

EXECUTIVE ORDER NO 289

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

I, CORAZON C. AQUINO, President of the Philippines, do hereby order the further amendment of Republic Act No. 265, as amended, as follows:

SECTION 1. Section 29 of the same Act is hereby amended to read as follows:

"SEC. 29. Proceedings upon insolvency. - Whenever, upon examination by the head of the appropriate supervising or examining department or his examiners or agents into the condition of any bank or non-bank financial intermediary performing quasi-banking functions, it shall be disclosed that the condition of the same is one of insolvency, or that its continuance in business would involve probable loss to its depositors or creditors, it shall be the duty of the department head concerned forthwith, in writing, to inform the Monetary Board of the facts. The Board may, upon finding the statements of the department head to be true, forbid the institution to do business in the Philippines and designate an official of the Central Bank or a person of recognized competence in banking or finance, as receiver to immediately take charge of its assets and liabilities, as expeditiously as possible collect and gather all the assets and administer the same for the benefit of its creditors, and represent the bank personally or through counsel as he may retain in all actions or proceedings for or against the institution, exercising all the powers necessary for these purposes including, but not limited to, bringing and foreclosing mortgages in the name of the bank or non-bank financial intermediary performing quasi-banking functions.

"The Monetary Board shall thereupon determine within sixty days whether the institution may be reorganized or otherwise placed in such a condition so that it may be permitted to resume business with safety to its depositors and creditors and the general public and shall prescribe the conditions under which such resumption of business

shall take place as well as the time for fulfillment of such conditions. In such case, the expenses and fees in the collection and administration of the assets of the institution shall be determined by the Board and shall be paid to the Central Bank out of the assets of such institution.

"If the Monetary Board shall determine and confirm within the said period that the bank or non-bank financial intermediary performing quasi-banking functions is insolvent or cannot resume business with safety to its depositors, creditors, and the general public, it shall, if the public interest requires, order its liquidation, indicate the manner of its liquidation and approve a liquidation plan which may, when warranted, involve disposition of any or all assets in consideration for the assumption of equivalent liabilities. The liquidator designated as hereunder provided shall, by the Solicitor General, file a petition in the regional trial court reciting the proceedings which have been taken and praying the assistance of the court in the liquidation of such institution. The court shall have jurisdiction in the same proceedings to assist in the adjudication of disputed claims against the bank or non-bank financial intermediary performing quasi-banking functions and in the enforcement of individual liabilities of the stockholders, and do all that is necessary to preserve the assets of such institution and to implement the liquidation plan approved by the Monetary Board. The Monetary Board shall designate an official of the Central Bank, or a person of recognized competence in banking or finance, as liquidator who shall take over and continue the functions of the receiver previously appointed by the Monetary Board under this Section. The liquidator shall, with all convenient speed, convert the assets of the banking institution or non-bank financial intermediary performing quasi-banking functions to money or sell, assign, or otherwise dispose of the same to creditors and other parties for the purpose of paying the debts of such institution and he may, in the name of the bank or non-bank financial intermediary performing quasi-banking functions and with the assistance of counsel as he may retain, institute such actions as may be necessary in the appropriate court to collect and recover accounts and assets of such institution or defend any action filed against the institution: Provided, However, That after having reasonably established all claims against the institution, the liquidator may, with the approval of the court, effect partial payments of such claims from assets of the institution in accordance with their legal priority.

"The assets of an institution under receivership or liquidation shall be deemed in custodia legis in the hands of the receiver or liquidator and shall, from the moment of such receivership or liquidation, be exempt from any order of garnishment, levy, attachment, or execution.

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

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

"The appointment of a conservator under Section 28-A of this Act or the appointment of a receiver or liquidator under this Section shall be vested exclusively with the Monetary Board, the provision of any law, general or special, to the contrary notwithstanding."

SEC. 2. Section 107 of the same Act is hereby amended to read as follows:

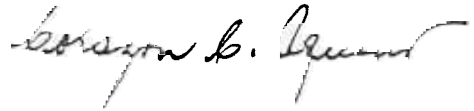
"SEC. 107. Interbank settlements. - The deposit reserves maintained by the banks in the Central Bank in accordance with the provisions of Section 100 shall serve as a basis for the clearing of checks and the settlement of interbank balances, subject to such rules and regulations as the Monetary Board may issue with respect to such operations: Provided, That any bank which incurs an overdrawing in its deposit account with the Central Bank shall fully cover said overdraft not later than the next clearing day: Provided, Further, That settlement of clearing balances shall not be effected for any account which continue to be overdrawn for five consecutive banking days until such time as the overdrawing is fully covered or otherwise converted into an emergency loan or advance pursuant to the provisions of Sec. 90 of this Act. Provided, Finally, That the appropriate clearing office shall be officially notified of banks with overdrawn balances. Banks with existing overdrafts with the Central Bank as of the effectivity of this amended section shall, within such period as may be prescribed by the Monetary Board, either convert the overdraft into an emergency loan or advance with a plan of payment, or settle such overdrafts, and that, upon failure to so comply herewith, the Central Bank shall take such action against the bank as may be warranted under this Act."

SEC. 3. All laws, orders, issuances, rules, and regulations or parts thereof inconsistent with this Executive Order are hereby repealed or modified accordingly.

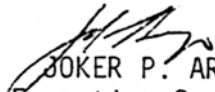
SEC. 4. If, for any reason, any section or provision of this Executive Order shall be held to be unconstitutional or invalid, no other section or provision of this Executive Order shall be affected thereby.

SEC. 5. This Executive Order shall take effect sixty
60) days after its approval.

DONE in the City of Manila, this 25th day of July, in
the year of Our Lord, nineteen hundred and eighty-seven.



By the President



JOKER P. ARROYO
Executive Secretary