Prospects for the Regulation of the Philippine Financial Sector in the Medium-Term

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Abstract

This paper evaluates the Philippine financial markets and its regulation with the aim of recommending actions in the medium-term. Survey results show that there are five areas that need urgent action. These are the legal protection given to examiners and officers, amendment to the bank secrecy law, regulation of conglomerates, institutionalization of macro-prudential policy tools, and reinforcement of resources. Based on these concerns, recommendations are given at the institution and inter-agency levels.

Keywords: Philippine Financial Regulators, Philippine Financial Sector, Financial Sector Forum

Contents

Glossary of Terms

ASEAN 5	Association of Southeast Asian Nations 5
BSP	Bangko Sentral ng Pilipinas
DBM	Department of Budget and Management
FSF	Financial Sector Forum
HBN	House Bill Number
IC	Insurance Commission
IMF	International Monetary Fund
NBFI	Non-Bank Financial Institution
NCBA	New Central Bank Act (Republic Act 7653)
PDIC	Philippine Deposit Insurance Corporation
PSE	Philippine Stock Exchange
PSEi	Philippine Stock Exchange Composite Index
RA	Republic Act
ROE	Return on Equity
SBN	Senate Bill Number
SEC	Securities and Exchange Commission
SRC	Securities and Regulation Code (Republic Act 8799)
UKB	Universal and Commercial Bank

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Outline

Section 1 gives a brief background on the importance of coordinated regulation. Section 2 examines the current situation of the financial sector and regulated companies. This is followed by an assessment of Philippine regulatory bodies and the Financial Sector Forum in Section 3. Then, Section 4 analyzes and validates results of the email survey among middle management of BSP, SEC, and PDIC. Policy recommendations both at the institution and inter-agency levels are presented in Section 5. Finally, concluding remarks and areas for further research are discussed in Sections 6.

1. Introduction

Financial regulation plays an important role in ensuring that financial markets work. It safeguards the integrity of the financial system by putting a stop to serious distortions to competition, protecting the essential needs of ordinary people in cases where information is costly to obtain, and preventing costly market failures (Brunnermeier et al., 2009).

After the financial crisis in 2008, regulators all the more have a great deal of balancing between monitoring and regulating in choosing a system that fits best the situation they are in. Too much emphasis on regulation may be counterproductive and impede the recovery and development of financial markets. On the other hand, actions deemed insufficient such as relying mainly on monitoring can encourage unhealthy and excessive risk-taking behavior of firms.

This paper looks into the regulatory regime in the Philippines and evaluates its effectiveness based on current and future trends of domestic financial markets. It aims to propose actions in the medium-term to enhance the regulation of the Philippine financial sector. Recommendations focus on two institutions, the Bangko Sentral ng Pilipinas and Securities and Exchange Commission, and the inter-agency Financial Sector Forum.

2. Philippine Financial Environment

2.1 Banks and NBFIs

Like most Asian countries, the Philippine financial sector is primarily dominated by the banking sector. Banks operating in the Philippines are clustered into three: universal and commercial banks, thrift banks, and rural and cooperative banks. They are grouped based on the size of capitalization and types of banking activities. In 2009, total assets of the three segments stood at Php7,171.8 billion (Figure 1). All clusters showed a decrease in the number of head offices, mostly due to mergers, but posted a net expansion due to the increase in the network of branches (Figures 2 to 4).

Philippine banks as a whole are well capitalized and resilient. Since the beginning of the 21st century, banks have maintained a capital adequacy ratio above the 8% minimum requirement (Figure 5). ROE has also stayed positive (Figure 6). Banks remained resilient amid the Lehman shock. Although ROE decreased significantly in 2008, it jumped back the year after with rates higher than the pre-Lehman crisis level.

There are two sources of concern about Philippine banks. The first one is the concentration of loans among big borrowers (Figure 7). In 2009, all 10 largest banks' exposure to the 10 largest borrowers was at least 10%. Of these 10 UKBs, two had higher credit risk since 30% of their total loans were provided to big borrowers. A stress test by the IMF showed that in the case of a failure of one borrower, some of the UKBs would see their Tier 1 capital wiped out. Failure of more than one of these big borrowers, although the likelihood is low, would have a severe impact on the capital of major banks, crippling the banking sector. The other concern is the double exposure of thrift, rural, and cooperative banks to real estate loans and non-performing assets and restructured loans (IMF, 2010).

In the case of NBFIs, this segment has seen dramatic growth in terms of expansion (Figure 8). Although capitalization of this sector is small compared to banks (Figure 1), NBFIs such as foreign exchange dealers, money changers, and remittance agents are expected to continue expanding due to the low startup capital and high demand from overseas Filipino workers for remittance and money transfer services.

2.2 Stock Market

On the other hand, the capital market in the Philippines is relatively underdeveloped compared to the banking sector. The Philippines has the least number of companies listed in the stock market among ASEAN 5 countries (Figure 9). As of January 2013, the number of companies in the Philippine Stock Exchange is 253. This is lower than the number of listed companies in the stock exchanges of Malaysia, Singapore, Thailand, and Indonesia in 2003.

PSE experienced little growth in the past 10 years. The number of publicly traded companies in the Philippines grew by 7.1% only, which is way below the ASEAN 5's average of 25.5%. The net increase in the number of companies listed in PSE was just 18, whereas Indonesia Stock Exchange and The Stock Exchange of Thailand increased by 133 and 161, respectively.

Recent developments and growing interest in the Philippines are expected to change the country's financial landscape. Two major rating companies have upgraded the Philippines credit rating to investment grade. Fitch Ratings gave the Philippines its first ever investment-grade credit rating on 27 March 2013, citing improved fiscal management and strong policy-making framework. S&P followed suit on 02 May 2013, raising its rating of the Philippines' long-term foreign currency-denominated rating to BBB- from BB+ with a stable outlook.

These have contributed to the inflow of hot money and continued bullish performance of the Philippine Stock Exchange. The PSE witnessed an upward trend in its composite index (Figure 10), echoing regional trends but outperforming Bursa Malaysia and Singapore Exchange. The main-share PSEi broke the 7,300 mark for the first time in history on 14 May 2013, a day after the Philippines' midterm election.

