

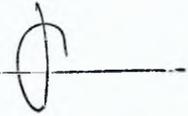
NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

'22 JUL 14 P 4 :04

SENATE

S.B. No. 649

RECEIVED BY



Introduced by **SENATOR IMEE R. MARCOS**

**AN ACT PROVIDING FOR THE CREATION, ORGANIZATION, AND
OPERATION OF DIGITAL BANKS, AMENDING FOR THIS PURPOSE
REPUBLIC ACT NO. 8791, OTHERWISE KNOWN AS
"THE GENERAL BANKING LAW OF 2000"**

EXPLANATORY NOTE

Article II, Section 20 of the 1987 Constitution provides that *"the State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments."*

The restriction in movement brought about by the various levels of community quarantine resulted in an increase in digital transactions, as many Filipinos were forced to do their banking, bill payment, and purchases through online means. In 2020 alone, active e-money accounts surged by 93% to 34.7 million from 17.9 million a year earlier. As more people discover the advantages of online banking, online transactions are expected to be a part of the "new normal" even after the pandemic.

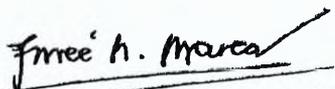
With the rise of online banking, a new business model that is gaining traction is digital banking, or the delivery of retail banking services exclusively through electronic channels. A digital bank relies solely on technology to complete its transactions and operates without a physical branch. This banking model is expected to improve financial inclusion by targeting the unbanked and underbanked segments of society by offering convenient access and less stringent documentary requirements. The presence of a digital financial account also facilitates credit score recording, allowing the underbanked access to financial services. Lastly, digital banks are able to offer higher interest rates to deposits due to the elimination of overhead costs associated in maintaining physical offices, making them more attractive to depositors and fostering competition in the financial sector.

Digital banking, however, comes with inherent risks and challenges. Given its substantial reliance on technology, online banking is prone to security risk. The security risk is a deterrent to digital banking participation. In spite of its convenience, a number 2 of people are still hesitant to use online banking transactions due to fears

of becoming a victim of cyber fraud. Another fraud-related concern is the ease in which digital banking transactions may be used for money laundering. The lack of face-to-face contact in digital banking transactions introduces a heightened level of risk to institutions, by making them vulnerable to unauthorized users accessing customer accounts.

Given the potential advantages of digital banking and the concerns associated with it, there is a need to establish a regulatory framework for digital banking that ensures the safety of these transactions. Currently, the BSP regulates digital banks via Circular No. 1105, dated December 2, 2022. This bill seeks to clearly define a digital bank as a type of bank under Republic Act No. 8791, otherwise known as the General Banking Law of 2000 ("GBL"), and, ultimately, institutionalize the regulatory powers of the BSP on digital banks. Necessarily, by doing so, this bill extends to digital banks the protection already accorded to conventional banks – such as applicable standards for security, risk management, and managerial propriety – and imposes the same penalties for unlawful actions recognized under the GBL. By expressly recognizing digital banks as within the scope of the GBL, digital bank deposits will likewise be made subject to deposit insurance under Republic Act No. 3591, as amended. Ultimately, doing so will improve the uptake of digital banking services, promoting financial inclusion in the process.

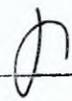
Considering the state of the economy and the urgent need for financial services of both consumers and borrowers, the approval of this measure is earnestly sought.


IMEE R. MARCOS

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

1 **SECTION 1. Declaration of Policy.** – It is the policy of the State to promote
2 financial inclusion by providing the regulatory and institutional frameworks requisite
3 for the development of safe, secure, accessible, and affordable financial products and
4 services. Towards this end, the State shall provide a regulatory framework that will
5 encourage the creation of stable, safe, and dependable digital banks which will
6 develop the application of financial technology in the Philippines, as well as provide
7 enhanced consumer experience.

