Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Second Regular Session
EIGHTEENTH CONGRESS

House Resolution No. 1048

Introduced by the Honorable Rodante D. Marcoleta

A RESOLUTION
DIRECTING THE APPROPRIATE COMMITTEES OF THE HOUSE OF REPRESENTATIVES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE PURPOSES THAT "UNIVERSAL" BANKS CURRENTLY PURSUE OR ENGAGE IN, PARTICULARLY ACTIVITIES THAT ARE OUTSIDE THE CORE OF BANKING BUSINESS, THEREBY STIFLING FAIR COMPETITION IN THE INDUSTRY

WHEREAS, the General Banking Act and other pertinent or relevant laws, and their implementing rules and regulations have classified banks operating in the country into three (3) types, namely, (1) commercial banks, (2) thrift banks, and (3) rural and cooperative banks, and are regulated and monitored by the Bangko Sentral ng Pilipinas (BSP);

WHEREAS, commercial banks may be further classified as regular commercial banks and universal banks; thrift banks are broken down into savings and mortgage banks, private development banks, savings and loan associations, and micro-finance thrift banks; while rural and cooperative banks are classified into rural banks and cooperative banks;

WHEREAS, the Bangko Sentral ng Pilipinas (BSP) also oversees and monitors non-banks that are granted quasi-banking functions, i.e., institutions that borrow funds from not more than twenty (20) lenders for the borrower’s account;

WHEREAS, there are banks that have been created by special law or charter, such as the Land Bank of the Philippines (LBP) and the Development Bank of the Philippines (DBP); while governed primarily by their respective charters, are likewise subject to pertinent provisions of the General Banking Act, and hence within the regulatory and oversight powers of the Bangko Sentral ng Pilipinas (BSP);

WHEREAS, foreign banks that have been allowed to set up and operate branches in the country are also being regulated/monitored by the Bangko Sentral ng Pilipinas (BSP);

WHEREAS, in the 1980’s the government effectively allowed commercial banks to engage in activities that are outside the core business of banking, classified as allied or non-allied activities or undertakings;

WHEREAS, these banks were initially designated by law as “commercial banks with expanded authority” but are now commonly referred to by the Monetary Board and people in finance and banking community as “universal banks” or “unibanks”;

WHEREAS, only banks that have met minimum paid-up capital way above that is required for what ordinary banks have applied for, are eventually allowed to have licenses to operate as
universal banks on the assumption that banks with larger resources have more flexibility in dealing with risks attendant to non-core business such that they can mobilize capital to promote growth in certain industries;

WHEREAS, presently twenty-one (21) of the forty-six (46) banks operating in the country have been licensed to act as “universal banks”;

WHEREAS, some universal banks, or through their subsidiaries, are currently engaged in various businesses that are outside the core business of a regular commercial bank such as, thrift banking, trust operatives, leasing and financing, insurance brokering, equity brokering, credit card operations, money remittance, and real estate;

WHEREAS, through the years, “unibanks” have formed or acquired subsidiaries or minority equity holdings in affiliates, to the point that the number of subsidiaries of the top ten (10) universal banks already exceeds three hundred (300) companies, excluding affiliates;

WHEREAS, there is a need to verify whether subsidiaries or affiliates of a parent universal bank have not abused their privilege of obtaining loans or credit accommodations, or whether applicable Directors, Officers, Stockholders and Related Interests (DOSRI) rules are being strictly complied with;

WHEREAS, in view of all the above premises, the need to assess or determine the following becomes even more relevant and urgent:

(a) the market share of each universal bank in particular or specific industry, vis-à-vis the other non-bank players in such industry;

(b) the amount of loans obtained by subsidiaries or affiliates from their parent unibank;

(c) the rules on DOSRI that may have been abused, if any;

(d) the ability of the Bangko Sentral ng Pilipinas (BSP) and other regulators in assessing the existence of fair competition amongst the players in a particular industry or market.

WHEREAS, if majority of the outstanding shares of stocks in a particular debtor-corporation are foreclosed by a unibank due to non-payment of debt, there is also the need to raise the following issues:

(a) What are the present restrictions implemented by the Bangko Sentral ng Pilipinas (BSP) on the authority of the creditor-unibank to name or designate the directors of the said debtor-corporation?

(b) What is the extent of the unibank’s authority to run or operate the said debtor-corporation? And is there a time limit within which the unibank should dispose of such shares and to whom?
(c) Should unibanks involved in a particular business grant loans to competitors knowing that such unibanks could require otherwise confidential business plans and sensitive information to the prejudice of such competitors?

NOW, THEREFORE, BE IT RESOLVED by the House of Representatives to direct the appropriate committees of the House of Representatives to conduct an inquiry, in aid of legislation, to look into: (1) whether or not existing laws on banking encourage or stifle competition; (2) whether the involvement of unibanks in industries outside their domain promotes or hinders the creation of a “level playing field” in said industries; (3) whether amendments to the General Banking Act as amended, and other pertinent laws are self-evident given the economic conditions now obtaining in the country.

ADOPTED,

RODANTE D. MARCOLETA