2.3 Conglomerates

The global trend of financial deregulation and integration has ushered a new era of financial conglomerates. These entities provide a wide range of financial services, normally incorporating insurance and securities activities as well as traditional banking services (Tripartite Group of Bank, Securities, and Insurance Regulators, 1995). In the Philippines, most UKBs are classified as conglomerates because they have a securities company or insurance firm as a subsidiary or affiliate.

The emergence of financial conglomerates poses a threat to the stability of the financial sector due to five risk factors (Santos and Mullineux, 2009). First, conglomerates can make it appear that the capital they hold is sufficient to cover the risk exposure of entities that comprise them through the process of multi-gearing. Second, they are susceptible to two types of contagion. One is psychological contagion wherein a healthy unit of a conglomerate is affected by its association with a related unit that has inherent weaknesses. The other is intra-group exposure, or the risk from the transmission of an entity's weakness to other entities because of actual linkages such as shared resources and borrowings. Third, management faces the challenge to coordinate units with different characteristics and risk profiles and come up with an overall risk profile and subsequent policies. Fourth, conglomerates run the risk of misusing client information across entities and offering products and services at the expense of customers. Last but not the least, moral hazard in the lender of last resort facility and other guaranty schemes is high for conglomerates that are too interconnected to fail.

3. Financial Regulation in the Philippines

3.1 Four Regulators

Regulators of the Philippine financial sector are comprised of the Bangko Sentral ng Pilipinas, Securities and Exchange Commission, Insurance Commission, and, to a certain extent, Philippine Deposit Insurance Corporation (Table 1). BSP and IC's predecessors both came into existence as independent bodies in 1949. PDIC is the youngest organization, which was established in the early 1960s, while SEC is the oldest, having been founded prior to World War II. All agencies envision becoming on a par with their international peers. They also put emphasis on promoting the interest of their stakeholders. In addition, BSP, SEC, and IC's mission statements highlight ensuring the stability of the sectors they regulate. BSP looks at the macro perspective of its functions while IC, SEC, and PDIC focus on the welfare of the insuring, investing, and depositing public.

Despite the distinct functions and supervised entities of these agencies as mandated by law, and also their different approaches to regulation, there are overlaps in the execution of their duties. One example is the data needed by an agency from other agencies in the conduct of regulation (Table 2). Due to confidentiality issues, some data are not readily available. Examples of which are the current status of individual banks from BSP, capital shortfalls from SEC, and exposure of insurance companies to banks from IC. Certain procedures must be observed such as writing a request letter signed by the requesting party's head addressed to the other agency's head. To improve the exchange of information, some regulators entered into bilateral agreements (Table 3). Another example between BSP and SEC concerns NBFIs. There are currently no clear guidelines on the involvement of the two agencies in the revocation of primary and secondary licenses to NBFIs. BSP has limited authority over NBFIs in terms of business registration.

3.2 Financial Sector Forum

On July 5, 2004, BSP, PDIC, and SEC signed a memorandum of agreement that gave birth to FSF. IC joined shortly thereafter. Agency leaders at that time saw the need for a formal venue for the four institutions to engage in dialogue and foster cooperation (Buenaventura 2004). This signaled a significant step toward addressing inter-agency concerns. Under the FSF, issues regarding supervisory responsibilities, information sharing, and protecting the general public from unlawful and unethical business practices of companies are discussed among the four regulators (Guinigundo 2005). FSF has three committees based on these three areas (Table 4).

Since its creation, FSF has enabled the four institutions to discuss how to standardize the supervision of similar activities, minimize overlapping functions, and fill in gaps to reduce regulatory arbitrage while preserving their respective mandates. It has also allowed setting rules on the disclosure of information (Table 2) and harmonizing reportorial requirements from supervised entities. Moreover, it empowers the public through its consumer protection campaigns. At present, FSF convenes on a bi-monthly basis, with top management of the four agencies as core participants. The three committees serve as technical working groups in an advisory capacity and submit recommendations for approval by top management.

4. Online Survey Results and Validation

An online survey was conducted among department and group heads at BSP, SEC, and PDIC at the beginning of May 2013. The survey questionnaire is composed of two parts with four open-ended questions each. The survey's first part focuses on SWOT analysis and enhancement of regulatory functions of individual institutions. The second part touches on the interaction among the four regulators and ways to improve coordination efforts. A total of 16 respondents who have an average of 20 years in service participated in the survey and shared their insights. Based on their answers, areas that need urgent action in the medium term concern legal protection given to examiners and officers, amendment to the bank secrecy law, regulation of conglomerates, institutionalization of macro-prudential policy tools, and reinforcement of resources.

4.1 Legal Protection

Passages pertaining to the legal risk faced by examiners and officers are found in Section 16, Article II of NCBA and Section 6, Chapter 2 of SRC (Table 5). The stipulation "*exercise extraordinary diligence*" makes BSP and SEC employees overly cautious in the performance of their duties. Employees are most at risk when they attempt to enforce laws, impose sanctions or penalties, or to take control of a troubled institution (Delston and Campbell, 2006). Being held liable for doing their job can put pressure on examiners to downplay their findings. Red flags that point to misconduct, albeit crucial to the assessment of a company's financial status, may be omitted from the report on examination to avoid court litigations. This poses not only a reputational risk for BSP and SEC if they fail to take proper action against erring entities but also a threat to the stability of the financial market.

BSP and SEC employees are more vulnerable to suits compared to their peers (Table 6). Statutory protection of government employees in countries such as the U.S., U.K., and Japan shows that employees of financial regulators are liable for damages caused willfully or through negligence. However, they have no liability if their actions are done in good faith. They do not have to worry about performing duties with extraordinary diligence.

Recent examples that show the susceptibility of regulators in the Philippines to legal suits are the foreclosure of two banks, Urban Bank and Export and Industry Bank. Urban Bank had a unilateral declaration of a bank holiday in April 2000. BSP then put Urban Bank under receivership, launched an investigation, and uncovered irregularities. The former president of Urban Bank filed administrative complaints against six BSP officials for alleged gross neglect of duty (BSP, 2004). Shareholders of Export and Industry Bank, on the other hand, filed a case against PDIC for indecent haste and grave abuse of discretion amounting to lack or excess of jurisdiction in the liquidation (Dumlao, 2013).

