3 June 2022

MR. NORMAN CABRERA
President
Kapatiran Party
nv_cabrera2003@yahoo.com
09175048794

Subject : **Proposed Amendments to the Bank Deposits Secrecy Law**

Dear Mr. Cabrera:

This refers to your e-mail to National Economic and Development Authority (NEDA) Secretary Karl Kendrick T. Chua, dated 11 May 2022 **(Annex "A")**, which was referred to *Bangko Sentral ng Pilipinas* (BSP), relative to the proposed amendments to the Bank Deposits Secrecy Law. We understand that the Kapatiran Party recognizes its importance as an institutional measure to combat corruption and mitigate the economic consequences it brings. Thus, it intends to file a bill proposing to amend the Bank Deposits Secrecy Law in the 19th Congress.

In this regard, we inform that House Bill No. 8991,[1] entitled an *"Act Promoting Transparent Governance and Instituting Anti-Corruption Mechanisms in the Operation of Banks, amending for the Purpose Republic Act No. 1405, otherwise known as "The Secrecy of Bank Deposits Law,"* is the Bank Deposits Secrecy Bill currently being supported by BSP. This is already approved on first reading in the House of Representatives (HOR). We attach hereto a copy of the bill **(Annex "B")** for reference. This bill takes into account the various deliberations during the HOR Committee on Banks and Financial Intermediaries hearings in which various concerned stakeholders[2] participated and provided comments. In the event that this bill will not pass into law this 18th Congress given the limited remaining time, BSP intends to re-file the same in the 19th Congress as this already addresses the comments/concerns of the concerned stakeholders. On this note, we encourage the Kapatiran Party to attend the future deliberations thereon.

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[1] Per Committee Report No. 861, dated 14 March 2021.

[2] Including the Bankers Association of the Philippines, Chamber of Thrift Banks, Rural Bankers Association of the Philippines, Cooperative Banks Federation of the Philippines, Alliance of Non-Stock Savings & Loan Associations, and Al-Amanah Islamic Investment Bank of the Philippines.

We thank the Kapatiran Party for giving BSP the opportunity to share its insights relating to the proposed amendments to the Bank Deposits Secrecy Law.

Very truly yours,

ELMORE O. CAPULE
Senior Assistant Governor
and General Counsel

Attachments: **Annex A** – E-mail of Kapatiran Party President
Annex B – House Bill No. 8991 per Committee Report No. 861

Copy Furnished: NEDA Secretary Karl Kendrick T. Chua
BSP Governor Benjamin E. Diokno

Annex "E"

House of Representatives
Quezon City
EIGHTEENTH CONGRESS
Second Regular Session

HOUSE OF REPRESENTATIVES ★ BILLS & INDEX SERVICE
RECEIVED
DATE: MAR 14 2021
TIME: 7:16 pm
BY:

COMMITTEE REPORT No. 861

Submitted by the Committee on Banks and Financial Intermediaries on MAR 14 2021

Re: House Bill No. 8991

Recommending its approval in substitution of House Bill No. 8634

Sponsor: Representative Cua, Junie E.

Mr. Speaker:

The Committee on Banks and Financial Intermediaries to which was referred House Bill No. 8634, by Rep. Cua, Junie E., entitled:

AN ACT
AMENDING REPUBLIC ACT NO. 1405,
OTHERWISE KNOWN AS
"THE SECRECY OF BANK DEPOSITS LAW"

has considered the same and hereby recommends the approval of House Bill No. 8991 entitled:

AN ACT
PROMOTING TRANSPARENT GOVERNANCE
AND INSTALLING ANTI-CORRUPTION MECHANISMS
IN THE OPERATION OF BANKS,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1405,
OTHERWISE KNOWN AS "THE SECRECY OF BANK DEPOSITS LAW"

in substitution of House Bill No. 8634, with Representative Cua, Junie E. as author thereof.

Respectfully submitted,

JUNIE E. CUA
Chairperson

THE SPEAKER
HOUSE OF REPRESENTATIVES

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 8991
(in substitution of HB8634)

Introduced by Representative Junie E. Cua

AN ACT PROMOTING TRANSPARENT GOVERNANCE AND INSTITUTING ANTI-CORRUPTION MECHANISMS IN THE OPERATION OF BANKS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1405, OTHERWISE KNOWN AS "THE SECRECY OF BANK DEPOSITS LAW"

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

SECTION 1. Section 2 of Republic Act No. 1405, otherwise known as "The Secrecy of Bank Deposits Law" is hereby amended to read, as follows:

