2004)

(e) Personnel of the Corporation are hereby prohibited from:

(1) being an officer, director, consultant, employee or stockholder, directly or indirectly, of any bank or banking institution except as otherwise provided in this Act; (As added by R.A. 7400, 13 April 1992)

(2) receiving any gift or thing of value from any officer, director or employee thereof; (As added by R.A. 7400, 13 April 1992)

(3) revealing in any manner, except as provided in this Act or under order of the court, information relating to the condition or business of any such institution. This prohibition shall not apply to the giving of information to the Board of Directors, the President of the Corporation, Congress, any agency of government authorized by law, or to any person authorized by either of them in writing to receive such information. (*As amended by R.A. 9302, 12 August 2004*)

(f) The Corporation shall underwrite or advance litigation costs and expenses, including legal fees and other expenses of external counsel, or provide legal assistance to, directors, officers, employees or agents of the Corporation in connection with any civil, criminal, administrative or any other action or proceeding, to which such director, officer, employee or agent is made a party by reason of, or in connection with, the exercise of authority or performance of functions and duties under this Act: *Provided*, That such legal protection shall not apply to any civil, criminal, administrative or any action or proceeding that may be initiated by the Corporation, in whatever capacity, against such director, officer, employee or agent: *Provided, further*, That directors, officers, employees or agents who shall resign, retire, transfer to another agency or be separated from the service, shall continue to be provided with such legal protection in connection with any act done or omitted to be done by them in good faith during their tenure or employment with the Corporation: *Provided, finally*, That in the event of a settlement or compromise, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Corporation is advised by counsel that the persons to be indemnified did not commit any negligence or misconduct. (*As added by R.A. 9302, 12 August 2004*)

(g) The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay the amount advanced should it ultimately be determined by the Board of Directors that he is not entitled to be indemnified as provided in this subsection. (*As added by R.A. 9302, 12 August 2004*)

(h) Unless the actions of the Corporation or any of its officers and employees are found to be in willful violation of this Act,

performed in bad faith, with malice and/or gross negligence, the Corporation, its directors, officers, employees and agents are held free and harmless to the fullest extent permitted by law from any liability, and they shall be indemnified for any and all liabilities, losses, claims, demands, damages, deficiencies, costs and expenses of whatsoever kind and nature that may arise in connection with the performance of their functions, without prejudice to any criminal liability under existing laws. *(As added by R.A. 9576, 29 April 2009)*

(i) Legal assistance shall include the grant or advance of reasonable legal fees as determined by the Board of Directors to enable the concerned director, officer, employee or agent to engage counsel of his choice, subject to approval by the Board of Directors.

Notwithstanding the provisions of this Section and Section 2, members of the Board of Directors and personnel of the Corporation may become directors and officers of any bank and banking institution and of any entity related to such institution in connection with financial assistance extended by the Corporation to such institution and when, in the opinion of the Board, it is appropriate to make such designation to protect the interest of the Corporation. *(As amended by R.A. 9302, 12 August 2004)*

Borrowing from any bank or banking institution by examiners and other personnel of the examination departments of the Corporation shall be prohibited only with respect to the particular institution in which they are assigned, or are conducting an examination. Personnel of other departments, offices or units of the Corporation shall likewise be prohibited from borrowing from any bank or banking institution during the period of time that a transaction of such institution with the Corporation is being evaluated, processed or acted upon by such personnel: *Provided, however,* That the Board may, at its discretion, indicate the position levels or functional groups to which the prohibition is applicable. *(As amended by R.A. 7400, 13 April 1992)*

Borrowing by all full-time personnel of the Corporation from any bank or banking institution shall be secured and disclosed to the Board, and shall be subject to such further rules and regulations as the Board may prescribe. *(As amended by R.A. 7400, 13 April 1992)*

SECTION 10. (a) The provisions of other laws, general or special, to the contrary notwithstanding, whenever it shall be appropriate for the Monetary Board of the *Bangko Sentral ng Pilipinas* to appoint a receiver of any banking institution pursuant to existing laws, the Monetary Board shall give prior notice and appoint the Corporation as receiver. (*As amended/renumbered from Sec. 9-A by R.A. 9302, 12 August 2004*)