According to the Philippine Senate website, there are three Senate bills that propose amendments to the NCBA. Two of these bills replaced Section 16 of NCBA with Sections 38 and 39, Chapter 9, Book I of the Revised Administrative Code of 1987 (Table 7). If approved, all BSP personnel shall be on equal footing with their peers at PDIC. They would be held liable for willful or negligent acts, and not for failing to exercise extraordinary diligence. Both bills were filed in July 2010. The latest Senate bill, SBN 2742 in 2011, has Section 16 of NCBA intact. Four bills with similar proposals for Section 16 were also introduced in the House of Representatives beginning July 2010. The latest bill, HBN 6205 in 2012, had no amendments to Section 16. All bills never went past the relevant Committees.

4.2 Amendment to the Bank Secrecy Law

On the other hand, there are three RAs that prohibit concerned Philippine regulators from looking into deposit accounts at their discretion (Table 8). Provisions in these RAs put a barrier to the investigation of fraudulent transactions that are coursed through deposit accounts. These encourage companies and individuals alike to engage in unsafe and unsound banking practices and crimes such as evading tax and hiding of proceeds of corruption.

Proposed amendments to RA 1405 or the Secrecy of Bank Deposits Law and NCBA are not sufficient to enable regulators detect all irregularities hidden in deposit account transactions. HBN2370 in 2010 addresses the issuance of bouncing checks only. SBN 2767 in 2011 proposes to exempt from bank secrecy government officials only. SBN 2742 and HBN 6205 do not have amendments to Section 25, Article IV of NCBA, thereby denying investigative reach to BSP.

4.3 Regulation of Conglomerates

A bullish outlook on the Philippines increases investor confidence but it can also compound the risk-taking behavior of companies. Four strands that explain pro-cyclicality in the case of banks and financial conglomerates are the financial-instability hypothesis, disaster myopia, herd behavior, and principal-agent problem between shareholders and managers. (Fernandez de Liz and Herrero, 2009). The increasing role of technology in financial markets further amplifies and complicates the situation. This increases systemic risk and, if left unchecked, may cause turmoil in the financial sector.

4.4 Institutionalization of Macro-prudential Tools

A cross-country regression analysis has found that macro-prudential tools may help dampen procyclicality (Lim et al., 2011). In the Asia Pacific region, monetary authorities in 10 of 13 countries surveyed have started using macro-prudential tools in varying intensities to reduce systemic risk (Figure 11). BSP could benefit from such tools especially now that the Philippines' booming economy is vulnerable to procyclicality. It can learn from similar emerging economies, which have financial markets that are less developed and banks that usually dominate relatively small financial sectors, about how to use extensively macro-prudential tools to address market failures. BSP can explore using multiple instruments such as caps on the loan-to-value ratio and dynamic provisioning to address the high debt exposure of UKBs and thrift, rural, and cooperative banks.

4.5 Reinforcement of Resources

SEC respondents have raised two budgetary issues in their organization. Based on the respondents' sentiment, there is a compensation mismatch. This is a major reason why morale is low and employee turnover rate is high at SEC. By virtue of Sections 4 and 7, Chapter II of SRC, SEC has the mandate to have its compensation plan similar to that of other financial institutions in the Philippines such as BSP. However, unlike BSP, it needs to get its budget approved by the Department of Budget and Management. As a result of the restriction on its compensation plan, SEC has an insufficient workforce and thus a limited work plan. It is also unable to promote institutional knowledge due to the high number of people leaving the organization for better opportunities in the private sector. In addition, the low budget allocation and provisions imposed by DBM on its earnings have limited SEC's capacity to implement monitoring activities. Although it is the country's sole corporate watchdog, SEC lacks a surveillance system to effectively monitor the market. With poor intelligence monitoring, institutions doing unauthorized banking transactions can get off scot-free.

5. Policy Recommendations

It is said that crisis preparedness is best done at times of prosperity. The Philippines is in a good position to take measures to capitalize on its initial economic and structural reform gains. Financial regulators have responded accordingly by taking several steps toward effective regulation such as the creation of FSF. However, there are still necessary changes to strengthen their role in ensuring sound and healthy financial markets. The following recommendations aim to improve enforcement of regulations, response time, and coordination in the medium term in the institution and inter-agency levels.

5.1 Institution level

a. *Protect examiners from suits (BSP and SEC)*. BSP should pursue the necessary amendments to the NCBA. Sections 38 and 39, Chapter 9, Book I of the Revised Administrative Code of 1987 are appropriate replacements to the extraordinary diligence clause. Ideally, BSP targets approval before the end of the incumbent President's term in 2016. The uncertainty of a change in leadership in 2016 may drag out the discussion on the importance of the changes in the NCBA. Since what happens in the legislative procedure is beyond BSP's control, BSP could work through other channels such as gaining explicit support from the Executive Branch. SEC should also start lobbying for similar changes in the SRC. In the meantime, both regulators should continue providing legal assistance to their officers and examiners.

b. *Persuade the Legislative Branch to amend the Bank Secrecy Law (BSP and SEC).* RA 1405, which was approved in 1955, must be revised to be more responsive to the needs of modern day regulation. BSP and SEC ideally should use its discretion to access bank deposits in the performance of its mandate. However, this is unlikely to happen considering the fate of bills that propose amendments to the NCBA. BSP and SEC could instead bring forward to Congress amendments to RA 1405 that would enable them to extend their investigative reach specifically to erring banks, NBFIs, and corporations.

c. *Explore adapting macro-prudential tools (BSP)*. The most recent financial stability assessment of the Philippines shows that risks for Philippine banks are manageable (IMF, 2010). However, to be better prepared for procyclicality, BSP should consider introducing macro-prudential tools such as caps on the loan-to-value ratio and dynamic provisioning.

d. *Focus on monitoring and promote third-party regulation of NBFIs (BSP)*. In as much as NBFIs are distinct from banks, the approach to supervising them should not be a replication of the well-established approach for the banking sector. What works for banks may not be true for the expanding NBFI segment. The risk associated with NBFIs is relatively small but the cost of regulation is relatively high. BSP could instead focus on strengthening consumer awareness to engage the public in regulating NBFIs.

e. *Improve resource allocation and enhance workforce capability (SEC)*. Revitalizing SEC has its benefits in connection to the liberalization and development of capital markets. Capacity building takes precedence over opening up the capital markets because liberalization not accompanied by regulatory reforms properly sequenced results in imbalances (Claessens et al., 2010). DBM should recognize SEC's mandate and realize that a strong and well-funded Commission can translate to the stability and development of capital markets. Given its budget constraint, SEC in the meantime can tap international organizations for knowledge transfer and employee training.