SECTION 2. All deposits ~~of whatever nature, with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities,~~ are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office, except upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited ~~or invested~~ is the subject matter of the litigation, **OR IN CASES WHERE THE INQUIRY OR EXAMINATION IS MADE BY THE *BANGKO SENTRAL NG PILIPINAS (BSP)*, IN THE EXERCISE OF ITS SUPERVISORY POWERS, ON THE DEPOSIT OF THE STOCKHOLDER, OWNER, DIRECTOR, TRUSTEE, OFFICER OR EMPLOYEE OF AN ENTITY THAT IS SUBJECT TO THE SUPERVISION OR REGULATORY POWER OF THE *BSP*, THE REPRESENTATIVE OR AGENT, THE RELATED PARTY, OR ANY OF THE CONSPIRATORS OF THE PERSON INVOLVED, *PROVIDED* THAT, UPON DETERMINATION BY THE MONETARY BOARD, THERE IS A REASONABLE GROUND TO BELIEVE THAT FRAUD, SERIOUS IRREGULARITY, OR UNLAWFUL**

ACTIVITY HAS BEEN OR IS BEING COMMITTED BY THE ABOVEMENTIONED PERSONS, AND THAT IT IS NECESSARY TO LOOK INTO THE DEPOSIT TO ESTABLISH SUCH FRAUD, IRREGULARITY, OR UNLAWFUL ACTIVITY. THE AUTHORITY OF THE *BSP* TO INQUIRE AND EXAMINE DEPOSITS SHALL ALSO APPLY IN THE COURSE OF ITS INVESTIGATION OF CLOSED BANKS.

AS USED IN THIS ACT, *DEPOSITS* SHALL REFER TO 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, EVIDENCED BY A PASSBOOK, CERTIFICATE OF DEPOSIT, OR OTHER EVIDENCE OF DEPOSIT, ISSUED IN ACCORDANCE WITH *BSP* RULES AND REGULATIONS AND OTHER APPLICABLE LAWS, AS WELL AS SUCH OTHER OBLIGATION OF A BANK THAT FORMS PART OF ITS DEPOSIT LIABILITIES PURSUANT TO *BSP* RULES AND REGULATIONS.

THE RESULTS OF THE INQUIRY OR EXAMINATION CONDUCTED BY THE *BSP* SHALL BE FOR ITS EXCLUSIVE USE AND SHALL NOT BE MADE AVAILABLE TO ANY PERSON OR ENTITY, WHETHER PUBLIC OR PRIVATE, EXCEPT TO THE SECURITIES AND EXCHANGE COMMISSION, PHILIPPINE DEPOSIT INSURANCE CORPORATION, ANTI-MONEY LAUNDERING COUNCIL, DEPARTMENT OF JUSTICE, AND THE COURTS, *PROVIDED,* THAT THE SHARING OF THE RESULTS OF THE ABOVEMENTIONED INQUIRY OR EXAMINATION IS NECESSARY TO PREVENT OR PROSECUTE ANY OFFENSE OR CRIME.

THE EXEMPTIONS UNDER THIS SECTION SHALL APPLY TO FOREIGN CURRENCY DEPOSITS IN BANKS OPERATING IN THE PHILIPPINES INCLUDING OFF-SHORE BRANCHES OF DOMESTIC BANKS; PROVIDED, THAT THIS EXEMPTION SHALL NOT APPLY TO NON-STOCK SAVINGS & LOAN ASSOCIATIONS (NSSLAS) THAT ARE CATERING ONLY TO THEIR MEMBERS.

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

SECTION 3. **NO BANK OR FINANCIAL INSTITUTION, OR ANY OF ITS DIRECTORS, OFFICERS OR EMPLOYEES, SHALL BE SUBJECT TO ANY ACTION, CLAIM OR DEMAND IN CONNECTION WITH, AND SHALL BE HELD FREE AND HARMLESS FROM LIABILITY FOR, ANY ACT DONE IN COMPLIANCE WITH AN ORDER FOR INQUIRY OR EXAMINATION OF DEPOSITS FROM THE *BSP*.**

HOWEVER, it shall be unlawful for any official **OR** employee, of a banking institution **OR THE *BSP*,** to disclose ANY INFORMATION CONCERNING SAID DEPOSITS to any person **AND UNDER SUCH CONDITIONS** other than those mentioned in Section 2 hereof (~~, information concerning said~~

~~deposits).~~ **IT SHALL ALSO BE UNLAWFUL FOR ANY PERSON TO USE THIS ACT FOR PERSECUTION OR HARASSMENT OR AS AN INSTRUMENT TO HAMPER COMPETITION IN TRADE AND COMMERCE.**

SEC. 3. Section 5 of the same Act, is hereby amended to read as follows:

SECTION 5. Any violation of this law will subject **THE** offender upon conviction, to imprisonment of not less than two (2) years nor more than ~~five~~ **TEN (10) YEARS** or a fine of not **LESS THAN FIFTY THOUSAND PESOS (P50,000) NOR MORE THAN** ~~twenty thousand~~ **TWO MILLION PESOS (P2,000,000),** or both, ~~in~~ **AT** the discretion of the court.

