



DOING BUSINESS IN THE PHILIPPINES

2024



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2024

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MESSAGE FROM ECCP PRESIDENT

The European Chamber of Commerce of the Philippines (ECCP) is pleased to announce the release of the latest edition of its annual Doing Business in the Philippines Guidebook. Widely acknowledged as an invaluable resource for businesses, this comprehensive publication serves as an essential reference tool. Its primary aim is to provide potential and current investors with an in-depth understanding of the Philippine business landscape, covering relevant laws and procedures. Through this initiative, the guidebook strives to empower businesses, enabling them to make well-informed investment decisions and capitalize on the vast potential offered by the Philippines.

As of writing time, the Department of Trade and Industry has reported a significant milestone – surpassing the Php1 trillion mark in investment approvals from January to October 2023. This represents an impressive 86-percent growth compared to the corresponding period last year. The Chamber welcomes these remarkable achievements, particularly highlighting the substantial share from European countries.

The ECCP endeavors to attract more investors, especially in light of the current administration’s proactive investment promotion campaign, policy reforms aimed at opening up the Philippine market, solid macroeconomic fundamentals, and the country’s promising growth prospects. Additionally, notable developments include the extension of the EU GSP+ for another four years, along with progress in the scoping exercise for the EU-Philippines Free Trade Agreement. While acknowledging these substantial strides, the ECCP remains steadfast in its commitment to fostering increased foreign direct investments in the Philippines.

Drawing inspiration from the Philippines Department of Trade and Industry’s tagline, the ECCP aspires to “make it happen in the Philippines.” A close and collaborative effort among stakeholders will be imperative to further facilitate a conducive business environment and encourage sustainable economic growth.

Mr. Paulo Duarte
ECCP President
Bosch Philippines Managing Director



MESSAGE FROM DIVINALAW

I begin this message with a grateful heart for our partners in the European Chamber of Commerce of the Philippines (ECCP) for collaborating again with DivinaLaw in allowing us to contribute to the latest edition of their Doing Business in the Philippines booklet.

To produce a collaborative work the second consecutive time could only mean the previous publication – 2023 Doing Business in the Philippines was able to serve its purpose, reach its audience, and guide its readers.

To partner again with ECCP in producing materials like this complements DivinaLaw’s ardent commitment to providing and improving legal awareness. The Firm’s mindset has always been not to merely inform the laws, but to educate, strategize, and improve the legal and economic landscape in the Philippines.

Over the years, DivinaLaw widened its practice to cover not just general practice areas in litigation and corporate law, but also special practice areas in e-commerce, technology, intellectual property, energy, financial technology, and data privacy, among others.

Becoming a full-service law firm allowed DivinaLaw to represent a wide clientele including leading companies in energy, banking and finance, entertainment, telecommunications, manufacturing, retail, power, education, health care and insurance, realty, property development, and technology.

The ability to address modern-day legal problems allowed DivinaLaw to be one of the leading law firms in the country and a multi-awarded law firm by international organizations. In addition, the ability to advocate and practice dynamic lawyering, which involves delivering prompt, proactive, and results-oriented service, allowed the Firm to distinguish itself from other traditional law firms.

This collaborative work is one of the Firm’s efforts to share both knowledge and experience with its clients, the legal community, and the general public. It begins with a reader-friendly summary of the steps in setting up a business in the Philippines. Followed by legal updates on investments, foreign exchange controls, taxation, general reportorial requirements, labor and employment, immigration, and Competition Law.

This publication also discusses the specific regulations in the relevant industries of renewable energy, financial technology, and telecommunications – all of which certainly make the publication more valuable. Readers will realize the importance of facilitating the ease of doing business and improving the business climates for these key industries. With a less stringent regulatory framework, companies in these key industries can certainly drive the Philippines’ economy to greater heights.

We hope that this collaborative publication will reach a wider audience both from the public and private sectors, and further attract foreign investors. Promoting foreign investment will generate more jobs for Filipinos and contribute to sustainable economic growth, global competitiveness, and technological advancement.

Thank you and God bless.

Atty. Nilo T. Divina
DivinaLaw Managing Partner



MESSAGE FROM DELEGATION OF THE EUROPEAN UNION TO THE PHILIPPINES

It is my great pleasure to congratulate the European Chamber of Commerce of the Philippines (ECCP) for the publication of the ECCP Doing Business in the Philippines Guidebook 2024 edition.

This guidebook comes at a crucial moment as the Philippines accelerates its programmes and initiatives to attract more investments and businesses into the Philippines. Right now, the country is among the fastest growing economies in the region. It is on track to achieve upper-middle income economy status in the next years. The Philippine Development Plan (2023-2028) has among its priorities good governance, cutting red tape, speeding up the authorization processes for strategic investments. These intended reforms will make the Philippines a more attractive trade and investment destination.

The EU and the Philippines have entered a new era in their bilateral relations. In July 2023, European Commission President Ursula von der Leyen visited the country. This is the very first official visit of a European Commission President in the Philippines. President Marcos and President von der Leyen agreed to advance areas of mutual interests including trade and investment. Following this historic visit, the EU and the Philippines have started talks in order to assess whether a successful negotiation of a bilateral free trade agreement would be feasible. If both sides come to a positive conclusion, we would open a new chapter, creating new opportunities for trade and investment between the EU and the Philippines with a significant potential in terms of jobs and growth. In the meantime, while we are still conducting our joint stocktaking and while such an agreement would still have to be negotiated, the Philippines will - there is another piece of good news- continue to benefit from the EU GSP+ preferential trade regime at least until 2027.

In terms of cooperation that will be to the benefit of business and the economy, the EU is rolling out its Global Gateway programme. Global Gateway is the European strategy to boost smart, clean, and secure connections in digital, energy and transport sectors, and to strengthen health, education and research systems across the world. Under the umbrella of Global Gateway, the EU and the Philippines recently signed the EUR 60 million Green Economy Programme. The Green Economy Programme aims to support the Philippines in areas such as circular economy, renewable energy, and climate change mitigation.

Quoting from the keynote address of President von der Leyen during her visit, "The Philippines and the European Union may stand at the opposite sides of the world, but we have strong economic ties. Europe wants to be a trusted partner to the Philippines as it grows into its economic potential. We want to be partners who stand eye to eye."

It is my hope that this publication reaches more European investors and traders and paves the way to build business partnerships built on common values of trust and integrity.

H.E. Luc Véron
Ambassador Extraordinary and Plenipotentiary
Delegation of the European Union to the Philippines



MESSAGE FROM THE DEPARTMENT OF TRADE AND INDUSTRY

On behalf of the Department of Trade and Industry (DTI), I extend my wholehearted support to the European Chamber of Commerce of the Philippines (ECCP) for the publication of the "Doing Business in the Philippines 2024 Guidebook." As we approach the culmination of yet another year of robust economic growth and expansion, this comprehensive guide from ECCP stands as a testament to our steadfast commitment to fostering a conducive business environment in the Philippines.

As the Department navigates the intricate landscape of encouraging foreign investments in the country, we are confident that ECCP will continue to be our partner in the European business landscape. The "Doing Business in the Philippines 2024 Guidebook," was meticulously crafted to serve as a beacon for both local and international entrepreneurs. It encapsulates the valuable information essential for making informed investment decisions.

In our continued pursuit of economic resilience and sustainability, this guidebook is a pivotal resource, empowering foreign businesses to thrive in the vibrant and diverse Philippine market. Through this, we are one step closer to our collective effort to propel the nation towards progress and prosperity.

As we celebrate the festive season and anticipate the new year's opportunities, I encourage all stakeholders, investors, and business enthusiasts to utilize this guidebook as a compass for success. For the part of the DTI, we will remain committed to providing unwavering support for our foreign investors and creating an environment conducive to innovation and growth.

Together, the government and the private sector can be a source of inspiration and guidance for all those embarking on business ventures in the Philippines. I look forward to our continued partnership as we work together to advance the business economy of a Bagong Pilipinas into greater heights.





Hon. Alfredo Pascual
DTI Secretary

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To know more about Business Services, you may inquire to catherine.lee@eccp.com and business.associate@eccp.com.



