

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (the "Agreement") is executed this 22nd day of December 2017 in the City of Manila, by and between:

BANGKO SENTRAL NG PILIPINAS ("BSP"), a government instrumentality created and existing under and by virtue of Republic Act ("RA") No. 7653, with principal office at the BSP Complex, A. Mabini corner P. Ocampo, Sr. Streets, Malate, Manila, represented herein by its Governor, **Nestor A. Espenilla, Jr.**;

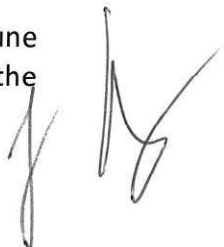
and

PHILIPPINE COMPETITION COMMISSION ("PCC"), a government agency duly created and organized under RA No. 10667, with principal office at the 6th Floor DAP Building, San Miguel Avenue, Ortigas Center, Pasig City, Metro Manila, represented herein by its Chairperson, **Arsenio M. Balisacan**.

(BSP and PCC are individually referred to in this Agreement as a "Party" and collectively, as the "Parties".)

RECITALS:

- (A) Under R.A. No. 7653 (the New Central Bank Act), the BSP was established as an independent central monetary authority, which shall provide policy directions in the areas of money, banking and credit. The BSP shall have supervision over the operations of banks and shall exercise such regulatory powers over the operations of finance companies and non-bank financial institutions performing quasi-banking functions, trust entities and other financial institutions which, under special laws, are subject to BSP supervision. The entities under the supervision and regulatory powers of BSP shall be hereinafter referred to as "BSP Supervised Financial Institutions" or "BSFIs".
- (B) R.A. No. 10667, otherwise known as the Philippine Competition Act (the "PCA"), was enacted to enhance economic efficiency and promote free and fair competition in trade, industry and all commercial economic activities, prevent economic concentration which will unduly stifle competition or lessen, manipulate or constrict the discipline of free markets, and penalize all forms of anti-competitive agreements, abuse of dominant position and anti-competitive mergers and acquisitions with the objective of protecting consumer welfare and advancing domestic and international trade and economic development.
- (C) Pursuant to the PCA, PCC was created as an independent quasi-judicial body tasked to implement and attain the objectives of the PCA.
- (D) Based on the Status Report on the Philippine Financial System as of end-June 2017, banks continue to be the main source of credit to the economy, with the



total system accounting for 81.4% of the total resources of the financial system, while non-bank financial institutions provide alternative products and services to the niche markets not catered by banks.

- (E) As a way of achieving the declared State policy under the PCA of effective implementation of the National Competition Policy by the Government of the Republic of the Philippines and all of its agencies as a whole, the BSP and the PCC have agreed to work together towards a harmonized and efficient regulatory approach concerning the banking and financial industry consistent with their mandates of promoting and maintaining stability in the monetary and financial system, as well as free and fair competition, respectively.

NOW THEREFORE, the Parties hereby agree to do the following, subject to the terms and conditions herein stated:

ARTICLE I
MERGERS AND ACQUISITIONS

Section 1. Notification and Review of Mergers and Acquisitions Involving BSFIs – Proposed mergers and acquisitions between, among, or otherwise involving BSFIs shall be subject to the prior notification and review requirements under the PCA, provided that mergers or acquisitions of BSFIs under financial distress and those pursued in accordance with BSP's Consolidation Program For Rural Banks shall be subject to specific rules to be promulgated by the PCC in consultation with the BSP.

Section 2. Recommendation of Proposed Mergers and Acquisitions – At its own initiative, the BSP may issue a recommendation to PCC that a proposed merger or acquisition between, among, or otherwise involving BSFIs should be deemed by PCC (i) to be exempted from the prior notification and review requirements of the PCA; and/or (ii) not to be prohibited under the PCA. The BSP may also certify to PCC the urgency of concluding a proposed merger or acquisition involving BSFIs which certification the PCC shall take into account in the conduct of its review of the BSFIs' notification.