8 **SEC. 2.** Section 3.2 of Republic Act No. 8791, otherwise known as "The General
9 Banking Law of 2000", is hereby amended to read as follows:

10 "Section 3. *Definition and Classification of Banks.*

11 3.1. "Banks" shall refer to entities engaged in the lending of funds obtained in
12 the form of deposits.

13 3.2. Banks shall be classified into:

14 (a) Universal banks;

15 (b) Commercial banks;

16 (c) Thrift banks, composed of: (i) Savings and mortgage banks, (ii) Stock
17 savings and loan associations, and (iii) Private development banks, as
18 defined in the Republic Act No. 7906 (hereafter the "Thrift Banks Act");

19 (d) Rural banks, as defined in Republic Act No. 7353 (hereafter the "Rural Banks
20 Act");

1 (e) Cooperative banks, as defined in Republic Act No 6938 (hereafter the
2 "Cooperative Code");

3 (f) Islamic banks as defined in Republic Act No. 6848, otherwise known as the
4 "*Charter of Al Amanah Islamic Investment Bank of the Philippines*"; and

5 **(G) DIGITAL BANKS, OR BANKS WHICH DELIVER AND/OR OFFER**
6 **RETAIL BANKING SERVICES, FINANCIAL PRODUCTS AND**
7 **FINANCIAL SERVICES PRIMARILY THROUGH THE INTERNET OR**
8 **OTHER FORMS OF ELECTRONIC CHANNELS INSTEAD OF PHYSICAL**
9 **BRANCHES.**

10 **[(g)] (H)** Other classifications of banks as determined by the Monetary Board of
11 the Bangko Sentral ng Pilipinas.

12 **SEC. 3.** Section 8 of Republic Act No. 8791 is hereby amended to read as follows:

13 "Section 8. *Organization.* – The Monetary Board may authorize the organization
14 of a bank or quasi-bank subject to the following conditions:

15 8.1 That the entity is a stock corporation;

16 8.2 That its funds are obtained from the public, which shall mean twenty (20)
17 or more persons; and

18 8.3 That the minimum capital requirements prescribed by the Monetary Board
19 for each category of banks are satisfied.

20 **BANKS AND FINANCIAL INSTITUTIONS, INCLUDING EXISTING BANKS**
21 **OPERATING IN THE PHILIPPINES, AND NON-FINANCIAL**
22 **INSTITUTIONS, INCLUDING TECHNOLOGY COMPANIES, MAY BE**
23 **AUTHORIZED BY THE MONETARY BOARD TO OWN AND OPERATE A**
24 **DIGITAL BANK, SUBJECT TO SUBMISSION OF SUFFICIENT EVIDENCE**
25 **SATISFACTORY TO THE MONETARY BOARD, AND SUBJECT TO SUCH**
26 **REQUIREMENTS THAT MAY BE PRESCRIBED BY THE MONETARY**
27 **BOARD, THAT THE OWNERS AND PARENT COMPANIES OF A DIGITAL**
28 **BANK ARE CAPABLE OF PROVIDING STRONG FINANCIAL,**
29 **TECHNOLOGICAL AND OTHER NECESSARY SUPPORT. THE MINIMUM**
30 **CAPITAL REQUIREMENT FOR DIGITAL BANKS THAT MAY BE**
31 **PRESCRIBED BY THE MONETARY BOARD SHOULD NOT BE LOWER**
32 **THAN ONE BILLION PESOS (PHP1,000,000,000.00).**

33 No new commercial bank shall be established within three (3) years from the
34 effectivity of this Act. In the exercise of the authority granted herein, the
35 Monetary Board shall take into consideration their capability in terms of their
36 financial resources and technical expertise and integrity. The bank licensing
37 process shall incorporate an assessment of the bank's ownership structure,

1 directors and senior management, its operating plan and internal controls as well
2 as its projected financial condition and capital base.”