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ABOUT THE ECCCP



The European Chamber of Commerce of the Philippines (ECCCP) is a service-oriented organization whose main goal is to foster close economic ties and business relations between the Philippines and Europe. The ECCCP does this by providing a wide range of business consultancy services and creating linkages between companies, organizations, and individuals with existing or potential business interests in Europe and the Philippines. It is also at the forefront of pro-business, pro-growth advocacy in the Philippines, representing European business interests for increased market access and trade facilitation at the highest level of Philippine political discussions.

The ECCCP sees itself as the stepping stone for Europeans into the Philippine market and for Filipinos into the European market.

WHAT WE PROVIDE

As a membership organization, the ECCCP is proud to have over 700 members amongst its ranks. The chamber provides a wide variety of services to its member companies, individuals and organizations and strives to make its members' viewpoint heard on economic and business issues, legislative measures and administrative regulations. The ECCCP identifies business opportunities, facilitates business contacts, and provides market intelligence research for European and Philippine companies alike. The ECCCP keeps its members informed through its digital channels, publications, and e-newsletters.

Through its strong relationship with partners in government, the ECCCP is able to support its member companies by facilitating market access and ensuring a level playing field for both European and Filipino companies alike. The ECCCP's 23 sector committees regularly meet to discuss issues and actionable solutions, which are then elevated to the government through a series of advocacy tools which include letters to members of the government, drafting of bills, creation of position papers on proposed reforms or current issues, and a collection of Advocacy Papers published every year. ECCP positions cover crosscutting issues and sector specific position papers, listing key recommendations on actions needed to support market access for European businesses and enable long term economic welfare for the Philippines.

The ECCCP promotes trade and investments between Europe and the Philippines by providing a wide range of information, import assistance counseling on the local business environment, and advice on how to invest in the Philippines. The ECCCP also offers business advisory services, market/feasibility studies, and other market entry requirements of newcomers to the Philippines market.

Visiting or exhibiting in international trade fairs is one of the most effective market entry measures. The ECCCP, as an international trade fair information center, provides extensive services to exhibitors and visitors of European and Asian trade fairs. The ECCCP also represents some of the leading European fairs in fashion and textiles, consumer goods, electronics, information technologies, industrial goods, building materials, and food. The ECCCP endorses and co-organizes Philippine trade fairs and shows which are of interest to European exhibitors.

One of the objectives of the ECCCP is to strengthen commercial and investment relations to the benefit of companies in Europe and the Philippines. Special programs have been developed to identify partners in technology, production, subcontracting, distribution or joint venture opportunities in both markets. Counseling and linkages to support facilities form part of our services alongside market intelligence and research services.



ABOUT DIVINALAW



DIVINALAW
Dynamic Lawyering

For 18 years, DivinaLaw has championed dynamic lawyering—becoming an institution recognized by its peers, respected by its competition, and cherished and relied upon by its clients. It is a full-service law firm in the Philippines that provides prompt, proactive, and results-oriented service to ensure client satisfaction.

The Firm offers depth and range in experience and resources while fostering a professional and collaborative work ethic.

Litigation, Corporate & Special Projects, Labor, Arbitration & Alternative Dispute Resolution, Energy, Tax & Estate Planning, Intellectual Property, Immigration & Naturalization, E-Commerce & Technology, Risk & Crisis Management, and Legal Education, Legislative Advocacy & Policy Reform are the Firm's 11 major practice areas.

As a testament to its unparalleled commitment to legal excellence, the Firm has consistently been recognized as a leading law firm in the Philippines. The Asia Business Law Journal has named DivinaLaw as an award-winning firm in the categories of *Banking and Finance (2019, 2020, 2021)*, *Corporate and Commercial (2019, 2020)*, *Litigation (2020, 2021, 2022)*, *Private Equity and Venture Capital (2019, 2020)*, *Restructuring and Insolvency (2019, 2021, 2022)*, *Data Compliance (2022)* and *Insurance and Reinsurance (2022)*.

DivinaLaw has won as *Banking and Financial Services Law Firm of the Year (2023)*, *Fintech Law Firm of the Year (2023)*, *Arbitration Law Firm of the Year (2022)*, *Data Privacy and Protection Law Firm of the Year (2022)*, *Immigration Law Firm of the Year (2018)*, and *Labor and Employment Law Firm of the Year (2016)* in the *Asian Legal Business (ALB) Philippine Law Awards*.

Atty. Nilo T. Divina was conferred the *Stevie Gold Award for (Legal) Executive of the Year (2022)* in the International Business Awards and the *Managing Partner of the Year (2021)* award in the ALB Philippine Law Awards for his visionary leadership and indubitable contribution to the legal profession.

Likewise, the Firm is ranked among the best in the region, having been honored as finalist for the *SE Asia Law Firm of the Year* category of *ALB Southeast Asia Law Awards (2018, 2019)*. The Firm was also a finalist for *Matrimonial and Family Law Firm of the Year (2023)*, *Tax and Trusts Law Firm of the Year (2019)*, and *Regional Litigation Law Firm of the Year (2017, 2018, 2019)*.

To further strengthen the Firm's corporate, commercial, and arbitration-related services, the Firm has maintained a strong partnership with 13 local law firms in key locations throughout the Philippines.

DivinaLaw is the sole Philippine member of Lawyers Associated Worldwide (LAW), a top-rated international association of over 100 independent law firms from more than 50 countries. It is also the sole Philippine member of Legalink, a leading international association of independent law firms.



Dean Nilo Divina's newest venture is a partnership with veteran chef duo Nicco Santos and Quenee Vilar. Named after Dean Divina's mother, Café Aurora is a spirited bistro that pays homage to robust Asian flavors and heartwarming homestyle classics.

Café Aurora is a toast to people, passion, and the people you share it with. Make yourself at home—you're in good hands here.



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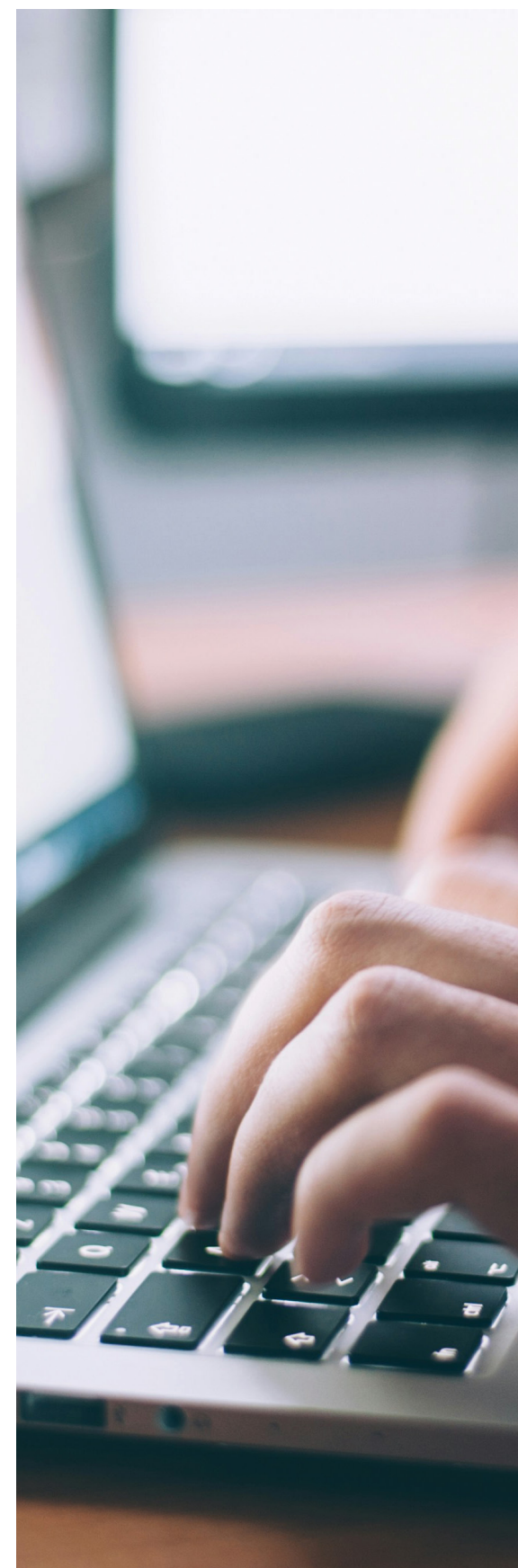
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THE PHILIPPINES

KEY COUNTRY FACTS: Divided into 3 island groups - Luzon, Visayas, and Mindanao - and with 17 regions, the Philippines is a country with rich history, diverse culture and natural resources

GOVERNMENT: A republic with a presidential form of government wherein power is equally divided among its three branches: executive, legislative, judicial

CAPITAL: Manila

CURRENCY: Philippine Peso (PHP)

LANGUAGES: Tagalog (39.9%)¹, Bisaya (16%)², English (47%)³

RELIGIONS: Roman Catholic (78.8%), Islam (6.4%)⁴

POPULATION: 109,035,343 as of May 1, 2020⁵

MEDIAN AGE: 25.3 years old⁶

KEY EXPORTS INDUSTRY: Manufactured goods, mineral products, agro-based products as of September 2023⁷

The Philippines has been considered one of the most competitive economies in the East Asia Pacific region. From having an average annual growth of 4.5% between 2000-2009 to attributing a 6.4% yearly growth between 2010-2019.