SEC. 4. ***Separability Clause.*** If any provision or section of this Act is held to be unconstitutional or invalid, the other provisions or sections hereof, which are not affected thereby shall continue to be in full force and effect.

SEC. 5. ***Repealing Clause.***

a. Sections 2, 3 and 5 of Republic Act No. 1405, as amended, also known as the "Secrecy of Bank Deposits Act", are hereby amended;

b. Sections 8 and 12-A of Republic Act No. 6426, as amended, also known as the "Foreign Currency Deposit Act of the Philippines," with respect to foreign currency deposits, are hereby amended;

c. Section 33 of Republic Act No. 6848, also known as the "Charter of the Al-Amanah Islamic Investment Bank of the Philippines", is hereby amended;

d. Section 26(a)(2) of Republic Act No. 7353, also known as the Rural Banks Act of 1992, is hereby amended; and

e. Section 21(a)(2) of Republic Act No. 7906, also known as the Thrift Banks Act of 1995, is hereby amended.

All other Acts or parts of Acts, Special Charters, Executive Order, Rules and Regulations, which are inconsistent with the provisions of this Act, are hereby repealed.

SEC. 6. ***Effectivity.*** This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or in a newspaper of general circulation in the Philippines.

FACT SHEET

House Bill No. 8991

AN ACT
PROMOTING TRANSPARENT GOVERNANCE
AND INSTALLING ANTI-CORRUPTION MECHANISMS
IN THE OPERATION OF BANKS,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1405,
OTHERWISE KNOWN AS "THE SECRECY OF BANK DEPOSITS LAW"

(As approved by the Committee on Banks and Financial Intermediaries on February 26, 2021, in substitution of House Bill No.8634)

***Introduced by**: Representative Cua, Junie E.*
***Committee Referral:** Committee on Banks and Financial Intermediaries*
***Chairperson**: Junie E. Cua*

OBJECTIVES:

- To lift the barriers in the effective investigation and prosecution of corrupt or illegal financial actions of stockholders, owners, directors, trustees, officers or employees of entities supervised and regulated by the Bangko Sentral ng Pilipinas (BSP).

- To effectively combat tax evasion, money laundering and other financial crimes, address the unintended consequences of bank secrecy laws, and comply with international standards on transparency in financial transactions.

KEY PROVISIONS:

- Defines the term DEPOSITS as money or its equivalent received by a bank in the usual course of business and for which it is obliged to give credit to a commercial, checking, savings, time or thrift account evidenced by a passbook, certificate of deposit or other evidence of deposit, and other obligations of a bank which forms part of its deposit liabilities under applicable BSP rules and regulations.

- Empowers the BSP to inquire into or examine deposits in the course of its investigation of closed banks, or when, in the determination of the Monetary Board, there is reasonable ground to believe that fraud, serious irregularity, or unlawful activity has been committed by a stockholder, owner, director, trustee, officer, or employee of BSP-supervised institutions, the representative, agent, related party or conspirators.

- Limits the use of the results of bank examinations exclusively to the BSP, Securities and Exchange Commission, Philippine Deposit Insurance Corporation, Anti-Money Laundering Council, Department of Justice, and the courts.

- Provides a safe harbor clause exempting banks or financial institutions, their directors, officers, or employees from any action, claim, demand, or liability, for acts done in compliance with an order of inquiry or examination of deposits from the BSP.

- Prohibits officials or employees of the BSP and banking institutions from disclosing any information concerning deposits to any person other than those authorized under the law.

- Forbids the use of the Bank Secrecy Law for purposes of persecution or harassment, or as an instrument to hamper competition in trade and commerce.

- Punishes any person or entity found guilty of violating the law with imprisonment of not less than two (2) years but not more ten (10) years, or a fine of not less than Fifty thousand pesos (P50,000) or more than Two million pesos (P2,000,000), or both, at the discretion of the court.

RELATED LAWS

Republic Act No. 1405, as amended ("Secrecy of Bank Deposits Act")
Republic Act No. 6426, as amended ("Foreign Currency Deposit Act of the Philippines")
Republic Act No. 6848 ("Charter of the Al-Amanah Islamic Investment Bank of the Philippines")
Republic Act No. 7353, as amended ("Rural Banks Act of 1992")
Republic Act No. 7906 ("Thrift Banks Act of 1995")
Republic Act No. 8791 ("General Banking Law of 2000")
Republic Act No. 7653, as amended (The New Central Bank Act)