(b) The Corporation as receiver shall control, manage and administer the affairs of the closed bank. Effective immediately upon takeover as receiver of such bank, the powers, functions and duties, as well as all allowances, remunerations and perquisites of the directors, officers, and stockholders of such bank are suspended, and the relevant provisions of the Articles of Incorporation and By-laws of the closed bank are likewise deemed suspended. (*As added by R.A. 9302, 12 August 2004*)

The assets of the closed bank under receivership shall be deemed in *custodia legis* in the hands of the receiver. From the time the closed bank is placed under such receivership, its assets shall not be subject to attachment, garnishment, execution, levy or any other court processes. Therefore, a judge, officer of the court or any person who shall issue, order, process or cause the issuance or implementation of the writ of garnishment, levy, attachment or execution shall be liable under Section 21 hereof. (*As added by R.A. 9302, 12 August 2004*)

(c) In addition to the powers of a receiver pursuant to existing laws, the Corporation is empowered to:

(1) bring suits to enforce liabilities to or recoveries of the closed bank; (*As amended by R.A. 9302, 12 August 2004*)

(2) appoint and hire persons or entities of recognized competence in banking or finance as its deputies and assistants, to perform such powers and functions of the Corporation as receiver or liquidator of the closed bank; (*As amended by R.A. 9302, 12 August 2004*)

(3) suspend or terminate the employment of officers and employees of the closed bank: *Provided*, That payment of separation pay or benefits shall be made only after the closed bank has been placed under liquidation pursuant to the order of the Monetary Board

under Section 30 of R.A. 7653, and that such payment shall be made from available funds of the bank after deducting reasonable expenses for receivership and liquidation; (*As added by R.A. 9302, 12 August 2004*)

4) pay accrued utilities, rentals and salaries of personnel of the closed bank, for a period not exceeding three (3) months, from available funds of the closed bank; (*As added by R.A. 9302, 12 August 2004*)

(5) collect loans and other claims of the closed bank, and for the purpose, modify, compromise or restructure the terms and conditions of such loans or claims as may be deemed advantageous to the interest of the creditors and claimants of the closed bank; (*As added by R.A. 9302, 12 August 2004*)

(6) hire or retain private counsels as may be necessary; (*As added by R.A. 9302, 12 August 2004*)

(7) borrow or obtain a loan, or mortgage, pledge or encumber any asset of the closed bank, when necessary to preserve or prevent dissipation of the assets, or to redeem foreclosed assets of the closed bank, or to minimize losses to the depositors and creditors; (*As added by R.A. 9302, 12 August 2004*)

(8) if the stipulated interest on deposits is unusually high compared with the prevailing applicable interest rate, the Corporation as receiver may exercise such powers which may include a reduction of the interest rate to a reasonable rate: *Provided*, That any modification or reduction shall apply only to unpaid interest; (*As added by R.A. 9302, 12 August 2004*) and

(9) exercise such other powers as are inherent and necessary for the effective discharge of the duties of the Corporation as a receiver. (*As added by R.A. 9302, 12 August 2004*)

The Board of Directors shall adopt such policies and guidelines as may be necessary for the performance of the above powers by personnel, deputies and agents of the Corporation. (*As added by R.A. 9302, 12 August 2004*)

SECTION 11. In all cases or actions filed by the Corporation as receiver for the recovery of, or involving any asset of the closed bank, payment of all docket and other court fees shall be deferred until the action is terminated with finality. Any such fees shall constitute as a first lien on any judgment in favor of the closed bank or in case of unfavorable judgment, such fees shall be paid as administrative expenses during the distribution of the assets of the closed bank. *(As added by R.A. 9302, 12 August 2004)*