As part of its post-pandemic recovery efforts, the 3rd quarter of the 2023 GDP growth rate has reached 5.9% from its 4.3% growth rate in the 2nd quarter of the same year.⁸

Driven by public investment and a recovery in the external environment, the country was still able to achieve a 3.7% year-on-year expansion in the first half of 2021 amidst the recovery from Covid-19. With continued efforts from both the government and its citizens, the country is starting to get back on track from being a lower-middle-income country with a gross national income per capita of \$3,430 in 2020 to an upper middle-income country having a per capita income range of \$4,096-\$12,695 in the short term. As of 2021, the income per capita increased to \$3,640.

Philippine Statistics Authority (PSA) reported that the total Foreign Investments received by the Philippines in the 3rd quarter of 2023 was recorded at PhP 27.30 billion, an increase of 109.3 percent from the PhP 13.05 billion total FI in the same quarter of 2022.⁹ These were driven by

8 "National Accounts of the Philippines, Philippine Statistics Authority, Republic of the Philippines," November 9, 2023, <https://psa.gov.ph/statistics/national-accounts>.

9 Approved Foreign Investments Reached PhP 27.30

investments from Singapore which accounted for 47.8%, followed by Taiwan at 13.3% and the United Kingdom at 11.2%.¹⁰ These investments were mostly allocated to the Manufacturing industry which received PhP 16.43 billion or 60.2% of the total Foreign Investments; Administrative and support service activities with PhP 4.28 billion or 15.7% share, and Real estate activities with PhP 4.22 billion or 15.5% share.¹¹

As of September 2023, the Asian Development Outlook (ADO) projected the Philippine economy to grow at 5.7% this year.¹² According to the same ADB report, the 2024 gross domestic product (GDP) forecast is maintained at 6.2%, with household consumption and public spending on infrastructure and social services seen as contributing to the economy's expansion.¹³

According to the preliminary findings of the International Monetary Fund (IMF) mission team, led by IMF Mission Chief Shanaka Jaayanath Peiris, the Philippines is expected to post a growth rate of 6% in 2024, driven by the expected upswing in government spending and improved demand for Philippine exports; however, the IMF recently revised its findings on the country's 2023 growth forecast to 5.3% due to the deceleration of the national economy to 4.3% during the second quarter of 2023.¹⁴ Despite this setback, the Philippines remains one of the fastest growing economies in the region regardless of the slower growth forecast, as noted by Finance Secretary Benjamin E. Diokno.¹⁵

In connection with the Philippines' post-pandemic efforts, the country's renewed focus on Public-Private Partnerships (PPP) was also praised by the IMF. The country's PPP is further strengthened through the recently approved PPP Code to drive

Billion in the Third Quarter of 2023". Philippine Statistics Authority

10 *ibid.*

11 *ibid.*

12 "Consumer Spending, Public Investment to Support Philippine Economic Growth in 2023, 2024 - ADB," Asian Development Bank, September 20, 2023, <https://www.adb.org/news/consumer-spending-public-investment-support-philippine-economic-growth-2023-2024-ADB>.

13 *ibid.*

14 Katrina Lo, "IMF Lauds Strong Ph Post-Pandemic Recovery, Growth Initiatives," Department of Finance, October 5, 2023, <https://www.dof.gov.ph/imf-lauds-strong-ph-post-pandemic-recovery-growth-initiatives/>.

15 *ibid.*

quality infrastructure development. In addition to the findings, the IMF likewise expects a reduction in the country's current account deficit from 4.5 percent of GDP in 2022 to 3.0 percent in 2023 and 2.6 percent in 2024.¹⁶ This is about the bolstered electronics and service exports along with reduced commodity prices.

In this regard, according to the Department of Finance (DOF), the IMF commended the government's first-ever Medium-Term Fiscal Framework (MTFF), acknowledging stronger revenue performance and lower current expenditures.¹⁷ The IMF deemed appropriate the Philippines' pace on fiscal consolidation in bringing the national government debt-to-GDP below sixty percent in the medium term. As stated by Secretary Diokno, the DOF agrees with the recommendations of the IMF for a more ambitious revenue mobilization strategy to generate additional resources that can be utilized for social spending.¹⁸ Thus, expenditure forms, such as the Budget Modernization Bill, were deemed imperative.



16 Lo, "IMF Lauds Strong Ph Post-Pandemic Recovery, Growth Initiatives."

17 *ibid.*

18 *ibid.*

Government efforts were also placed to encourage doing business in the Philippines. RA 11032, or the “Ease of Doing Business and Efficient Government Service Delivery Act of 2018” aims to strengthen and promote efficiency and simplicity in business and government processes through digitalization within the ICT industry. Additionally, the country’s Comprehensive Tax Reform Program promotes a just taxation system, it allows easier market penetration and the establishment of businesses with a sustainable flow of revenue. This would allow businesses to channel their resources to make meaningful investments in people and infrastructure. In line with the post-pandemic recovery of the country, the Philippines recently entered the Regional Comprehensive Economic Partnership (RCEP) in June this year. The RCEP Agreement has been entered into force in January 2022, which includes the ten ASEAN member states, Australia, China, Japan, Korea and New Zealand.¹⁹ RCEP is an ASEAN-led initiative that creates the world’s largest free trade area in terms of the Parties’ combined gross domestic product (GDP), which is almost a third of the world’s GDP, and the market size as the Parties’ combined population accounts for almost one-third of the world’s population.²⁰ This is a big step for all the Signatory Parties of the agreement seeing that it promotes regional market integration that is inclusive, free, open, and most importantly, is in support of a rules-based multilateral trading system.²¹

Currently with a combined GDP of US\$3.2 trillion, the Southeast Asian region is expected to have the world’s fourth-largest economy by 2040 with a projected compound annual growth rate of four percent between 2023 and 2040 as reported by the ASEAN Briefing.²² The growth of this region can boost opportunities for local and foreign businesses in a variety of sectors ranging from

green energy, infrastructure, and healthcare.²³ In the region, IMF reports that the Philippines is one of the world’s fastest growing emerging markets with robust business activities taking place in an array of sectors.²⁴ The country’s strength lies in strong consumer demand as it is supported by a dynamic labor market and overseas remittances attributed to growing urbanization, expansion of the middle class and a vast, young population. It is also home to a huge consumer base of over 110 million people in a rapidly growing economy expected to reach upper-middle income status by 2025.²⁵

In brief, the post-pandemic efforts of the Philippine government have been significant this year – from being lauded by the IMF on the country’s renewed focus to Public-Private Partnerships (PPP), a projected growth rate of 5.3% in 2024, and the recently signed RCEP Agreement which will open a broader market access in the region, specifically Micro, Small, and Medium Enterprises (MSMEs) which could lead to increased competitiveness and productivity. As one of the fastest growing economies in the region, the Philippines has great potential to do business in the upcoming years, especially with its rich natural resources and largely untapped markets. However, there is still considerable work to be done to strengthen the country’s global competitiveness. To push the Philippine economy to new heights, it is critical to strengthen and promote these efforts to enhance business and government procedures, as well as to grow the Philippine manufacturing sector, expand ASEAN integration, and improve trade facilitation.

19 “RCEP Agreement Enters into Force for Philippines,” Association of Southeast East Asian Nations, accessed November 15, 2023, <https://asean.org/rcep-agreement-enters-into-force-for-philippines/>.

20 *ibid.*

21 “RCEP Agreement,” ASEAN, accessed November 15, 2023.

