



## Joint Statement on the Bank Deposits Secrecy Bill

May 26, 2021

We, the undersigned organizations express our full support to the enactment of the Bank Deposits Secrecy Bill, which seeks to amend Republic (Rep.) Act No. 1405, or the Secrecy of Bank Deposits Law.

The global trend is to relax bank deposits secrecy laws across jurisdictions to effectively combat both domestic and global tax evasion, money laundering and other financial crimes and comply with international standards on transparency. The Philippines has lagged behind this worldwide trend. Strict deposit secrecy in the country continues to make the Philippines a haven for tax evasion, a protected channel for international money laundering flows, and other illegal financial transactions. It also allows politicians and other government officials to hide unexplained wealth, constraining citizens' ability to exercise their public duty to elect honest officials. It does not promote good governance principles of transparency, fairness and accountability. As a result, the Philippines scores low on the Economic Freedom Index.

A significant consequence of strict bank secrecy laws that needs to be addressed promptly is the limitation such laws impose on prudential supervision. Existing bank secrecy laws weaken the *Bangko Sentral ng Pilipinas'* exercise of its mandate of maintaining a sound and stable banking system by constraining BSPs supervisory activities and assessment, especially in cases involving unsafe and unsound banking practices. Such practices include those that may be committed by the stockholders, owners, directors, trustees, officers or employees of entities that are subject to the supervision or regulatory power of BSP.

Studies show that existing bank secrecy laws in the Philippines are more constraining for prudential supervision than similar laws in other jurisdictions. Even countries with strong bank secrecy arrangements like Switzerland, Singapore and Hong Kong authorize their prudential supervisor to access all bank records, including depositor information. Recently, Lebanon passed two laws easing bank secrecy laws, leaving the Philippines as the only remaining country with bank deposit secrecy laws so stringent that they impede prudential supervision.

We consider the urgent passage of the Bank Deposits Secrecy Bill of paramount importance to address the unintended consequences of bank secrecy laws in the country.

Once enacted, the Bank Deposits Secrecy Bill will allow BSP to look into the bank deposit accounts of specified persons only under certain conditions: (i) in the exercise of BSP's supervisory powers, upon determination by the Monetary Board that there is reasonable ground to believe that a fraud, serious irregularity or unlawful activity has been or is being committed by the specified persons, and it is necessary to look into the deposit to establish such fraud, irregularity or unlawful activity; and (ii) in the course of BSP's investigation of closed banks. This will simply restore the authority to have access to bank deposit accounts that the Bangko Sentral had prior to the passage of R.A. 7653 in 1993.

The bill will continue to provide protection for ordinary honest citizens by restricting access to deposits to the banking regulators like in other countries with strong deposit secrecy traditions and policies. Only the BSP under strict guidelines will have the authority to look into suspicious deposit accounts; other parties like bank officers and staff are still bound by deposit secrecy. (Optional: The BSP has the market reputation of integrity and professionalism, assuring depositors that confidential information will be in safe hands.) Thus, the proposed law should not trigger capital flight from banks given these strict provisions.

The bill also provides sufficient safeguards to obviate abuse in the exercise of the aforementioned authority and improper disclosure of bank deposits information. This includes, among others, classifying the use of the Act for persecution or harassment as one of the unlawful acts under this proposed law to prevent the indiscriminate disclosure by any person who may have obtained any information on deposits that could adversely affect the privacy of a depositor. Additionally, the results of the examination by BSP shall be for its exclusive use and shall not be made available to any person or entity, whether public or private, except to specific government regulators and the Courts, for the purpose of preventing or prosecuting any offense or crime. Moreover, the penalty provision of Rep. Act No. 1405 is proposed to be updated/increased as a deterrence against violation of this law.

Concomitantly, the bill provides a safe harbor clause to protect the banks and other financial institutions against frivolous suits from depositors in connection with the inquiry and examination of deposits by BSP.

Indeed, the proposed Bank Deposits Secrecy Bill has wide-reaching implications. The bill will not only strengthen prudential supervision and allow BSP to effectively fulfill its mandate of maintaining stability of the banking system but also ensure compliance with the international standards on transparency and good governance which will preserve and fortify the public and the global community's trust in Philippine the banking system.

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