5.2 Financial Sector Forum level

a. *Prioritize inter-agency supervision of conglomerates at the operational level*. The next step that FSF can take is to form a team composed of employees from concerned FSF-members that conducts risk-based examination of conglomerates. This not only further reduces redundancy from simply sharing information but also improves coordination among examiners. It also builds institutional knowledge on the supervision of activities of conglomerates at the operational level and serves as inputs to crisis contingency plans.

b. *Encourage feasibility studies on regulation set-up*. In line with the goal of being on a par with counterparts and improving responsiveness to the fast-paced dynamics of the financial sector, the FSF Committee on Supervision Methodology and Regulatory Policy Coordination can also be tasked to study the advantages of changing the current regulation set-up. Possible areas of research would be merging the Supervision and Examination Sector of BSP and IC to form a Financial Services Agency-type of organization, merging BSP and IC, and transferring the supervision of NBFIs to SEC.

6. Concluding Remarks

The Philippine financial sector is in an exciting phase. Banks are lending more and expanding more. NBFIs are branching out. The stock market experiences unprecedented record increases in the PSEi. This positive atmosphere and growth is expected to continue in the coming years alongside the overall positive outlook on the Philippine economy.

To reduce procyclicality and ensure that systemic risk is held in check, financial regulators need to initiate changes. Enhancing enforcement is on top of the list. There is a need to improve the statutory protection of employees and investigative reach. There is also a need to enhance regulation of conglomerates such as forming an inter-agency examination team at the operational level.

A possible area for future research would be conducting a survey with a larger sample size that represents all job levels in the four regulators. This survey can be designed in such a way that it measures the awareness of employees, from staff to management level, on the importance of coordination with counterparts in other regulatory bodies and at the same time gather information on improving the dynamics of the FSF.

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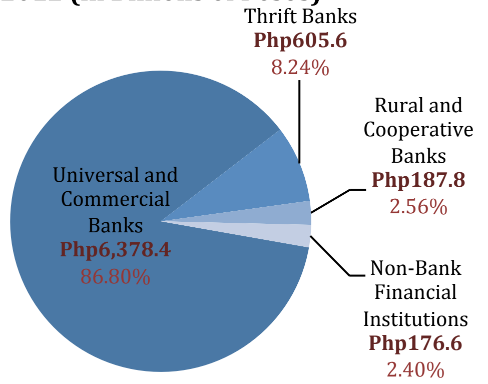
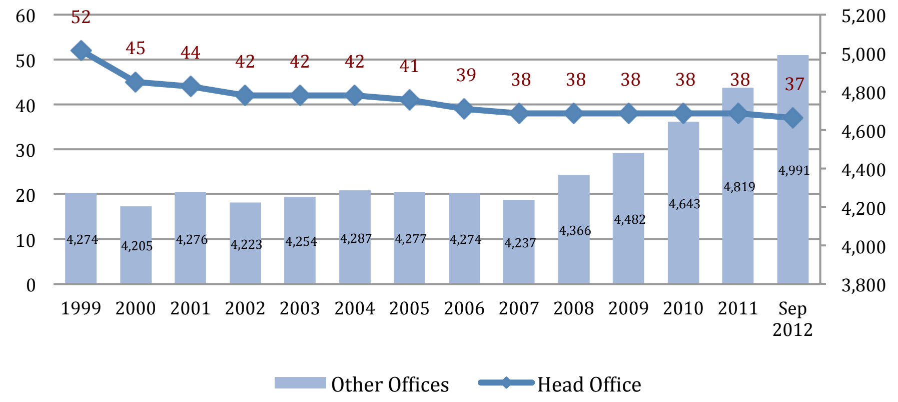
Figures and Tables

Figure 1: Total Assets of Banks and NBFIs as of March 2012 (in Billions of Pesos)