22 Ayman Falak Medina, “Australia Unveils Southeast Asia Economic Strategy to 2040,” ASEAN Business News, September 25, 2023, <https://www.aseanbriefing.com/news/australia-unveils-southeast-asia-economic-strategy-to-2040/>.

23 James Fox, “Industries to Watch out for Growth in Southeast Asia in 2023,” ASEAN Business News, May 9, 2023, <https://www.aseanbriefing.com/news/industries-to-watch-out-for-growth-in-southeast-asia-in-2023/>.

24 “IMF Staff Concludes Visit to the Philippines,” IMF, May 12, 2023, <https://www.imf.org/en/News/Articles/2023/05/12/pr23148-philippines-imf-staff-concludes-visit>.

25 Arsenio Balisacan, “Infrastructure Development and Investment Climate in the Philippine Socioeconomic Agenda”, National Economic and Development Authority, July 13, 2023, <https://www.bsp.gov.ph/Pages/iro-macro-pres/NEDA.pdf>

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SETTING UP YOUR BUSINESS IN THE PHILIPPINES



1

Reserve the name of the company with the Securities and Exchange Commission (SEC).



2

Prepare the Articles of Incorporation and By-Laws of the company to be set up.



3

Apply for registration before the Securities and Exchange Commission (SEC) via the Electronic Simplified Processing of Application for Registration of Company (eSPARC).



4

Once evaluated and approved by the SEC, pay for the registration fees and submit the notarized copies of the Articles of Incorporation and By-Laws to the SEC.¹



5

Once advised by the SEC that the original Certificate of Incorporation is available, the stock and transfer book (wherein the initial shareholdings should be recorded) may be obtained at the same time from the SEC.



6

Obtain barangay clearance. To obtain the barangay clearance, the following are generally required to be submitted (as these may differ from barangay to barangay): application form, SEC Certificate of Incorporation and approved Articles of Incorporation and By-laws, location plan/site map, and the lease agreement for the company's office.



7

Obtain a business permit from the local government unit (LGU). This entails filing the necessary application form, payment of local taxes, permits (e.g., sanitary permits and fire permits), and other fees. The amount of fees and taxes varies per LGU and depends on the nature of the business.



8

With the Bureau of Internal Revenue (BIR): (a) apply for a Tax Identification Number (TIN) and Certificate of Registration (COR), (b) apply for authority to print receipts and/or invoices, and (c) register books of account.



9

Register your company and employees with the following agencies:

- Social Security System (SSS)
- Philippine Health Insurance Company (PhilHealth)
- Home Development Mutual Fund (Pag-IBIG)

¹ Upon receipt of the digital Certificate of Incorporation from eSPARC, the applicant will be redirected and allowed to apply for the following online: (1) company's Tax Identification Number, (2) employer numbers from Social Security System, Philippine Health Insurance Company (PhilHealth), and Home Development Mutual Fund (Pag-IBIG Fund), and (3) local government unit registration (in most cities and municipalities) through the Philippine Business Hub.



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I INVESTMENTS



INVESTMENTS

1. LEGAL LANDSCAPE

The Philippines adopted a civil law system established by laws passed by the legislature, with the 1987 Constitution as the fundamental law of the land. Secondary authoritative sources of law are the decisions issued by the Supreme Court, implementing rules and regulations issued by regulatory authorities (such as the Securities & Exchange Commission [SEC], Department of Trade and Industry [DTI], and Philippine Competition Commission [PCC], among others), and the executive orders issued by the Office of the President.

2. DOING BUSINESS IN THE PHILIPPINES

Registration with the SEC or the DTI is required before an entity can do business in the Philippines.

While the Revised Corporation Code does not define the term “doing business”, Republic Act No. 7042, as amended, otherwise known as the Foreign Investments Act of 1991 (FIA) enumerates certain activities that are deemed to constitute “doing business” in the Philippines:

- a. Soliciting orders, service contracts;
- b. Opening offices, whether called liaison offices or branches;
- c. Appointing representatives or distributors domiciled in the Philippines or who in any calendar year stay in the country for a period or periods totalling one hundred eighty(180) days or more;
- d. Participating in the management, supervision or control of any domestic business, firm, entity, or corporation in the Philippines; and
- e. Any other act or acts that imply a continuity of commercial dealings or arrangements, and contemplate to that extent the performance of acts or works, or the exercise of some of the functions normally incident to, and in progressive prosecution of, commercial gain, or of the purpose and object of the business organization.

On the other hand, the following activities do not constitute doing business in the Philippines, and, consequently, are not required to obtain a license:

- a. Mere investment as a shareholder by a foreign entity in domestic corporations duly registered to do business, and/or the exercise of rights as such investor;
- b. Having a nominee director or officer to represent its interest in such corporation;
- c. Appointing a representative or distributor domiciled in the Philippines which transacts business in its own name and for its own account;
- d. Publication of a general advertisement through any print or broadcast media;
- e. Maintaining a stock of goods in the Philippines solely for the purpose of having the same processed by another entity in the Philippines;
- f. Consignment by a foreign entity of equipment with a local company to be used in the processing of products for export;
- g. Collecting information in the Philippines; and
- h. Performing services auxiliary to an existing isolated contract of sale which is not continuing, such as installing in the Philippines machinery it has manufactured or exported to the Philippines, servicing the same, training domestic workers to operate it, and similar incidental services.

Further, a foreign entity will not be deemed as doing business in the Philippines for having made an isolated transaction. An “isolated transaction” means a transaction or series of transactions set apart from the common business of a foreign enterprise in the sense that there is no intention to engage in a progressive pursuit of the purpose and object of the business organization.

As a general rule, a foreign corporation transacting business in the Philippines without a license shall not be permitted to maintain or intervene in any action, suit or proceeding in any court or administrative agency of the Philippines; but such corporation may be sued or proceeded against.

However, there are instances when an unlicensed foreign corporation may sue, such as for actions involving isolated transactions, to protect the intellectual property rights of the foreign corporation, or to enforce foreign arbitral awards in its favor pursuant to an arbitration clause in a contract.

3. FOREIGN DIRECT INVESTMENTS

A. Policy and General Rule

The FIA is the primary governing law on foreign investments in the Philippines. The FIA was further amended in 2022 to liberalize restrictions on foreign investments in recognition of the benefits of the increased capital and introduction of new technology, and the effects of global and regional economies in the Philippine economy. The Philippines adopted a policy to attract, promote, and welcome foreign investments as a supplement to Filipino capital and technology.

As a rule, there are no restrictions on foreign investments, except in restricted activities as provided in the Constitution and applicable laws. These restricted activities are outlined in the Foreign Investments Negative List promulgated and updated by the Office of the President.

B. Domestic Market

An enterprise which produces goods for sale or renders service to the domestic market entirely, or if exporting a portion of its output fails to consistently export at least sixty percent (60%) thereof is considered a “domestic market enterprise”.

A Domestic market enterprise may be wholly foreign owned, provided that:

- a. The enterprise does not engage in any restricted activity;
- b. As required by existing laws, the country of state of the foreign investor must also allow Philippine nationals to do business therein; and
- c. The enterprise should have paid-in equity capital of at least Two Hundred US Dollars (US\$200,000.00), provided that a lower paid-in capital of One Hundred Thousand US Dollars (US\$100,000.00) is allowed if the enterprise (1) involves advanced technology

as determined by the Department of Science and Technology (DOST), or (2) is endorsed as a startup or startup enablers by the lead host agencies pursuant to Republic Act No. 11337, otherwise known as the Innovative Startup Act, or (3) has majority Filipino direct employees which, in no case, be less than fifteen (15) Filipino employees. If a domestic market enterprise does not meet the minimum paid-in capital requirement, the foreign equity shall be restricted to forty percent (40%).

C. Export Enterprises

Foreign investments in export enterprises are allowed up to one hundred percent (100%) equity participation, provided that the enterprise does not engage in any restricted activity.

An export enterprise is defined as an enterprise wherein a manufacturer, processor, or service (including tourism) enterprise exports sixty percent (60%) or more of its output, or wherein a trader purchases products domestically and exports sixty percent (60%) or more of such purchases. Foreign export enterprises are required to register with the Bureau of Investments (BOI) and are required to submit reports to ensure continuing compliance with the export requirements.