SECTION 12. Before any distribution of the assets of the closed bank in accordance with the preference established by law, the Corporation shall periodically charge against said assets reasonable receivership expenses and subject to approval by the proper court, reasonable liquidation expenses, it has incurred as part of the cost of receivership/liquidation proceedings and collect payment therefore from available assets. *(As added by R.A. 7400, 13 April 1992; renumbered from Sec. 9-B by R.A. 9302, 12 August 2004)*

After the payment of all liabilities and claims against the closed bank, the Corporation shall pay any surplus dividends at the legal rate of interest from date of takeover to date of distribution, to creditors and claimants of the closed bank in accordance with legal priority before distribution to the shareholders of the closed bank. *(As added by R.A. 9302, 12 August 2004)*

PERMANENT INSURANCE FUND

Section 9 (c) – (Repealed by R.A. 9302, 12 August 2004)

SECTION 13. To carry out the purposes of this Act, the permanent insurance fund shall be Three billion pesos (P3,000,000,000.00). *(As amended by R.A. 9302, 12 August 2004)*

The Deposit Insurance Fund shall be the capital account of the Corporation and shall principally consist of the following: (i) the Permanent Insurance Fund; (ii) assessment collections, subject to the charges enumerated in Section 6 (d); (iii) reserves for insurance and financial assistance losses; and (iv) retained earnings: *Provided*, That the reserves for insurance and financial assistance losses and retained earnings shall be maintained at a reasonable level to ensure capital

adequacy: *Provided, further*, That the Corporation may, within two (2) years from the passage of this Act, and every five (5) years thereafter, conduct a study on the need to adjust the amount of the Permanent Insurance Fund, insurance cover, assessment rate and assessment base, and thereafter make the necessary recommendation to Congress. For this purpose, the Corporation may hire the services of actuarial consultants to determine, among others, the affordability of assessment rates, analysis and evaluation of insurance risk, and advisability of imposing varying assessment rates or insurance cover of different bank categories. (As added by R.A. 9302, 12 August 2004)

PAYMENT OF INSURED DEPOSITS

Section 10 (b) – (Amended by P.D. 1940, 27 June 1984; repealed by R.A. 9302, 12 August 2004)

SECTION 14. Whenever an insured bank shall have been closed by the Monetary Board pursuant to Section 30 of R.A. 7653, payment of the insured deposits on such closed bank shall be made by the Corporation as soon as possible either (1) by cash or (2) by making available to each depositor a transferred deposit in another insured bank in an amount equal to insured deposit of such depositor: *Provided, however*, That the Corporation, in its discretion, may require proof of claims to be filed before paying the insured deposits, and that in any case where the Corporation is not satisfied as to the viability of a claim for an insured deposit, it may require final determination of a court of competent jurisdiction before paying such claim: *Provided, further*, That failure to settle the claim, within six (6) months from the date of filing of claim for insured deposit, where such failure was due to grave abuse of discretion, gross negligence, bad faith, or malice, shall, upon conviction, subject the directors, officers or employees of the Corporation responsible for the delay, to imprisonment from six (6) months to one (1) year: *Provided, furthermore*, That the period shall not apply if the validity of the claim requires the resolution of issues of facts and or law by another office, body or agency including the case mentioned in the first proviso or by the Corporation together with such other office, body or agency. (As amended by R.A. 9302, 12 August 2004)

SECTION 15. The Corporation, upon payment of any depositor as provided for in subsection (c) of this Section³, shall be subrogated to all rights of the depositor against the closed bank to the extent of such payment. Such subrogation shall include the right on the part of the Corporation to receive the same dividends and payments from the proceeds of the assets of such closed bank and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposits but, such depositor shall retain his claim for any uninsured portion of his deposit. All payments by the Corporation of insured deposits in closed banks partake of the nature of public funds, and as such, must be considered a preferred credit similar to taxes due to the National Government in the order of preference under Article 2244 of the New Civil Code: *Provided, further,* That this preference shall be likewise effective upon liquidation proceedings already commenced and pending as of the approval of this Act, where no distribution of assets has been made. (*As amended by P.D. 1940, 27 June 1984; R.A. 7400, 13 April 1992; renumbered from Sec. 10(d) by R.A. 9302, 12 August 2004*)