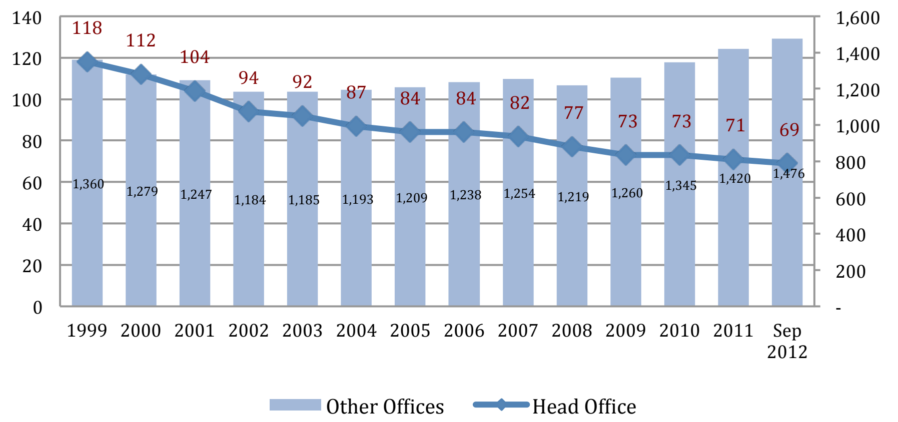
Source: BSP

Figure 2: Universal and Commercial Banks



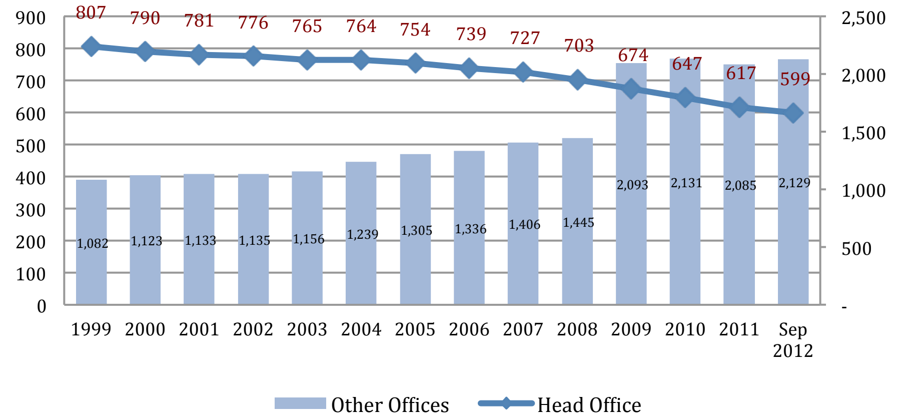
Source: BSP

Figure 3: Thrift Banks



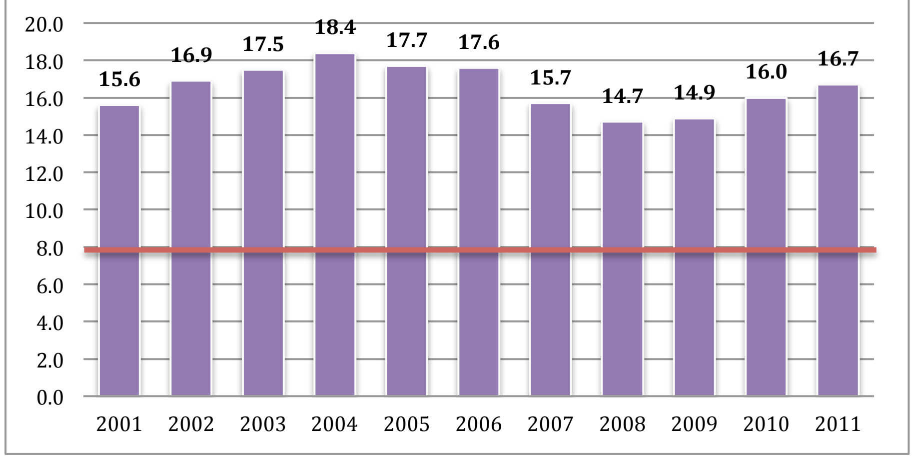
Source: BSP

Figure 4: Rural and Cooperative Banks



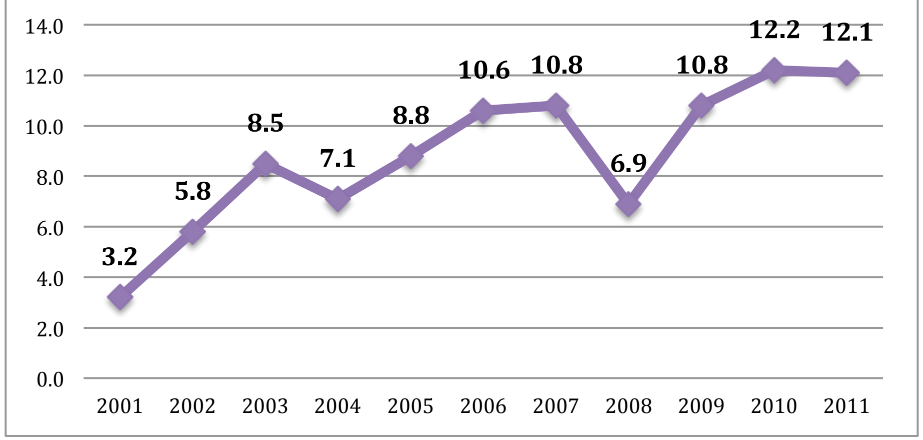
Source: BSP

Figure 5: Capital Adequacy Ratio (%)



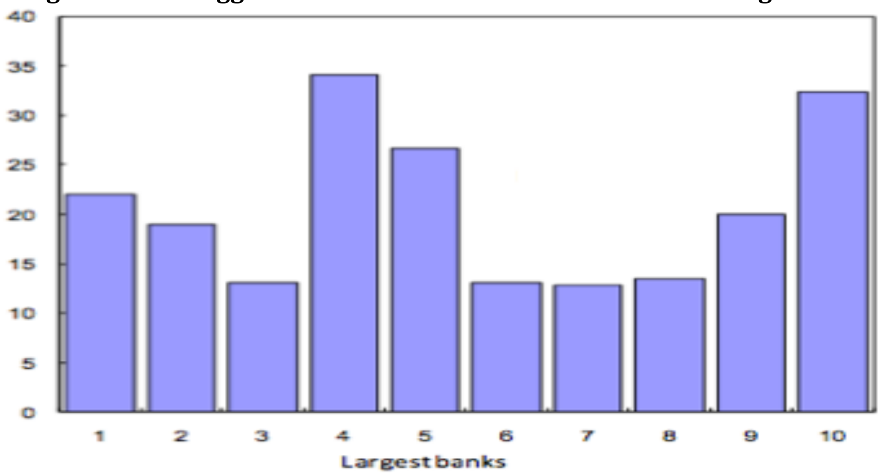
Source: Philippines IMF Article IV Consultation for 2005, 2008, and 2013

Figure 6: Return on Equity (%)