D. Restricted Activities

a. Notable Developments

In addition to the amendments in the FIA, the Philippines liberalized the foreign equity restrictions on the following:

i. Renewable Energy

In a Department Circular No. 2022-11-0034 signed on 15 November 2022, the Department of Energy (DOE) amended its implementing rules and regulations (IRR) for Republic Act 9513, otherwise known as the “Renewable Energy Law” to allow foreign nationals to engage in the exploration, development, and utilization of the Philippine renewable energy resources, such as solar, wind, biomass, ocean, or tidal energy.

The lifting of the foreign equity restrictions on renewable energy is based on an opinion

issued by the Department of Justice (DOJ) on 29 September 2022. In its opinion, the DOJ explained that the foreign equity restriction imposed by the Constitution on “natural resources” does not cover properties that are not susceptible to appropriation, such as the sun, wind, or the ocean, and the kinetic energy from these sources, as these are inexhaustible. Notwithstanding the DOJ opinion and the DOE Department Circular amending the IRR of the Renewable Energy Law, the foreign equity restriction provided in the Water Code and jurisprudence limiting only to Filipino citizens or entities the appropriation of water, direct from the source, for power generation shall continue to prevail, unless repealed or reversed.

ii. Retail Trade

Republic Act No. 11595 amended Republic Act No. 8762, otherwise known as the Retail Trade Liberalization Act, was enacted on 10 December 2021 to ease the restrictions on foreign retailers.

The amendment reduced the following minimum capital requirements for foreign investors: (1) paid-up capital, which was reduced to Twenty-Five Million Pesos (P25M) from Two Million Five Hundred US Dollars (US\$2.5M); and (2) investment per store requirement, which was reduced to Ten Million Pesos (P10M) from Eight Hundred Thirty Thousand US Dollars (US\$830,000.00).

It also simplified the qualifications required for foreign retailers with the removal of the minimum net worth for its parent corporation, the five-year track record in retailing, and the minimum number of retailing branches or franchises in operation around the world. It also removed the condition for certain retail trade enterprises with foreign equity to do a public listing.

iii. Public Service

Republic Act No. 11659, which amended Commonwealth Act No. 146, otherwise known as the “Public Service Act”, was enacted on 21 March 2022.

The amendment defined the sectors considered as public utilities, and which are subject to the forty percent (40%) foreign equity restriction imposed by the Constitution:

- a. Distribution of electricity;
- b. Transmission of electricity;
- c. Petroleum and petroleum products;
- d. Water pipeline distribution systems and wastewater pipeline systems, including sewerage pipeline systems;
- e. Seaports; and
- f. Public utility vehicles.

Other sectors, which were not identified as public utilities but are considered as public service, are no longer subject to the forty percent (40%) foreign equity restrictions. This includes airlines, subways, tollways, and expressways.

Telecommunications and any other sector identified by the President as critical infrastructure are subject to a fifty percent (50%) foreign equity restriction unless the country of such foreign national accords reciprocity to Philippine nationals.

b. Restricted Activities by Mandate[s] of the Constitution and Specific Laws

List A of the Twelfth Regular Foreign Investment Negative List (12th FINL) issued on 27 June 2022 lists the following activities wherein foreign ownership is limited by mandate of the Constitution and specific laws:

i. No Foreign Equity

1. Mass media, except recording and Internet business
2. Practice of professions, except in cases specifically allowed by law following the prescribed conditions stated therein
3. Retail trade enterprises with paid-up capital of less than P25M
4. Cooperatives, except investments of former natural born citizens of the Philippines
5. Organization and operation of the private detectives, watchmen or security guard agencies
6. Small-scale mining
7. Utilization of marine resources in archipelagic waters, territorial sea and

- exclusive economic zones, as well as small-scale utilization of natural resources in rivers, lakes, bays and lagoons
 - 8. Ownership, operation and management of cockpits
 - 9. Manufacture, repair, stockpiling and/or distribution of nuclear weapons
 - 10. Manufacture, repair, stockpiling and/or distribution of biological, chemical and radiological weapons and anti-personnel mines
 - 11. Manufacture of firecrackers and other pyrotechnic devices
- ii. Up to twenty-five percent (25%) foreign equity**
- 12. Private recruitment, whether for local or overseas employment
 - 13. Contracts for the construction of defense-related structures
- iii. Up to thirty percent (30%) of foreign equity**
- 14. Advertising
- iv. Up to forty percent (40%) of foreign equity**
- 15. Procurement of infrastructure projects
 - 16. Exploration, development and utilization of natural resources
 - 17. Ownership of private lands, except a natural born citizen who has lost his Philippine citizenship and who has the legal capacity to enter into a contract under Philippine laws
 - 18. Operation of public utilities
 - 19. Educational institutions other than those established by religious groups and mission boards, for foreign diplomatic personnel and their dependents, and other foreign temporary residents, or for short-term high-level skills development that do not form part of the formal education system
 - 20. Culture, production, milling, processing, trading except retailing, of rice and corn and acquiring, by barter, purchase or otherwise, rice and corn and the by-products thereof, subject to a period of divestment

- 21. Contracts for the supply of materials, goods and commodities to government-owned or -controlled corporations, company, agency or municipal corporation
- 22. Operation of deep sea commercial fishing vessels
- 23. Ownership of condominium units
- 24. Private radio communications network

c. Restricted Activities for Reasons of Security, Defense, Risk to Health and Morals and Protection to Small and Medium-Scale Enterprises

The 12th FINL lists the following activities as subject to forty percent (40%) foreign equity restrictions:

- 1. Manufacture, repair, storage, and/or distribution of products and/or ingredients requiring Philippine National Police (PNP) clearance:
 - a. Firearms (handguns to shotguns), parts of firearms and ammunition, therefore, instruments or implements used or intended to be used in the manufacture of firearms;
 - b. Gunpowder;
 - c. Dynamite;
 - d. Blasting supplies;
 - e. Ingredients used in making explosives:
 - i. Chlorates of potassium and sodium;
 - ii. Nitrates of ammonium, potassium, sodium barium, copper (11), lead (11), calcium and cuprite;
 - iii. Nitric acid;
 - iv. Nitrocellulose;
 - v. Perchlorates of ammonium, potassium and sodium;
 - vi. Dinitrocellulose;
 - vii. Glycerol;
 - viii. Amorphous phosphorus;
 - ix. Hydrogen peroxide;
 - x. Strontium nitrate powder;
 - xi. Toluene; and
 - f. Telescopic sights, sniper scopes and other similar devices.
- 2. Manufacture and distribution of dangerous drugs

- 3. Sauna and steam bathhouses, massage clinics and other like activities are regulated by law because of risks posed to public health and morals, except wellness centers
- 4. All forms of gambling, except those covered by investment agreements with the Philippine Amusement and Gaming Corporation;
- 5. Micro and small domestic market enterprises with paid-in equity capital of less than the equivalent of US\$200,000
- 6. Micro and small domestic market enterprises: (i) that involve advanced technology as determined by the Department of Science and Technology (DOST); or (ii) are endorsed as startup or startup enablers by the lead host agencies, namely the Department of Trade and Industry, Department of Information and Communications Technology, or DOST, or (iii) with a majority of their direct employees as Filipinos, but in no case shall the number of Filipino employees be less than fifteen (15), with paid-in equity capital of less than the equivalent of US\$100,000

4. BUSINESS VEHICLES

Eight (8) main types of business vehicles may be registered in the Philippines. The business vehicles may be categorized as domestic or foreign:

- a. Domestic Entities.** Subject to the restrictions on foreign direct investments (discussed in Part 3), foreign nationals may organize and register the following business types under and in accordance with Philippine laws:
 - i. Sole Proprietorship:** which is owned by, and registered in favor of, only one (1) individual who must register with DTI. A sole proprietorship does not possess a juridical personality separate and distinct from the personality of the owner of the business.
 - ii. Partnership:** a partnership has its legal personality separate and distinct from that of its partners. A partnership may either be a (1) general partnership, where the partners have unlimited liability for the debts and

obligation of the partnership, or (2) limited partnership, where one or more general partners have unlimited liability and the limited partners have liability only up to the amount of their capital contributions.

iii. One Person Corporation (OPC): The OPC consists of a single stockholder who is also the sole director and president. The single stockholder may likewise be appointed as the treasurer, provided that he submits a bond, renewable every two (2) years to the Securities and Exchange Commission (SEC). The OPC has a separate legal identity from the single stockholder, which allows the businessman to limit his liability in the conduct of his business, and to gain complete control and authority to manage his business affairs without the need to seek consensus and approval from a board of directors or stockholders.