SECTION 16. (a) The Corporation shall commence the determination of insured deposits due the depositors of a closed bank upon its actual takeover of the closed bank. The Corporation shall give notice to the depositors of the closed bank of the insured deposits due them by whatever means deemed appropriate by the Board of Directors: *Provided,* That the Corporation shall publish the notice once a week for at least three (3) consecutive weeks in a newspaper of general circulation or, when appropriate, in a newspaper circulated in the community or communities where the closed bank or its branches are located. (*As added by R.A. 9302, 12 August 2004*)

(b) Payment of an insured deposit to any person by the Corporation shall discharge the Corporation, and payment of transferred deposit to any person by the new bank or by an insured bank in which a transferred deposit has been made available shall discharge the Corporation and such new bank or other insured bank, to the same extent that payment to such person by the closed bank would have discharged it from liability for the insured deposit. (*Renumbered from Sec. 11 (a) by R.A. 9302, 12 August 2004*)

³ Section 15 was formerly Section 10 (d) of R.A. 3591, as amended by R.A. 7400. Subsection (c) refers to Section 10 (c) of R.A. 3591, as amended by R.A. 7400 which has been renumbered to Section 14 by R.A. 9302

(c) Except as otherwise prescribed by the Board of Directors, neither the Corporation nor such other insured bank shall be required to recognize as the owner of any portion of a deposit appearing on the records of the closed bank under a name other than that of the claimant, any person whose name or interest as such owner is not disclosed on the records of such closed bank as part owner of said deposit, if such recognition would increase the aggregate amount of the insured deposits in such closed bank. (*Renumbered from Sec. 11 (b) by R.A. 9302, 12 August 2004*)

(d) The Corporation may withhold payment of such portion of the insured deposit of any depositor in a closed bank as may be required to provide for the payment of any liability of such depositor as a stockholder of the closed bank, or of any liability of such depositor to the closed bank or its receiver, which is not offset against a claim due from such bank, pending the determination and payment of such liability by such depositor or any other liable therefor. (*Renumbered from Sec. 11 (c) by R.A. 9302, 12 August 2004*)

(e) Unless otherwise waived by the Corporation, if the depositor in the closed bank shall fail to claim his insured deposits with the Corporation within two (2) years from actual takeover of the closed bank by the receiver, or does not enforce his claim filed with the corporation within two (2) years after the two-year period to file a claim as mentioned hereinabove, all rights of the depositor against the Corporation with respect to the insured deposit shall be barred; however, all rights of the depositor against the closed bank and its shareholders or the receivership estate to which the Corporation may have become subrogated, shall thereupon revert to the depositor. Thereafter, the Corporation shall be discharged from any liability on the insured deposit. (*As amended by R.A. 9302, 12 August 2004*)

CORPORATE FUNDS

SECTION 17. (a) Money of the Corporation not otherwise employed shall be invested in obligations of the Republic of the Philippines or in obligations guaranteed as to principal and interest by the Republic of the Philippines. (*As amended by R.A. 6037, 04 August 1969; renumbered from Sec. 12 by R.A. 9302, 12 August 2004*)

(b) The banking or checking accounts of the Corporation shall be kept with the *Bangko Sentral ng Pilipinas*, with the Philippine National Bank, or with any other bank designated as depository or fiscal agent of the Philippine government. (*As amended by R.A. 9302, 12 August 2004*)

(c) It is hereby declared to be the policy of the State that the Deposit Insurance Fund of the Corporation shall be preserved and maintained at all times. Accordingly, all tax obligations of the Corporation for a period of five (5) years reckoned from the date of effectivity of this Act shall be chargeable to the Tax Expenditure Fund (TEF) in the annual General Appropriations Act pursuant to the provisions of Executive Order No. 93, series of 1986; Provided, That, on the 6th year and thereafter, the Corporation shall be exempt from income tax, final withholding tax, value-added tax on assessments collected from member banks, and local taxes. (*As added by R.A 9576, 29 April 2009*)