3 **SEC. 4.** Section 20 of Republic Act No. 8791 is hereby amended to read as
4 follows:

5 “Section 20. *Bank Branches.* – Universal or commercial banks may open
6 branches or other offices within or outside the Philippines upon prior approval of
7 the Bangko Sentral. **DIGITAL BANKS MAY NOT OPEN, OTHER THAN THE**
8 **LOCAL OFFICE REQUIRED UNDER THIS ACT, ANY OTHER PHYSICAL**
9 **BRANCH, SUB-BRANCH OR BRANCH-LITE UNIT THROUGH WHICH**
10 **RETAIL BANKING SERVICES, FINANCIAL PRODUCTS AND FINANCIAL**
11 **SERVICES WILL BE OFFERED.** Branching by all other banks shall be governed
12 by pertinent laws.

13 A bank **OTHER THAN A DIGITAL BANK** may, subject to prior approval of the
14 Monetary Board, use any or all of its branches as outlets for the presentation
15 and/or sale of the financial products of its allied undertaking or of its investment
16 house units. A bank authorized to establish branches or other offices shall be
17 responsible for all business conducted in such branches and offices to the same
18 extent and in the same manner as though such business had all been conducted
19 in the head office. A bank and its branches and offices shall be treated as one
20 unit.”

21 **SEC. 5.** A new Article III (entitled “Operations of Digital Banks”) and
22 corresponding Sections 33 to 35 are hereby inserted under Chapter IV (Deposits,
23 Loans and Other Operations) of Republic Act No. 8791, immediately after Section 32
24 thereof, and will read as follows:

25 **“ARTICLE III – OPERATIONS OF DIGITAL BANKS**

26 **SECTION 33. POWERS OF A DIGITAL BANK. – A DIGITAL BANK SHALL**
27 **HAVE THE AUTHORITY TO EXERCISE, IN ADDITION TO THE GENERAL**
28 **POWERS INCIDENT TO CORPORATIONS, ALL SUCH POWERS AS MAY**
29 **BE NECESSARY TO CARRY ON THE BUSINESS OF DIGITAL BANKING,**
30 **SUCH AS:**

31 **(a) ACCEPT SAVINGS AND TIME DEPOSITS;**

32 **(b) ACT AS A COLLECTION AGENT FOR GOVERNMENT ENTITIES;**

33 **(c) GRANT LOANS, WHETHER SECURED OR UNSECURED;**

34 **(d) EXTEND CREDIT FACILITIES TO PRIVATE AND GOVERNMENT**
35 **EMPLOYEES;**

36 **(e) ISSUE MORTGAGE AND CHATTEL MORTGAGE CERTIFICATES, BUY**
37 **AND SELL THEM FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF**

1 OTHERS, OR ACCEPT AND RECEIVE THEM IN PAYMENT OR AS
2 AMORTIZATION OF ITS LOAN;

3 (f) ACT AS CORRESPONDENT FOR OTHER FINANCIAL INSTITUTIONS;

4 (g) INVEST IN READILY MARKETABLE BONDS AND OTHER DEBT
5 SECURITIES, COMMERCIAL PAPERS AND ACCOUNTS RECEIVABLE,
6 DRAFTS, BILLS OF EXCHANGE, ACCEPTANCES OR NOTES ARISING
7 OUT OF COMMERCIAL TRANSACTIONS; AND

8 (h) PURCHASE, HOLD AND CONVEY REAL ESTATE UNDER THE SAME
9 CONDITIONS AS THOSE GOVERNING COMMERCIAL BANKS.

10 A DIGITAL BANK MAY ALSO PERFORM OTHER POWERS AND
11 FUNCTIONS AS MAY BE GRANTED TO OR RECOGNIZED, AND SUBJECT
12 TO SUCH CONDITIONS AND RULES AS MAY BE PRESCRIBED BY, THE
13 MONETARY BOARD.

14 **SECTION 34. *PHYSICAL PRESENCE IN THE PHILIPPINES.*** – A DIGITAL
15 BANK APPLICANT MUST MAINTAIN A PHYSICAL OFFICE IN THE
16 PHILIPPINES, WHICH SHALL BE CONSIDERED AS ITS PRINCIPAL
17 PLACE OF BUSINESS, WILL HOUSE ITS MANAGEMENT AND SUPPORT
18 OPERATIONS, AND SERVE AS ITS LOCAL TOUCHPOINT FOR
19 INTERFACING WITH, AND RECEIVING AND RESOLVING COMPLAINTS
20 BY, THE MONETARY BOARD AND CUSTOMERS.”