iv. Corporation: A corporation has a legal personality separate and distinct from that of its stockholders. The Philippines recently revised its Corporation Code to ease the requirements to incorporate. Among others, the Revised Corporation Code now (i) allows corporate entities as incorporators, (ii) reduces the number of incorporators to at least two (2) from the previous minimum requirement of five (5) individual incorporators, (iii) allows perpetual corporate term, and (iv) removed the minimum subscribed and paid-up capital requirement.

a. Foreign Corporations. Foreign corporations may likewise seek to register with the SEC and obtain a license to transact as a:

i. Branch office: As an extension of a foreign corporation, the branch office carries out the business activities of the foreign head office. It has no separate legal personality from the foreign head office. Consequently, any liability incurred by the branch is a liability of the head office. Branch offices are considered domestic market enterprises and must meet the minimum capital requirement of

Two Hundred US Dollars (US\$200,000) or One Hundred US Dollars (US\$100,000) as discussed in Part 3B. Additionally, branch offices are required to initially deposit with the SEC for the benefit of present or future creditors, acceptable securities with a market value equivalent to at least Five Hundred Thousand pesos (P500,000.00) plus an annual additional deposit of two percent (2%) of the amount by which the branch office's gross income exceeds Ten Million Pesos (P10,000,000.00).

ii. Representative Office: A foreign corporation may likewise establish a representative office in the Philippines to perform limited activities, such as information dissemination, act as a communication center and promote company products, as well as quality control of products for export. The representative office may not derive any income from the Philippines. The representative office is required to have a minimum inward remittance of Thirty Thousand US Dollars (US\$30,000.00) to cover its operating expenses.

iii. Headquarters: The foreign corporation may also establish either a Regional or Area Headquarters (RHQ) or Regional Operating Headquarters (ROHQ) in the Philippines:

a. RHQ: An RHQ acts as an administrative branch of a foreign company, and shall principally serve as a supervision, communications and coordination center for the foreign company's subsidiaries, branches or affiliates in the Asia-Pacific Region and other foreign markets. As an administrative branch, the RHQ may not earn or derive income in the Philippines. The RHQ is required to have an annual inward remittance of at least Fifty Thousand US Dollars (US\$50,000.00).

b. ROHQ: The ROHQ is allowed to derive income in the Philippines. However, it only performs qualifying services to its affiliates, subsidiaries or branches in the Philippines, in the Asia-Pacific

Region and other foreign markets, particularly:

- i. General administration and planning;
- ii. Business planning and coordination;
- iii. Sourcing/procurement of raw materials and components;
- iv. Corporate finance advisory services;
- v. Marketing control and sales promotion;
- vi. Training and personnel management;
- vii. Logistics services;
- viii. Research and development services, and product development;
- ix. Technical support and maintenance;
- x. Data processing and communication; and
- xi. Business development.

It shall be required to remit into the country such amount as may be necessary to cover its operations in the Philippines, which amount should not be less than Two Hundred Thousand US dollars (US\$200,000.00).

5. MERGERS AND ACQUISITIONS

Foreign parties to merger and acquisition transactions, whether inside or outside of the Philippines, are covered by the merger control rules of the Philippines, if the transaction will have direct, substantial, and reasonable effects on the trade, industry, or commerce in the Philippines.

The merger control rules are governed by Republic Act No. 10667, otherwise known as the Philippine Competition Act (PCA) and the rules and issuances of the Philippine Competition Commission (PCC). An "acquisition" refers to the purchase of securities or assets, through contract or other means, to obtain control by: (i) one (1) entity of the whole or part of another, (ii) two (2) or more entities over another, or (iii) one (1) or more entities over (1) or more entities. On the other hand, "merger" is defined as the joining of two (2) or more entities into an existing entity or to form a new entity,

including joint ventures.

Parties to a merger or acquisition agreement are required to notify the PCC before the execution of the definitive agreements if the following thresholds are reached:

a. Size of Person Test. If the aggregate annual gross revenues in, into or from the Philippines, or the value of the assets in the Philippines of the ultimate parent entity of at least one of the acquired or acquiring entities, including that of all entities that the ultimate parent entity controls, directly or indirectly, exceeds Seven Billion Pesos (P7B); and

b. Size of Transaction Test. The value of the transaction exceeds Two Billion Nine Hundred Million Pesos (P2.9B). The size of the transaction pertains to the value of the assets being acquired and/or gross revenues generated by the assets being acquired, or of the acquired entity and entities it controls, depending on the type of transaction.

Upon submission of the notice, the PCC shall determine within fifteen (15) days whether the notice and relevant documents have been completed in accordance with applicable rules and guidelines and shall inform the parties of other information and/or documents it may have failed to supply, or issue a notice to the parties that the notification is sufficient for purposes of commencing the review of the merger or acquisition.

The PCC conducts a two-phase assessment of a notified merger. The Phase 1 review lasts for a maximum period of thirty (30) days from the complete payment of the filing fees. It involves an assessment to determine if the notified merger raises any competition concerns that would warrant a more detailed review.

If no competition concerns are raised, the merger may be cleared within the period for Phase 1 review. Otherwise, the PCC shall commence a Phase 2 review upon payment of the Phase 2 filing fees which will last for a maximum period of sixty (60) days. This is a more detailed and in-depth assessment of the merger.

At the end of the Phase 1 or 2 review process, the PCC may decide to (i) approve the merger, (ii) prohibit the merger, or (iii) prohibit the merger and citing conditions that it considers appropriate to remedy, mitigate or prevent the restriction or lessening of competition. If no decision is promulgated upon the lapse of the periods of review, the merger shall be deemed approved.

6. INVESTMENT IN A PUBLIC COMPANY

Acquisition of shares of Philippine public companies is subject to mandatory tender offer rules pursuant to Republic Act No. 8799, otherwise known as the Securities Regulation Code (SRC). A "public company" refers to any corporation with a class of equity securities listed in the Philippine Stock Exchange (PSE), or with assets in excess of Fifty Million Pesos (P50,000,000.00) and has two hundred (200) or more holders each holding at least one hundred (100) shares of a class of its equity securities.

Acquisitions of a person or group of persons of fifteen percent (15%) of equity securities in a public company in one or more transactions within a period of twelve (12) months should be declared with the SEC.

A mandatory tender offer is triggered if any person or group of persons acting in concert, in one or more transactions within a period of twelve (12) months, shall:

- (i) acquire thirty-five percent (35%) of the outstanding voting shares or such outstanding voting shares that is sufficient to gain control of the board in a public company, or
- (ii) acquire any shares that would result in ownership of over fifty percent (50%) of the total outstanding equity securities of a public company.

Mergers or consolidations are exempt from the mandatory tender offer requirement.



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II

FOREIGN EXCHANGE CONTROLS

FOREIGN EXCHANGE CONTROLS

The Bangko Sentral ng Pilipinas (BSP) is the government agency which regulates foreign exchange transactions in the Philippines. The regulations of BSP on foreign exchange and related transactions are consolidated in the Manual of Regulations on Foreign Exchange Transactions (FX Manual). The BSP regulates foreign exchange transactions through authorized agent banks (AAB) and subsidiary/affiliate foreign exchange corporations of AABs (AAB Forex Corps).

2. FOREIGN LOANS/BORROWINGS AND GUARANTEES

A. Loans and Borrowings

Prior BSP approval/registration is generally required to allow the borrower to purchase foreign exchange from AAB/AAB Forex Corps to be used as payment for a loan/borrowing.