FINANCIAL ASSISTANCE

(d) When the Corporation has determined that an insured bank is in danger of closing, in order to prevent such closing, the Corporation, in the discretion of its Board of Directors, is authorized to make loans to, or purchase the assets of, or assume liabilities of, or make deposits in, such insured bank, upon such terms and condition as the Board of Directors may prescribe, when in the opinion of the Board of Directors, the continued operation of such bank is essential to provide adequate banking service in the community or maintain financial stability in the economy. (*Renumbered from Sec. 17 (c) by R.A. 9576, 29 April 2009*)

The authority of the Corporation under the foregoing paragraph to extend financial assistance to, assume liabilities of, purchase the assets of an insured bank may also be exercised in the case of a closed insured bank if the Corporation finds that the resumption of operations of such bank is vital to the interests of the community, or a severe financial climate exists which threatens the stability of a number of banks possessing significant resources: *Provided*, That the reopening and resumption of operations of the closed bank shall be subject to the

prior approval of the Monetary Board. (*As amended by R.A. 7400, 13 April 1992*)

The Corporation may provide any corporation acquiring control of, merging or consolidating with or acquiring the assets of an insured bank in danger of closing in order to prevent such closing or of a closed insured bank in order to restore to normal operations, with such financial assistance as it could provide an insured bank under this subsection: *Provided*, That, within sixty (60) days from date of assistance the Corporation shall submit a report thereof to the Monetary Board. (*As amended by R.A. 7400, 13 April 1992*)

The Corporation, prior to the exercise of the powers under this Section, shall determine that actual payoff and liquidation thereof will be more expensive than the exercise of this power: *Provided*, That when the Monetary Board has determined that there are systemic consequences of a probable failure or closure of an insured bank, the Corporation may grant financial assistance to such insured bank in such amount as may be necessary to prevent its failure or closure and/or restore the insured bank to viable operations, under such terms and conditions as may be deemed necessary by the Board of Directors, subject to concurrence by the Monetary Board and without additional cost to the Deposit Insurance Fund. (*As amended by R.A. 9302, 12 August 2004*)

A systemic risk refers to the possibility that failure of one bank to settle net transactions with other banks will trigger a chain reaction, depriving other banks of funds leading to a general shutdown of normal clearing and settlement activity. Systemic risk also means the likelihood of a sudden, unexpected collapse of confidence in a significant portion of the banking or financial system with potentially large real economic effects. Finally, the Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured bank but it can enter into and enforce agreements that it determines to be necessary to protect its financial interests: *Provided*, That the financial assistance may take the form of equity or quasi-equity of the insured bank as may be deemed necessary by the Board of Directors with concurrence by the Monetary Board: *Provided, further*, That the Corporation shall dispose of such equity as soon as practicable. (*As amended by R.A. 9302, 12 August 2004*)

AUTHORITY TO BORROW

SECTION 18. The Corporation is authorized to borrow from the *Bangko Sentral ng Pilipinas* and the *Bangko Sentral* is authorized to lend the Corporation on such terms as may be agreed upon by the Corporation and the *Bangko Sentral*, such funds as in the judgment of the Board of Directors of the Corporation are from time to time required for insurance purposes and financial assistance provided for in Section 17(c) of this Act: *Provided*, That any such loan as may be granted by the *Bangko Sentral* shall be consistent with monetary policy; *Provided, further*, That the rate of interest thereon shall be fixed by the Monetary Board but shall not exceed the treasury bill rate. (*As amended/renumbered from Sec. 13 by R.A. 9302, 12 August 2004*)

When in the judgment of the Board of Directors the funds of the Corporation are not sufficient to provide for an emergency or urgent need to attain the purposes of this Act, the Corporation is likewise authorized to borrow money, obtain loans or arrange credit lines or other credit accommodations from any bank designated as depository or fiscal agent of the Philippine Government: *Provided*, That such loan shall be of short-term duration. (*As amended by R.A. 6037; P.D. 653, 01 February 1975; P.D. 1940, 27 June 1984; R.A. 7400, 13 April 1992*)

