Republic of the Philippines
Department of Finance
Securities and Exchange Commission

In the Matter of:
TRANSNATIONAL INVESTORS CORPORATION

SEC ADMIN. CASE NO. 12-12-166
FOR: Revocation of Certificate of Incorporation

ENFORCEMENT AND PROSECUTION DEPARTMENT, now known as the Enforcement and Investor Protection Department

Petitioner.

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DECISION

For the consideration of the Commission *En Banc* is the *Petition* dated 13 December 2012 filed by petitioner Enforcement and Prosecution Department (EPD), now the Enforcement and Investor Protection Department (EIPD) of the Commission, praying for the revocation of the Certificate of Incorporation of TRANSNATIONAL INVESTORS CORPORATION (TRANSNATIONAL).[1]

TRANSNATIONAL is a corporation registered with the Commission on 23 June 1992 under SEC Registration No. ASOS2-003944. The primary purpose of TRANSNATIONAL is "to engage in business as a lawfully constituted institution which shall serve as an effective medium for providing <u>*direct lending*</u> with or without security to any person or any business enterprise whether commercial, industrial or agricultural, belonging to any individual, single proprietorship, partnership, corporation or association, without engaging in financing activities under R.A. No. 5980 and pawnbroking as defined in Presidential Decree 114 and Investment House under P.D. 129."[2]

In its Memorandum dated 24 November 2010, the Corporation Finance Department (CFD), now known as the Corporate Governance and Finance Department (CGFD), stated that it sent show cause letters to companies, including TRANSNATIONAL, found to be operating without the requisite Certificate of Authority to Operate as a Lending Company (CA) from the Commission pursuant to R.A. No. 9474 or the Lending Company Regulation Act. The CFD further stated that such companies, including TRANSNATIONAL, have stated in response to the Show Cause Letter of their intention to procure the required CA or have not responded at all. Thus, the CFD endorsed the matter to the EPD for its appropriate action.[3]

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[1] Petition filed on 18 December 2012.
[2] *Id.*, pars. 2 and 3; and Annex "A" (Audited Financial Statement of Transnational filed on 2 June 2012).
[3] *Id.*, par. 5; and Annex "D" (Memorandum of CFD dated 24 November 2010).

On 20 January 2011, the Commission, in its Letter addressed to TRANSNATIONAL, stated that the latter failed to obtain the required CA despite due notice. The Letter further stated that TRANSNATIONAL is directed to secure the required CA otherwise the Commission will be constrained to impose appropriate sanctions, including "revocation of [its] certificate of registration." However, TRANSNATIONAL failed to secure the required CA.[4]

On 11 October 2011, the Commission again issued a Letter addressed to TRANSNATIONAL stating that the latter has not obtained the required CA from the former. In which case, TRANSNATIONAL was again directed to procure the required CA otherwise the Commission will be constrained to revoke its certificate of registration.[5]

On 18 April 2012, the Company Registration and Monitoring Department (CRMD) issued a Certification stating that TRANSNATIONAL has not been issued a CA by the Commission.[6]

Hence, this instant Petition.

On 7 January 2013, the Commission issued a *Summons* ordering TRANSNATIONAL to file its Answer to the Petition within fifteen (15) days from receipt thereof. TRANSNATIONAL was WARNED that, if it fails to file its Answer within such period, a judgment by default may be rendered in favor of the EPD and the reliefs applied for may be granted.

However, instead of filing its Answer within the prescribed period, TRANSNATIONAL filed, on 18 January 2013, a *Motion for Extension of Time to File Answer* (Motion) praying that it be given an additional period of thirty (30) days to file the said Answer.

Before the Petition will be resolved on the merits, procedural issues must first be addressed.

TRANSNATIONAL'S Motion is a prohibited pleading under Section 3-6, Rule III of the 2006 Rules of Procedure (Rules), to wit:

> "**SEC. 3-6. Prohibited Pleadings.** – **<u>The following pleadings</u>** or any submission that is filed or made under a similar guise or title **<u>shall not be allowed</u>**: x x x
>
> e) **<u>Motion for extension of time to file pleadings</u>**, affidavits, or any other submission of similar intent; x x x

[4] *Id.*, pars. 6 and 7; and Annex "E" (Letter of EPD dated 20 January 2011).
[5] *Id.*, pars. 8 and 9; and Annex "G" (Letter of EPD dated 11 October 2011).
[6] *Id.*, par. 11; and Annex "H" (Letter of EPD dated 18 April 2012).