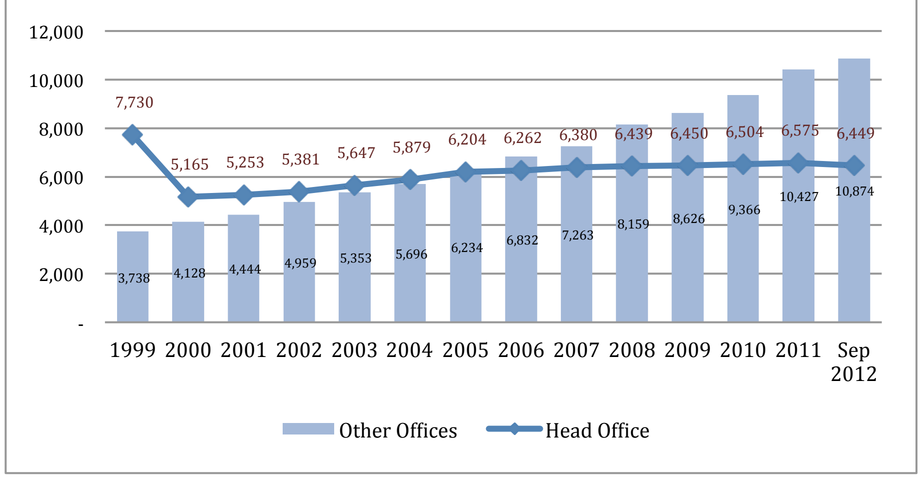
Source: Philippines IMF Article IV Consultation for 2005, 2008, and 2013

Figure 7: Ten Biggest Borrowers as a % of Total Loans of Large Banks



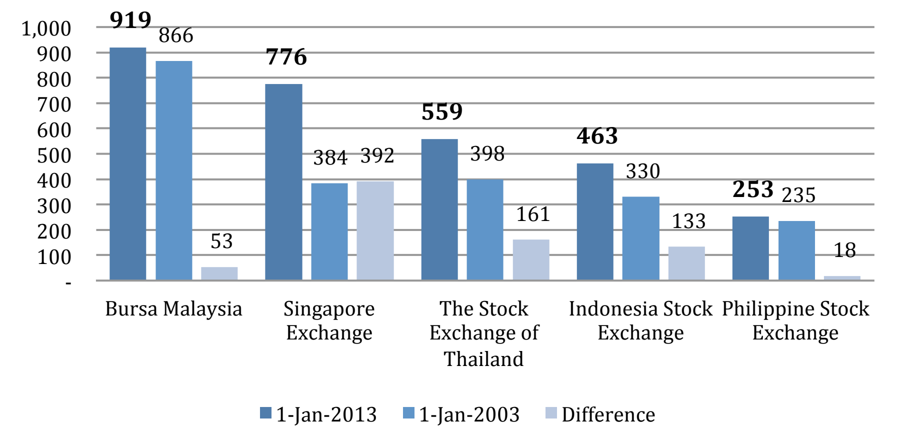
Source: IMF

Figure 8: Non-Bank Financial Institutions



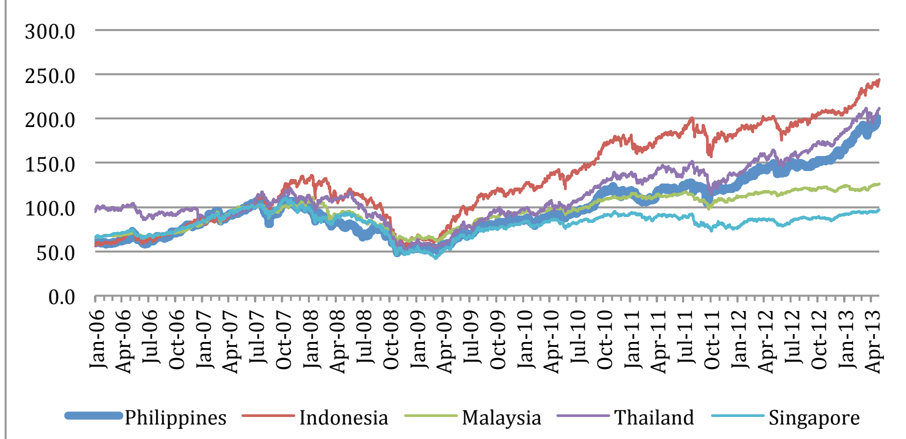
Source: Philippines IMF Article IV Consultation for 2005, 2008, and 2013

Figure 9: No. of Listed Companies in ASEAN 5



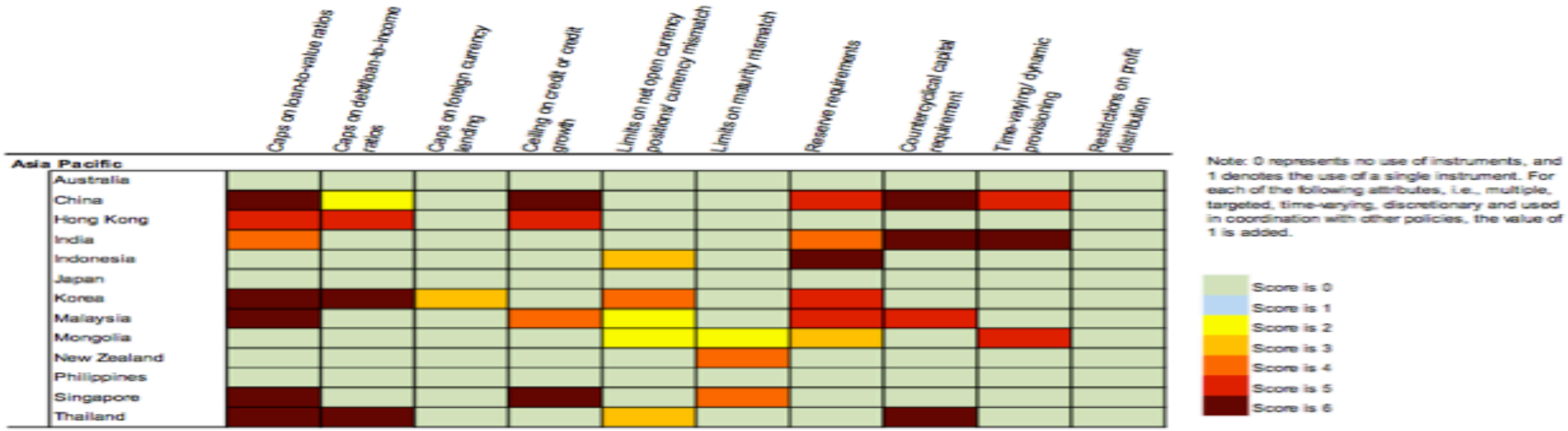
Source: World Federation of Exchanges

Figure 10: ASEAN 5 Stock Prices (Index June 1, 2007 = 100)