21 **SECTION 35. *PROMOTION OF FINANCIAL INCLUSION.*** – IN ORDER TO
22 ACTIVELY PROMOTE FINANCIAL INCLUSION, A DIGITAL BANK SHALL
23 NOT IMPOSE MINIMUM ACCOUNT BALANCE REQUIREMENTS FOR
24 DEPOSIT ACCOUNTS.

25 A MINOR IN HIS OR HER OWN RIGHT AND NAME MAY, SUBJECT TO
26 THE RULES AND REGULATIONS THAT MAY BE PRESCRIBED BY THE
27 MONETARY BOARD, OPEN AN ACCOUNT WITH A DIGITAL BANK, MAKE
28 DEPOSITS AND WITHDRAWALS FROM SUCH DEPOSITS, AND RECEIVE
29 DIVIDENDS AND INTEREST, AS THE CASE MAY BE.

30 **SECTION 36. *CONTINUING REVIEW OF TECHNOLOGY RISK***
31 ***MANAGEMENT.*** – A DIGITAL BANK SHALL ESTABLISH PROCEDURES
32 FOR REGULAR REVIEW OF ITS SECURITY AND TECHNOLOGY RELATED
33 ARRANGEMENTS TO ENSURE THAT SUCH ARRANGEMENTS REMAIN
34 APPROPRIATE, HAVING REGARD TO THE CONTINUING
35 DEVELOPMENTS IN TECHNOLOGY. THE MONETARY BOARD SHALL
36 ALSO BE AUTHORIZED TO PERFORM, PERIODICALLY AND/OR FROM
37 TIME TO TIME, BOTH RANDOM AND SCHEDULED AUDITS OF THE
38 SECURITY OF EXISTING DIGITAL BANKS INFORMATION TECHNOLOGY
39 GOVERNANCE AND SYSTEMS.

1 **SEC. 6. Renumbering Clause.** – Article III entitled “Provisions Applicable to All
2 Banks, Quasi-Banks, and Trust Entities” and Sections 33 to 97 of Republic Act No.
3 8791 shall be renumbered accordingly.

4 **SEC. 7. Annual Report.** – The Monetary Board shall submit a report to the
5 Congress of the Philippines at the end of each calendar year of all the rules and
6 regulations promulgated by it in accordance with the provisions of this Act, as well as
7 its other actuations in connection with digital banks together with an explanation of
8 its reasons therefor and recommendations on legislative actions.

9 **SEC. 8. Transitory Provisions.** – Existing digital banks or digital banking services
10 which were authorized by the Monetary Board prior to the effectivity of this Act shall
11 be given one hundred and eighty (180) days to comply with rules and regulations set
12 by the BSP pursuant to this Act. No further digital banking licenses shall be issued by
13 the BSP in the period between the effectivity of this Act and the issuance of applicable
14 rules and regulations pursuant to this Act.

15 **SEC. 9. Implementing Rules and Regulations.** – The BSP shall promulgate the
16 necessary rules and regulations, or amend its existing rules governing and/or
17 regulating digital banks, within ninety (90) working days from the effectivity of this
18 Act.

19 **SEC. 10. Separability Clause.** – If any portion or provision of this Act is declared
20 unconstitutional, the remainder of this Act or any provision not affected thereby shall
21 remain in force and effect.

22 **SEC. 11. Repealing Clause.** – All provisions of existing laws, orders, rules and
23 regulations or parts thereof which are in conflict or inconsistent with the provisions of
24 this Act are hereby repealed, amended or modified accordingly.

25 **SEC. 12. Effectivity.** – This Act shall take effect after fifteen (15) days following
26 the completion of its publication either in the Official Gazette or in a newspaper of
27 general circulation in the Philippines.

Approved,