ARTICLE II
MONITORING ARRANGEMENTS

Section 1. Monitoring – In the spirit of cooperation, the Parties agree to monitor pricing, mergers, acquisitions, and other competition-related issues with regard to BSFIs, their payment system arrangements, and other activities regulated by the BSP.

Section 2. Duty to Notify – Each Party shall promptly notify or advise the other of any actual, potential or emerging competition concerns relating to BSFIs and other regulated activities. Such competition concerns shall be deemed to include, but shall not be limited to, actual, potential or emerging anti-competitive conduct or agreements reported to or discovered by either Party in the course of the performance of their respective duties and functions.

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ARTICLE III
COORDINATION AND COOPERATION

Section 1. *Formulation and Amendment of Regulations* – To the extent allowed by existing laws, rules and regulations, each Party undertakes to consult the other in the formulation of new issuances, regulations and/or amendments to existing regulations that, in its judgment, may impact the policy and regulatory framework governing BSFIs, their payment system arrangements, and other activities regulated by the BSP. Upon the joint determination by the Parties, mergers or acquisitions involving BSFIs other than those under distress or covered by BSP’s Consolidation Program for Rural Banks shall be subject to specific rules to be promulgated by the PCC in consultation with the BSP.

Section 2. *Compliance* – BSP shall extend all reasonable assistance to PCC in monitoring the compliance of BSFIs with applicable notification and review requirements imposed under the PCA for proposed mergers and acquisitions. Such assistance to be provided by BSP may include, among others, the issuance of advisories and/or regulations instructing BSFIs to comply with applicable rules promulgated by PCC.

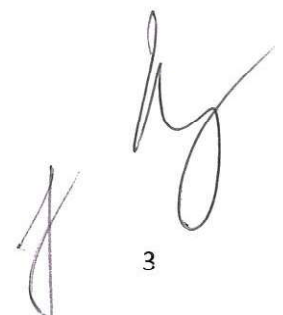
Section 3. *Access to Information and Documents* – Each Party, upon the request of the other, shall promptly provide access to information and/or documents relative to mergers, acquisitions, and other transactions involving BSFIs which may be deemed covered under the PCA. The Parties shall not be required to provide access to information deemed confidential under relevant laws and regulations unless otherwise allowed thereunder.

Section 4. *Consultative Meetings* – The Parties shall endeavor to hold consultative meetings regarding any matter of common concern to the Parties such as actions that the PCC is considering with respect to BSFIs, those involving competition-related matters, and the stability of the monetary and financial system. *Provided*, that should a Party issue any resolution or action regarding any matter of common concern to the Parties involving BSFIs, such Party shall notify the other in writing not later than five (5) calendar days from the time the resolution or action has been approved by the Party, its officers and/or any of its agents. In the event that a Party shall issue an order for the cessation or desistance from the performance of certain acts by a BSFI, such issuing Party shall coordinate with the other Party prior to the issuance of said cessation or desistance order. The requirement for prior coordination shall not apply to cases involving cessation of business of BSFIs, which shall be subject to pertinent BSP rules and regulations.

Section 5. *Review*. The Parties undertake to keep the operation of this Agreement under review and, in light of experience, implement amendments to this Agreement for purposes of improving its operation and resolving any issues that may arise during its implementation.







ARTICLE IV
NOTIFICATIONS AND AUTHORIZED REPRESENTATIVES

Section 1. Authorized Representatives – The Parties hereby designate the following persons as their respective Authorized Representatives, who shall be responsible for the implementation or enforcement of this Agreement:

For BSP: **The Deputy Governor**
Supervision and Examination Sector

For PCC: **Gianfrancis S. Camacho**
Chief, Legal Services Division

Each Party may appoint additional Authorized Representative(s), as may be necessary for the efficient implementation of this Agreement. Any change in the designated Authorized Representative(s) of each Party shall be (i) notified immediately to the other Party; and (ii) deemed effective upon the other Party's receipt of said notice.