Source: Bloomberg

Figure 11: Intensity of Use of Macro-Prudential Tools



Source: IMF

Table 1: Financial Regulators in the Philippines 101 (1 of 2)

	Bangko Sentral ng Pilipinas	Securities and Exchange Commission	Insurance Commission	Philippine Deposit Insurance Corporation
Year Established	3 July 1993	26 October 1936	3 January 1949	22 June 1963
Headquarters	Malate, Manila	Mandaluyong City	Ermita, Manila	Makati City
Incumbent Head	Amando M. Tetangco, Jr. (Governor)	Teresita J. Herbosa (Chairperson)	Emmanuel F. Dooc (Commissioner)	Valentin A. Araneta (President)
Details	Took over from the Central Bank of the Philippines, which was established on 3 January 1949	Abolished during the Japanese occupation but reactivated in 1947, directly under the Office of the President	Referred to as the Office of the Insurance Commission prior to being an independent office in 1949	Attached to the Department of Finance, co-regulator of banks and receiver and liquidator of closed banks
Legal Mandate and Powers	The New Central Bank Act of 1993 or RA 7653, General Banking Law of 2000 or RA 8791	Securities Regulation Code or RA 8799, Presidential Decree No. 902-A (as amended), Corporation Code, Investment Houses Law, Financing Company Act, and other existing laws	RA 275, Insurance Act or RA 2427 (as amended)	Philippine Deposit Insurance Act or RA 3591 (as amended)
Supervised Entities	Banks and NBFIs such as quasi-banks, financial allied subsidiaries and affiliates (except insurance companies), non-stock savings and loan associations, pawnshops	Insurance and reinsurance companies, insurance brokers, mutual benefit associations, pre-need companies	Investment houses, financing companies, securities dealers	Banks, but only with the role as a deposit insurer

Table 1: Financial Regulators in the Philippines 101 (2 of 2)

	Bangko Sentral ng Pilipinas	Securities and Exchange Commission	Insurance Commission	Philippine Deposit Insurance Corporation
Vision	The BSP aims to be a world-class monetary authority and a catalyst for a globally competitive economy and financial system that delivers a high quality of life among Filipinos	We foresee that, by December 31, 2012, the Securities and Exchange Commission shall have implemented systems and procedures and capacity building measures that will enable it to raise the level of competitiveness of the business community, and protect the interests of the investing public.	By 2020, as Regulator, we shall provide an opportunity for every Filipino to secure insurance protection and we shall observe practices at par with regional and global standards.	We will be a world-class organization in depositor protection.
Mission	BSP is committed to promote and maintain price stability and provide proactive leadership in bringing about a strong financial system conducive to a balanced and sustainable growth of the economy. Towards this end, it shall conduct sound monetary policy and effective supervision over financial institutions under its jurisdiction.	To strengthen the corporate and capital market infrastructure of the Philippines, and to maintain a regulatory system, based on international best standards and practices, that promotes the interests of investors in a free, fair and competitive environment.	We are committed to protect the interest and welfare of the insuring public and to develop and strengthen the insurance industry.	We exist to provide permanent and continuing deposit insurance coverage for the depositing public. We shall: 1. exercise complementary supervision of banks 2. adopt responsive resolution methods 3. ensure prompt settlement of insured deposits and 4. apply efficient management of receivership and liquidation functions

Source: Santos and Mullineux (2009) for entries under supervised entities and latest available data from respective agencies for the rest

Table 2: Information Needed from Other Regulators (1 of 2)

	From BSP	From SEC	From PDIC	From IC
To BSP		1. Revocation of corporate licenses of supervised institutions 2. List of accredited external auditors and violations of covered external audit practitioners 3. Observed violations of dually-regulated entities and subsidiaries and affiliates of banks 4. Observed exercise of banking function by non-BSP regulated entities 5. Corporate profile of borrowers of financial institutions and non-bank related companies of banks 6. Audited financial reports of SEC-regulated entities with substantive loans from banks 7. Information such as capital shortfalls on banks' subsidiaries that deal with securities	1. List and assessment of external auditors of closed banks 2. Misstatements noted by PDIC upon assumption of receivership as against submitted prudential reports/financial statements 3. Reports on examination of banks under receivership	1. List of accredited external auditors and violations of covered external audit practitioners 2. Observed violations in the practice of bancassurance (i.e., bank insurance model) 3. Observed violations by bank subsidiaries/ affiliates regulated by the IC 4. Observed exercise of banking function by non-BSP regulated entities 5. Information such as capital shortfalls on banks' subsidiaries that deal with insurance 6. Information on requirements for application of banks as insurance brokers under the micro-finance program 7. Information on IC initiatives to spearhead the adoption of standards on corporate governance and financial reporting

Table 2: Information Needed from Other Regulators (2 of 2)

	From BSP	From SEC	From PDIC	From IC
To SEC	1. Information on the resolution of a listed distressed bank 2. Information on banks and individuals which involve financial fraud and scams		1. Information on banks and individuals which involve financial fraud and scams	1. Information on insurance companies and individuals which involve financial fraud and scams 2. Information on investors that would help in the regulation of listed insurance companies
To PDIC	1. Pre-licensing information 2. Banking and Industry Information (e.g. Banking Industry Statistics and Reports, Individual Bank Data and, Early Warning Indicators, Status of banks under Prompt Corrective Action	1. General Reports (e.g. General Information Sheet, Annual Audited Financial Statements)		1. Exposure of insurance company to banks

Source: Email survey

Table 3: Bilateral Memorandum of Agreement

Parties Involved	Date	Agreement
BSP and PDIC	12 November 2002	Exchange of data and information relevant to the supervision and/or regulation of banks
BSP and PDIC	11 October 2005	Information and reports on bank examination findings
BSP and SEC	21 January 2013	Information, data, and reports shared between the two agencies