Should one be filed, said prohibited pleadings or submissions shall be AUTOMATICALLY EXPUNGED from the records of the case." (Emphasis Ours)

As can be seen, the Rules provide that a Motion for Extension of Time to file a pleading, such as an Answer, is a prohibited pleading; and, if any such motion is filed, it will be AUTOMATICALLY EXPUNGED from the records of the case. Considering that TRANSNATIONAL failed to file its Answer within the above mentioned prescribed period stated in the Summons, the Commission is constrained to render a judgment based on evidence and records thereof. [7]

The procedural matters having been addressed, the Petition will now be resolved.

A lending company is defined under Section 3(a) of R.A. 9474 as a corporation engaged in granting loans from its own capital funds or from funds sourced from not more than nineteen (19) persons. Further, a lending company is obliged to obtain a CA from the Commission, pursuant to Section 4 of R.A. 9474, to wit:

"Sec. 4. *Form of Organization.* – x x x **No lending company shall conduct business unless granted an authority to operate by the SEC.**" (Emphasis ours)

Rule 3 of the Implementing Rules and Regulations of R.A. 9474 (IRR) likewise provides:

"(a) Form of Organization

A lending company shall be established as a stock corporation.

i. ***Existing Lending Companies* organized as single proprietorships or partnerships shall,** within a period of one (1) year from the effectivity of the Act, organize themselves as a stock corporation with the minimum capitalization prescribed under the Act and **secure a Certificate of Authority to operate a lending company. Otherwise, they shall be disallowed from engaging in the business of granting loans to the public**."

In the case at bar, TRANSNATIONAL is organized as a lending company since its primary purpose is "*to engage in business as a lawfully constituted institution which shall serve as an effective medium for providing direct lending x x x* with or without security to any person or any business enterprise". However, TRANSNATIONAL has not procured the required CA pursuant to Section 3 of R.A. No. 9474 and the IRR despite numerous opportunities to do so.

It should be emphasized that the issuance by the Commission of a primary license is not sufficient for TRANSNATIONAL to operate as a lending company. The law still requires corporations to secure from the Commission a secondary license or a CA to operate as a

[7] Section 3-12, Rule III of the Rules.

lending company. Moreover, Note 7 of the Notes to the Financial Statements[8] clearly show that its operating as a lending company wherein it was specifically disclosed that it has Loans Receivables or interest bearing loans granted to individual borrowers in the amount of Php 18,301,651 for the year 2011.

In which case, the Certificate of Registration of TRANSNATIONAL must be revoked pursuant to Section 6(l)(3) of Presidential Decree No. 902-A for its refusal to comply and defiance of the lawful order of the Commission for failing to procure the required CA as repeated required to do so. In fact, TRANSNATIONAL was warned not once, but twice, by the Commission that if it fails to procure the required CA the Commission will be constrained to impose appropriate sanctions, including "REVOCATION of [its] certificate of registration." TRANSNATIONAL, however, conveniently refused to comply with the lawful order of the Commission by failing to obtain a required CA despite opportunities to do so.

WHEREFORE, premises considered, the instant *Petition* is hereby **GRANTED.** TRANSNATIONAL INVESTORS CORPORATION's Certificate of Incorporation bearing SEC Registration No. ASOS2-003944 is hereby **REVOKED** pursuant to Section 6(l)(3) of Presidential Decree No. 902-A for failing to comply with the lawful order of the Commission.

Let a copy of this Order be furnished the Company Registration and Monitoring Department, the Enforcement and Investor Protection Department (formerly the Enforcement and Prosecution Department), the Corporate Governance and Finance Department (formerly the Corporation Finance Department), and the Economic Research and Information Department for their information and appropriate action.

SO ORDERED.

Pasay City, 5 January 2017

TERESITA J. HERBOSA
Chairperson

ANTONIETA F. IBE
Commissioner

EPHYRO LUIS B. AMATONG*
Commissioner

BLAS JAMES G. VITERBO
Commissioner

EMILIO B. AQUINO
Commissioner

*On Leave

[8] Note 2, *supra.*