Section 2. Notices – Any notice, request, or other communication given under, or in connection with the implementation or enforcement of this Agreement, shall be in writing and sent by the concerned Party's Authorized Representative(s) through any of the following modes:

- a) By courier or personal delivery to the addresses stated in this Agreement;
- b) By electronic mail to the following email addresses:

For BSP: [REDACTED]
For PCC: [REDACTED] and [REDACTED]

or such other email address, as a Party may notify to the other by written notice sent in accordance with this Section.

A notice is deemed to have been received at the time of delivery if such notice is given by courier or personal delivery. If written notice is given by electronic mail, the notice is deemed to have been received at the time of transmission of said electronic mail provided that there is actual receipt of said electronic mail.

ARTICLE V
CONFIDENTIALITY

Section 1. Confidentiality – Except as may otherwise be required or allowed by law, the Parties shall keep confidential and shall not, without the prior written consent of the other, divulge to any third party any documents, records, data, or other information of a confidential or privileged nature arising from or in any way related to this Agreement, and furnished directly or indirectly by one Party to the other Party during the implementation of this Agreement.

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[Signature]

For purposes of this Agreement, information of a confidential or privileged nature shall refer to information disclosed by one Party to the other which is labeled or designated as confidential or privileged by the disclosing Party, or is determined to be confidential or privileged pursuant to applicable rules on confidentiality and privilege under relevant laws, rules, and regulations.

Section 2. Use of Information and Documents – The Parties agree to limit the use of any and all information and documents obtained pursuant to this Agreement for lawful purposes and in pursuance of the objectives of this Agreement as well as the respective mandates of the Parties.

ARTICLE VI **LEGAL EFFECT**

Section 1. Effectivity – This Agreement shall take effect from the date it is executed by all the Parties and shall remain in effect until terminated in accordance with Article VI, Section 2 hereof.

Section 2. Termination – Either Party may terminate this Agreement, with or without cause, by serving a written notice of termination to the other Party. Said termination by either Party shall become effective immediately upon receipt of such written notice by the other Party.

Section 3. Legal Effect – For the avoidance of doubt, nothing in this Agreement limits the powers or constitutes a waiver of the statutory functions or powers of either Party.



ARTICLE VII **GENERAL PROVISIONS**

Section 1. Limitation of Liability – The Parties shall neither be held responsible nor liable for any loss or damage arising out of or by reason of claims, demands, suits, costs, losses and damages arising out of the implementation of this Agreement, except when the loss or damage is caused by bad faith or gross negligence amounting to bad faith committed by the respective officers or agents of the Parties in the performance of their respective official duties and responsibilities. Should a suit be commenced against any of the Parties, their officers or agents with respect to any obligation arising out of this Agreement, 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 exercise of their powers and performance of their duties and functions, as may be provided by their respective charters, or internal rules and regulations.

Section 2. Dispute Settlement – The Parties shall exert their best efforts to amicably settle any disputes arising out of or in connection with this Agreement. In case of failure to amicably settle such disputes, the Parties shall observe the applicable dispute resolution provisions of the Administrative Code of 1987.

Section 3. Amendments – Subsequent revisions, amendments, repeals, and supplements to this Agreement shall be made upon mutual written agreement by the Parties.



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Section 4. Separability – If any one of the provisions contained herein shall be declared invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

Section 5. Counterparts – This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement shall be effective as delivery of a manually executed counterpart of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their duly authorized representatives on the date and place first above written.


BANGKO SENTRAL NG PILIPINAS

PHILIPPINE COMPETITION COMMISSION

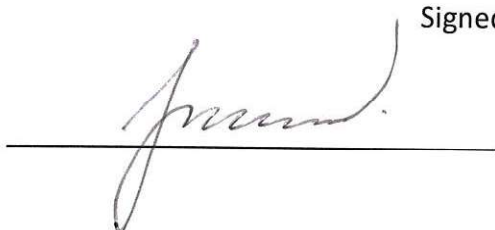
By:



NESTOR A. ESPENILLA, JR.
Governor

By:


ARSENIO M. BALISACAN
Chairman

Signed in the presence of:




MELBOURNE D. PANA