Source: Email survey

Table 4: Scope of Function of FSF Committees

Committee	Scope
Supervision Methodology and Regulatory Policy Coordination	1. Market intelligences on market players and systemic issues; 2. Compliance and enforcement of regulations on illegal activities; 3. Cross-sector consolidated supervision; 4. Prompt Corrective Action techniques; 5. Work of external auditors; 6. Policy development; 7. Policy coordination; 8. Corporate governance; and 9. Issues arising from bilateral agreements
Reporting, Information and Exchange and Dissemination	1. Harmonization of regulatory reporting requirements; 2. Database management; 3. Data exchange system between agencies; 4. BSP loan database; 5. Positive credit information system; 6. Effective dissemination of industry data and statistics; 7. Transparency through permitted disclosures to the public; 8. Capacity building for agencies; and 9. Issues arising from bilateral agreements
Consumer Protection and Education	1. Information dissemination for consumers as to which agency grants licenses for certain financial activities and the roles of different supervisors; 2. Identification of unethical practices and illegal activities used in selling financial products; 3. Development and implementation of consumer protection programs; 4. Consumer empowerment; and 5. Issues arising from bilateral agreements

Source: Email survey

Table 5: Stipulations Concerning Responsibility of Employees

Section	Stipulation
Section 16, Article II of NCBA	"Members of the Monetary Board, officials, examiners…who willfully violate this Act or who are guilty of negligence, abuses or acts of malfeasance or misfeasance or fail to exercise extraordinary diligence in the performance of his duties shall be held liable for any loss or injury suffered by the Bangko Sentral or other banking institutions as a result of such violation, negligence, abuse, malfeasance, misfeasance or failure to exercise extraordinary diligence." (underscore supplied)
Section 6, Chapter 2 of SRC	"The Commissioners, officers and employees of the Commission who willfully violate this Code or who are guilty of negligence, abuse or acts of malfeasance or fail to exercise extraordinary diligence in the performance of their duties shall be held liable for any loss or injury suffered by the Commission or other institutions as a result of such violation, negligence, abuse, malfeasance, or failure to exercise extraordinary diligence." (underscore supplied)
Section 9 of RA 3591 or PDIC Charter	"Unless the actions of the Corporation or any of its officers and employees are found to be in willful violation of this Act, performed in bad faith, with malice and/or gross negligence, the Corporation, its directors, officers, employees and agents are held free and harmless to the fullest extent permitted by law from any liability, and 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 performance of their functions, without prejudice to any criminal liability under existing laws. (As added by R.A. 9576, 29 April 2009)" (underscore supplied)

Source: Chan Robles Virtual Law Library

Table 6: Statutory Protection of Regulators, Selected Countries

Institutions	Statutory Protection
Financial Services Agency, Bank of Japan, Securities and Exchange Surveillance Commission (Japan)	Article 1 of Government Compensation Law: "Should any public officials of either national or municipal government for the exercise of public authority cause damages to a third party illegally on purpose or by negligence in the performance of their duties, the national or municipal government shall be liable for the damages to the third party. Under the first paragraph, if the officials have acted on purpose or by gross negligence, the national or municipal government may have a claim for the expenses due to the said liability to the said officials."
Prudential Regulation Authority, Bank of England (UK)	Section 88, Part 6 of Financial Services Act 2012: "Neither the investigator appointed under section 84 nor a person appointed to conduct an investigation on the investigator's behalf under section 87(8) is to be liable in damages for anything done or omitted in the discharge, or purported discharge, of functions in relation to the investigation of a complaint."
Federal Reserve System, Securities and Exchange Commission, Federal Deposit Insurance Corporation (US)	28 USC 2680 of Federal Tort Claims Act: "Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused."

Source: World Bank and Bank of England Prudential Regulation Authority

Table 7: Chapter 9, Book I of the Administrative Code of 1987

Section	Stipulation
Section 38. *Liability of Superior Officers.*	"(1) A public officer shall not be civilly liable for acts done in the performance of his official duties, unless there is a clear showing of bad faith, malice or gross negligence. (2) Any public officer who, without just cause, neglects to perform a duty within a period fixed by law or regulation, or within a reasonable period if none is fixed, shall be liable for damages to the private party concerned without prejudice to such other liability as may be prescribed by law. (3) A head of a department or a superior officer shall not be civilly liable for the wrongful acts, omissions of duty, negligence, or misfeasance of his subordinates, unless he has actually authorized by written order the specific act or misconduct complained of."
Section 39. *Liability of Subordinate Officers*	"No subordinate officer or employee shall be civilly liable for acts done by him in good faith in the performance of his duties. However, he shall be liable for willful or negligent acts done by him which are contrary to law, morals, public policy and good customs even if he acted under orders or instructions of his superiors."

Source: Chan Robles Virtual Law Library

Table 8: Bank Secrecy Law

Republic Act	Stipulation
Section 2 of RA 1405 or the Secrecy of Bank Deposits Law	"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 <u>an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office,</u> 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." (underscore supplied)
Section 2 of RA 6426 or the Foreign Currency Deposit Act	"Any person, natural or juridical, may in accordance with the provisions of this Act, deposit with such Philippine banks in good standing, as may, upon application, be designated by the Central Bank for the purpose, foreign currencies which are acceptable as part of the international reserve, except those which are required by the Central Bank to be surrendered in accordance with the provisions of Republic Act Numbered two hundred sixty-five."
Section 25, Article IV, RA 7653 or the New Central Bank Act	"The department heads and the examiners of the supervising and/or examining departments are hereby authorized to administer oaths to any director, officer, or employee of any institution under their respective supervision or subject to their examination and to compel the presentation of all books, documents, papers or records necessary in their judgment to ascertain the facts relative to the true condition of any institution as well as the books and records of persons and entities relative to or in connection with the operations, activities or transactions of the institution under examination, <u>subject to the provision of existing laws protecting or safeguarding the secrecy or confidentiality of bank deposits as well as investments of private persons, natural or juridical, in debt instruments issued by the Government</u>." (underscore supplied)

Source: Chan Robles Virtual Law Library and Philippine Daily Inquirer