ISSUANCE OF BONDS, DEBENTURES AND OTHER OBLIGATIONS

SECTION 19. With the approval of the President of the Philippines, the Corporation is authorized to issue bonds, debentures, and other obligations, both local or foreign, as may be necessary for purposes of providing liquidity for settlement of insured deposits in closed banks as well as for financial assistance as provided herein: *Provided*, That the Board of Directors shall determine the interest rates, maturity and other requirements of said obligations: *Provided, further*, That the Corporation shall provide for appropriate reserves for the redemption or retirement of said obligation.

All notes, debentures, bonds, or such obligations issued by the Corporation shall be exempt from taxation both as to principal and interest, and shall be fully guaranteed by the Government of the Republic of the Philippines. Such guarantee, which in no case shall

exceed two times the Deposit Insurance Fund as of date of the debt issuance, shall be expressed on the face thereof.

The Board of Directors shall have the power to prescribe rules and regulations for the issuance, reissuance, servicing, placement and redemption of the bonds herein authorized to be issued as well as the registration of such bonds at the request of the holders thereof. *(As amended by R.A.9576, 29 April 2009)*

REPORTS

SECTION 20. (a) The Corporation shall annually make a report of its operations to the Congress as soon as practicable after the 1st day of January in each year. *(Renumbered from Sec. 15 (a) by R.A. 9302, 12 August 2004)*

(b) The financial transactions of the Corporation shall be audited by the Commission on Audit in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Commission on Audit. The audit shall be conducted at the place or places where accounts of the Corporation are normally kept. Except as to matters relating to the function of the Corporation as receiver which shall be subject to visitorial audit only, the representatives of the Commission on Audit shall have access to all books, accounts, records, reports, files and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation. *(As amended/renumbered from Sec. 15 (b) by R.A. 9302, 12 August 2004)*

(c) A report of the Audit for each fiscal year ending on June 30 shall be made by the Auditor General to the Congress not later than January 15 following the close of such fiscal year. On or before December 15 following such fiscal year, the Auditor General shall furnish the Corporation a short form report showing the financial position of the Corporation at the close of fiscal year. The report to the

Congress shall set forth the scope of the audit and shall include a statement of assets and liabilities and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expenses; a statement of sources and application of funds and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as the Auditor General may deem advisable. The report shall also show specifically any program, expenditure, or other financial transactions or undertaking observed in the course of the audit, which in the opinion of the Auditor General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President of the Philippines, to the Governor of the *Bangko Sentral ng Pilipinas*, and to the Corporation at the time submitted to the Congress. (*As amended/renumbered from Sec. 15 (c) by R.A. 9302, 12 August 2004*)

SANCTIONS AND PENALTIES

SECTION 21. (a) Every insured bank shall display at each place of business maintained by it a sign or signs, and shall include a statement in all its advertisements to the effect that its deposits are insured by the Corporation: *Provided*, That the Board of Directors may exempt from this requirement advertisements which do not relate to deposits or when it is impractical to include such statement therein. The Board of Directors shall prescribe by regulations the forms of such signs and the manner of use. (*As amended/renumbered from Sec. 16 (a) by R.A. 9302, 12 August 2004*)

(b) No insured bank shall pay any dividend on its capital stock or interest on its capital notes or debentures (if such interest is required to be paid only out of net profits) or distribute any of its capital assets while it remains in default in the payment of any assessment due to the Corporation: *Provided*, That if such default is due to a dispute between the insured bank and the Corporation over the amount of such assessment, this subsection shall not apply if such bank shall deposit security satisfactory to the Corporation for payment upon final determination of the issue. (*As amended/renumbered from Sec. 16 (b) by R.A. 9302, 12 August 2004*)