Foreign currency loans/borrowings⁵ and foreign currency loans from banks operating in the Philippines to be obtained by the public sector, as well as the private sector that will be publicly guaranteed shall, generally, require prior BSP approval.⁶

While prior BSP approval is not required for private sector foreign loans/borrowings that are not publicly guaranteed, registration with the BSP shall still be required if these loans/borrowings will be serviced using foreign exchange resources of AAB/AAB Forex Corps.⁷

Applications for BSP approval/registration of loans shall be filed through the BSP's online system and shall be free of charge.⁸ AABs/AAB Forex Corps may sell foreign exchange for servicing of foreign/foreign currency loans/borrowings upon submission to the selling institution of a duly accomplished and signed application with the applicable supporting documents.⁹

B. Guarantees and Other Similar Arrangements

Guarantees that are related to foreign/foreign currency loans/borrowings which require BSP approval/registration must form part of the loan terms submitted/reported to the BSP (as applicable).¹⁰

1. FOREIGN DIRECT INVESTMENT

Inward foreign investments do not require registration with BSP unless the repatriation of capital and/or the remittance of related earnings in Philippine pesos thereon shall be funded with foreign exchange resources of AAB/AAB Forex Corps (the investee would purchase foreign exchange from AAB/AAB Forex Corps to fund the repatriation of capital or remittance of related earnings).¹ A Bangko Sentral Registration Document (BSRD) will serve as evidence of the BSP registration of these investments.²

The application for registration shall be made within a period of one (1) year.³ The reckoning period for the application and submission of supporting documents depends on the form of investment, e.g., whether the investment is made in cash or in kind. Generally, the application shall be filed within one (1) year from actual funding of inward cash remittances of foreign exchange, and actual transfer to the Philippines for asset funding.

BSP-registered investments shall be entitled to full and immediate repatriation of capital and remittance of related earnings thereon using foreign exchange resources of AABs/AAB Forex Corps.⁴

⁵ arise when a non-resident creditor lends funds (regardless of currency of denomination) directly to a resident debtor, and are evidenced by documents that are not negotiable.

⁶ Section 22.2, FX Manual.

⁷ Section 22.3, FX Manual.

⁸ Section 22.6, FX Manual.

⁹ Section 25.4, FX Manual.

¹⁰ Section 30.3, FX Manual.

¹ Section 32.2, FX Manual.

² Ibid.

³ Section 36.3, FX Manual; Guidelines Covering Inward Investments under Section 36 of the FX Manual (Appendix 10.A of the FX Manual).

⁴ Section 38.1, FX Manual.

Guarantees or similar arrangements that may give rise to foreign obligations of the public sector¹¹ to non-resident agents require prior BSP approval.¹²

On the other hand, the following guarantees for the account of non-residents and private sector residents shall neither require prior BSP approval nor registration: (i) guarantees to be issued by resident banks and non-bank financial institutions with quasi-banking functions; and (ii) guarantees to be issued by non-resident banks/financial institutions as well as other non-resident entities to secure peso loans/foreign currency loans of the private sector from banks operating in the Philippines and non-bank financial institutions with quasi-banking functions. However, these guarantees should be reported to the BSP if the guarantee shall be serviced using the foreign exchange resources of AABs/AAB Forex Corps.¹³

If the guarantee or similar arrangement may give rise to an actual foreign obligation of residents to non-residents, it shall be registered with the BSP to allow servicing of payments related thereto using foreign exchange resources of AAB/AAB Forex Corps.¹⁴

3. OUTWARD INVESTMENTS

Residents may invest in any instrument requiring settlement in foreign exchange without prior BSP approval where such investments are funded with: (a) the investors' own foreign exchange deposited in their foreign currency deposit account/s (whether offshore or onshore); and/or (b) foreign exchange obtained from sources other than AABs/AAB forex corps.¹⁵

Prior BSP approval is also not required for investments up to US\$60 million or its equivalent in other foreign currency per investor per year, or per fund per year, funded with foreign exchange resources of AAB/AAB Forex corporations.¹⁶ Resident investors may purchase foreign

exchange in excess of the US\$60 million annual threshold without prior BSP approval, provided, that the investor shall submit to the BSP a notification at least fifteen (15) banking days after the determination that total foreign exchange requirements will exceed the threshold and present to the foreign exchange selling institution a copy of the notice duly received/acknowledged by the BSP.¹⁷

4. OTHER TRANSACTIONS (TRADE AND NON-TRADE)

A. Trade

a. Import Trade Transactions

AABs/AAB Forex Corps may sell foreign exchange to residents without prior BSP approval to service payments for imports under any of the following arrangements (including those under netting arrangements):¹⁸

- a. Letter of Credit (LC);
- b. Document Against Payment (DP);
- c. Document Against Acceptance (DA);
- d. Open Account (OA);
- e. Direct Remittance;
- f. Advance Payment;
- g. Digital Payment through E-Commerce market participants;
- h. Self-Funded/"No Dollar" Imports;¹⁹
- i. Importations on a consignment basis.²⁰

The purchase of foreign exchange shall be subject to the submission of a duly accomplished *Application to Purchase FX*. Additional documents are required to be submitted if the foreign exchange sale exceeds US\$500,000 for individuals and US\$1,000,000 for corporations/other entities, or its equivalent in other foreign currency per client per day.²¹

b. Export Trade Transactions

Prior BSP approval shall not be required for

payments for exports made under any of the following modes (including those under netting arrangements): LC, DP/Cash against Documents, DA, OA, consignment, export advances, and digital payment through e-commerce market participants.²² Except for: (i) exports to ASEAN countries; and (ii) gold sales to BSP,²³ payments for exports may be made in foreign exchange that are convertible with the BSP as indicated in the BSP Reference Exchange Rate.²⁴

B. Non-Trade

Residents may purchase foreign exchange from AAB/AAB Forex Corps without the need for prior BSP approval to cover non-trade transactions. These include payment for education, medical and travel expenses, and salaries of foreign expatriates. The purchase of foreign exchange shall be subject to the submission of a duly accomplished *Application to Purchase FX*. Additional documents are required to be submitted if the foreign exchange sale exceeds US\$500,000 for individuals and US\$1,000,000 for corporations/other entities, or its equivalent in other foreign currency per client per day.²⁵

¹¹ Includes government-owned and controlled corporations but excludes public sector banks and non-bank financial institutions with quasi-banking functions)

¹² Section 30.1, FX Manual.

¹³ Section 30.2, FX Manual.

¹⁴ Section 30.4, FX Manual.

¹⁵ Section 43.1, FX Manual.

¹⁶ Section 43.2, FX Manual.

¹⁷ Section 43.3, FX Manual.

¹⁸ Section 8, FX Manual.

¹⁹ Section 14.1, FX Manual.

²⁰ Section 14.2, FX Manual.

²¹ Section 6, FX Manual.

²² Section 18.1, FX Manual.

²³ wherein payments shall be made in Philippine Pesos.

²⁴ Section 18.2, FX Manual.

²⁵ Section 2, FX Manual.





TAXATION

TAXATION

LEGAL LANDSCAPE

The Philippine government imposes two types of taxes: national and local tax.

National taxes or internal revenue taxes are governed by Republic Act No. 8424, otherwise known as the "National Internal Revenue Code of 1997", and its amendments (Tax Code). The Bureau of Internal Revenue (BIR), the country's taxing authority, issues circulars to clarify and interpret the Tax Code, and rules and regulations prescribing the guidelines for its implementation. On the other hand, local taxes are levied and collected by Local Government Units (LGUs), such as provinces, cities, municipalities, and barangays. The local taxes are imposed by ordinances issued by the relevant *Sanggunian* of the LGUs.

INTERNAL REVENUE TAX

The Philippines requires all persons subject to any internal revenue tax to register with the BIR and obtain a taxpayer identification number (TIN). The BIR likewise requires registration of an enterprise's books of account, sales invoices, and official receipts.

a. Income Tax

A citizen and a domestic corporation are taxable on all income derived from sources within and outside the Philippines. On the other hand, non-resident citizens, and foreign individuals and corporations, whether or not engaged in trade or business in the Philippines through a branch office, are taxable only for all income sourced within the Philippines.

Normal Income Tax Rate

The Philippines reduced its income tax rates with the enactment of Republic Act No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN Law) on 19 December 2017 and Republic Act No. 11534, otherwise known as Corporate Recovery and Tax Incentives for Enterprises Act (CREATE Act) on 26 March 2021.

The income tax rate in the Philippines depends on the tax status of the income recipient. Generally, the income rates at present are as follows:

Income Recipient	Normal Income tax rate
For Individuals	
Citizens and resident foreign individuals (<i>Nonresident aliens engaged in trade or business within the Philippines are generally subject to the same tax rate</i>)	A graduated tax rate of 0% (for annual income not exceeding P250,000) to 35% of taxable income
Non-resident foreign individuals not engaged in trade or business in the Philippines	25% of gross income
For Corporations	
Domestic corporations and resident foreign corporations	25% on taxable income For domestic corporations with net taxable income not exceeding Five Million pesos (P5,000,000) and total assets not exceeding One Hundred Million (P100,000,000), excluding the land on which the particular business entity's office, plant and equipment are situated, twenty percent (20%) income tax rate will apply
Non-resident foreign corporations	25% of gross income

Branch Profits Remittance Tax

Profits of a Philippine branch, which are remitted to the head office are generally subject to the branch profit remittance tax at the rate of fifteen percent (15%) of the total profits applied or earmarked for remittance without any deduction for the tax component thereof. The fifteen percent (15%) tax will be withheld by the branch and paid to the BIR.