(c) Without prior written consent by the Corporation, no insured bank shall (1) merge or consolidate with any bank or institution or (2) assume liability to pay any deposits made in, or similar liabilities of, any bank or institution or (3) transfer assets to any bank or institution in consideration of the assumption of liabilities for any portion of the deposits made in such insured bank. *(As amended by E.O. 890, 8 April 1983; renumbered from Sec. 16 (c) by R.A. 9302, 12 August 2004)*

(d) The Corporation may require an insured bank to provide protection and indemnity against burglary, defalcation, losses arising from discharge of duties by, or particular acts of defaults of its directors, officers, or employees, and other similar insurable losses. The Board of Directors in consultation with the *Bangko Sentral*, shall determine the bonding requirement as it refers to directors, officers and employers of the insured bank as well as the form and amount of the bond. Whenever any insured bank refuses to comply with any such requirement the Corporation may contract for such protection and add the cost thereof to the assessment otherwise payable by such bank. *(As amended by R.A. 7400, 13 April 1992; R.A. 9302, 12 August 2004)*

(e) Any assessment payable by an insured bank under this Act shall be subject to payment of interest computed from the date such assessment became due and payable and at the legal rate for loans as prescribed by law or appropriate authority and in case of willful failure or refusal to pay such assessment and interest thereon, there shall be added a penalty equivalent to twice the amount of interest payable as computed herein for each day such violations continue, which the interest and penalty the Corporation may recover for its use: *Provided*, That the penalty shall not be applicable under the circumstances stated in the provisions of subsection (b) of this Section. *(As amended by E.O. 890, 08 April 1983; R.A. 7400, 13 April 1992)*

(f) The penalty of *prision mayor* or a fine of not less than Fifty thousand pesos (P50,000.00) but not more than Two million pesos (P2,000,000.00), or both, at the discretion of the court, shall be imposed upon any director, officer, employee or agent of a bank: *(As amended by R.A. 9302, 12 August 2004)*

1) for any willful refusal to submit reports as required by law, rules and regulations; *(As amended by R.A. 9302, 12 August 2004)*

2) any unjustified refusal to permit examination and audit of the deposit records or the affairs of the institution; (*As amended by R.A. 9302, 12 August 2004*)

3) any willful making of a false statement or entry in any bank report or document required by the Corporation; (*As amended by R.A. 9302, 12 August 2004*)

4) submission of false material information in connection with or in relation to any financial assistance of the Corporation extended to the bank; (*As added by R.A. 9302, 12 August, 2004*)

5) splitting of deposits or creation of fictitious loans or deposit accounts. (*As added by R.A. 9302, 12 August 2004*)

Splitting of deposits occurs whenever a deposit account with an outstanding balance of more than the statutory maximum amount of insured deposit maintained under the name of natural or juridical persons is broken down and transferred into two (2) or more accounts in the name/s of natural or juridical persons or entities who have no beneficial ownership on transferred deposits in their names within one hundred twenty (120) days immediately preceding or during a bank-declared bank holiday, or immediately preceding a closure order issued by the Monetary Board of the *Bangko Sentral ng Pilipinas* for the purpose of availing of the maximum deposit insurance coverage; (*As added by R.A. 9302, 12 August 2004; as amended by R.A. 9576, 29 April 2009*)

6) refusal to allow the Corporation to take over a closed bank placed under its receivership or obstructing such action of the Corporation; (*As added by R.A. 9302, 12 August 2004*)

7) refusal to turn over or destroying or tampering bank records; (*As added by R.A. 9302, 12 August 2004*)

8) fraudulent disposal, transfer or concealment of any asset, property or liability of the closed bank under the receivership of the Corporation; (*As added by R.A. 9302, 12 August 2004*)

9) violation of, or causing any person to violate, the exemption from garnishment, levy, attachment or execution provided under this

Act and the New Central Bank Act; (*As added by R.A. 9302, 12 August 2004*)

10) any willful failure or refusal to comply with, or violation of any provision of this Act, or commission of any other irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Board of Directors. (*As amended by R.A. 9302, 12 August 2004*)

(g) The Board of Directors is hereby authorized to impose administrative fines for any act or omission enumerated in the preceding subsection, and for violation of any order, instruction, rule or regulation issued by the Corporation, against a bank and/or any of its directors, officers or agents responsible for such act, omission, or violation, in amounts as it may be determined to be appropriate, but in no case to exceed three times the amount of the damages or costs caused by the transaction for each day that the violation subsists, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the size of the bank. (*As amended by R.A. 9302, 12 August 2004*)

SECTION 22. No court, except the Court of Appeals, shall issue any temporary restraining order, preliminary injunction or preliminary mandatory injunction against the Corporation for any action under this Act. (*As added by R.A. 9302, 12 August 2004*)

This prohibition shall apply in all cases, disputes or controversies instituted by a private party, the insured bank, or any shareholder of the insured bank. (*As added by R.A. 9302, 12 August 2004*)

The Supreme Court may issue a restraining order or injunction when the matter is of extreme urgency involving a constitutional issue, such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise. The party applying for the issuance of a restraining order or injunction shall file a bond in an amount to be fixed by the Supreme Court, which bond shall accrue in favor of the Corporation if the court should finally decide that the applicant was not entitled to the relief sought. (*As added by R.A. 9302, 12 August 2004*)

Any restraining order or injunction issued in violation of this

Section is void and of no force and effect and any judge who has issued the same shall suffer the penalty of suspension of at least sixty (60) days without pay. *(As added by R.A. 9302, 12 August 2004)*

SECTION 23. The Corporation may be reorganized by the Board of Directors by adopting if it so desires, an entirely new staffing pattern or organizational structure to suit the operations of the Corporation under this Act. No preferential or priority right shall be given to or enjoyed by any personnel for appointment to any position in the new staffing pattern nor shall any personnel be considered as having prior or vested rights with respect to retention in the Corporation or in any position which may be created in the new staffing pattern, even if he should be the incumbent of a similar position prior to reorganization. The reorganization shall be completed within six (6) months after the effectivity of this Act. Personnel who are not retained are deemed separated from the service. *(As added by R.A. 9302, 12 August 2004)*

SECTION 24. The Board of Directors is hereby authorized to provide separation incentives, and all those who shall retire or be separated from the service on account of reorganization under the preceding section shall be entitled to such incentives which shall be in addition to all gratuities and benefits to which they may be entitled under existing laws. *(As added by R.A. 9302, 12 August 2004)*

SECTION 25. The words “Central Bank” and the “Central Bank of the Philippines” wherever they appear in Republic Act No. 3591, as amended, is hereby replaced with *Bangko Sentral* and/or *Bangko Sentral ng Pilipinas*, respectively. *(As added by R.A. 9302, 12 August 2004)*

SECTION 26. Separability Clause. - If any provision or section of this Act or the application thereof to any person or circumstances is held invalid, the other provisions or sections of this Act, in the application of such provision or section to other persons or circumstances, shall not be affected thereby. *(As added by R.A. 9302, 12 August 2004)*

SECTION 27. Repealing Clause. - All acts or parts of acts and executive orders, administrative orders, or parts thereof which are

inconsistent with the provisions of this Act are hereby repealed. (As added by R.A. 9302, 12 August 2004)

SECTION 28. Effectivity Clause⁴. - This Act shall take effect fifteen (15) days following the completion of its publication in the *Official Gazette* or in two (2) newspapers of general circulation. (As added by R.A. 9302, 12 August 2004)

⁴ Section 13 of R.A. 9576 (1 June 2009) also states: SEC. 13. Joint Congressional Oversight Committee. – There is hereby created a joint congressional committee to oversee the implementation of this Act. The committee shall be composed of the chairpersons of the Senate Committee on Banks, Financial Institutions and Currencies and the Committee on Finance and five (5) senators to be appointed by the President of the Senate, and the chairpersons of the House Committee on Banks and Financial Intermediaries and the Committee on Appropriations and five (5) members to be appointed by the Speaker of the House of Representatives.

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