Asset Sale Tax

The tax on the sale of shares of stock in a domestic corporation depends on whether the shares are listed or not. If listed and traded through the local stock exchange, the sale is subject to percentage tax at the rate of six-tenths of one percent (6/10 of 1%) of the gross selling price or gross value in money of the shares of stock. For shares not listed and traded through the local stock exchange, the sale is subject to income tax at the rate of fifteen percent (15%) of the net capital gains realized.

The sale of real estate in the Philippines held as a capital asset is subject to a final income tax of six percent (6%) based on its gross selling price or current fair market value, whichever is higher. If the real estate is held by the seller as an ordinary asset, income thereon shall be subject to the normal income tax rate in the matrix above.

Nevertheless, transfers and sales made pursuant to a reorganization, which includes merger or consolidation, recapitalization, and reincorporation, are not subject to tax, as a general rule. However, the transaction should comply with certain conditions and requirements to avail of the tax exemption. This includes, among others, recording the proper accounting entries in the books of the transacting parties, and annotation of the substituted basis in the title of the transferred property. If after auditing, the BIR determines that the transaction failed to comply with the conditions and requirements, the transaction may be subject to the applicable taxes plus interest and penalties.

Dividends Tax

Intercorporate dividends paid or distributed by a domestic corporation to another domestic corporation or resident foreign corporation are not subject to income tax. However, cash and/or

property dividends paid by domestic corporations to non-resident foreign corporations are generally subject to a final withholding tax of twenty-five percent (25%). A final withholding tax of fifteen percent (15%) may be imposed on the cash and/or property dividends received from a domestic corporation by a non-resident foreign corporation, subject to the condition that the country in which the non-resident foreign corporation is domiciled shall allow a credit against the tax due from the nonresident foreign corporation taxes deemed to have been paid in the Philippines equivalent to fifteen percent (15%).

On the other hand, dividends from domestic corporations received by citizens and residents of the Philippines are subject to a final tax of ten percent (10%) of the amount of dividends received. Dividends are subject to twenty percent (20%) final tax if received by non-resident foreign individuals engaged in trade or business within the Philippines, and twenty-five percent (25%) if the non-resident foreign individual is not engaged in trade or business in the Philippines.

b. Withholding Taxes

Registered taxpayers may be appointed as withholding tax agents for income received by certain payees. This includes withholding tax on compensation received by employees. The rate depends on the taxable income of each employee which could go up to thirty-five percent (35%) maximum rate.

Other withholding taxes may be applicable depending on the nature of the transaction and the payee. Withholding tax rates vary from one percent (1%) to fifteen percent (15%) of the payment. The withholding agent's remittance of the withholding tax to the BIR is required before the related expense may be claimed as allowable deductions for purposes of computing the income tax.

c. Value added tax (VAT)

Twelve percent (12%) VAT

VAT is generally imposed on the sale of goods and services, barter or exchange of goods or properties, as well as importation in the Philippines. Generally, VAT is at twelve percent

(12%) of the gross selling price or gross value in money of the goods or properties sold, or the gross receipts derived from the sale of services, including the lease of properties. For imported goods, VAT is imposed on the total value used by the Bureau of Customs (BOC) in determining tariff and customs duties, plus customs duties, excise taxes, if any, and other charges, provided that where the customs duties are determined based on the quantity or volume of the goods, VAT is based on the landed cost plus excise taxes, if any.

A VAT taxpayer may use the VAT on its purchases (Input VAT) as a credit against its VAT on the sale of its goods and services (Output VAT).

However, if the taxpayer's gross annual sales and/or receipts from sales or lease of goods or properties, or the performance of service do not exceed P3,000,000.00 in a taxable year, such taxpayer may opt to register as a non-VAT taxpayer, and be subject to percentage tax of three percent (3%) of its gross sales and/or receipts, instead of VAT.

Zero-rated VAT

Certain transactions are subject to zero percent (0%) VAT, in which case, the taxpayer is entitled to a refund of unused Input VAT paid on purchases related to the zero-rated transaction. Among others, zero-rated VAT transactions include (i) sales of goods for export, (ii) sales of goods and services for registered enterprises within a separate customs territory under special laws, and registered enterprises within tourism enterprise ecozones; (iii) sale of services to persons engaged in international shipping or international air transport operations, (iv) transport of passengers and cargo by domestic air or sea vessels from the Philippines to foreign country, and (v) sale of power or fuel generated through renewable sources of energy.

VAT Exempt

Sales may also be exempt from VAT. In such a case, the seller does not impose VAT on the sale and cannot claim a refund for the Input VAT related to its VAT-exempt sales. The seller may likewise not use the input VAT as a credit against its Output VAT.

VAT exempt transactions include, among others, (i) the sale or importation of agricultural and marine food products in their original state, (ii) the sale or importation of fertilizers, the sale of drugs and medicines prescribed for diabetes, high cholesterol and hypertension, (iii) transfer of property pursuant to a reorganization plan, (iv) importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations, and (v) sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business, sale of real property utilized for socialized housing, sale of house and lot, and other residential dwellings with selling price of not more than Two Million Pesos (P2,000,000.00).

d. Tax Incentives

The Philippines offers tax incentives to encourage and promote certain activities and sectors. Enterprises should register with either the Board of Investments, Philippine Economic Zone Authority, Subic Bay Metropolitan Authority, Clark Development Corporation, and other Investment Promotion Agencies (IPAs) to avail of the tax incentives.

The preferred areas and activities usually cover but are not limited to engaging in manufacturing, assembling, or processing activity, and services such as information technology activities and business process outsourcing, and those identified in the Strategic Investment Priority Plan as approved by the President of the Philippines. The incentives given to the registered business enterprise depend on the activities of such enterprise. Businesses that may be granted a longer period of tax incentive include those that are engaged in research and development resulting in breakthroughs in science and health and high-paying jobs, generation of new knowledge and intellectual property registered and/or licensed in the Philippines, or those which are critical to the structural transformation of the economy and require substantial catch-up efforts.

The tax incentives offered by the Philippines usually include income tax holiday (ITH),

special corporate income tax (SCIT) at the rate of five percent (5%) based on gross income earned in lieu of all national and local taxes, enhanced deductions in addition to the ordinary and necessary deductions, customs duty exemption on certain importations, VAT exemption on importation and VAT zero-rating on local purchases with respect to goods and services directly and exclusively used in the registered project or activity of export enterprises. Businesses located outside the National Capital Region of the Philippines are granted a longer period of ITH incentive and businesses engaged in export enterprise activities are granted a longer period of SCIT incentive.

e. Tax Treaty

Generally, non-resident foreign corporations and individuals are subject to an income tax of twenty-five percent (25%) of the gross income. However, certain income generated from the Philippines may be subject to preferential tax rates pursuant to tax treaties entered by the Philippines with other tax jurisdictions. Double taxation treaties usually cover income on business profits, royalties, dividends, and interest.

To avail of the preferential tax treaty rate, income payors from the Philippines may apply for a request for confirmation with the BIR. If, however, the income payor did not impose the preferential tax rate, the foreign recipient may apply for a tax treaty relief application to obtain a tax refund. The BIR shall issue a Certificate of Entitlement to Treaty Benefit (COEs) to confirm the application of the preferential tax rate or to approve the tax refund.

For recurring transactions, the BIR may issue a COE that contains a proviso stating that the same ruling shall apply to future or subsequent income payments to the same non-resident income payee/recipient provided that the conditions set forth therein are present. This type of COE is intended for dividends, branch profit remittances, interest, royalties, income from air and shipping transport, and other income such as guarantee fees or substitution fees.

LOCAL TAX

Local Government Units (LGU) in the Philippines are likewise granted authority to levy taxes as their own source of revenue, subject to certain limitations. The local taxes are distinct and separate from the national taxes collected by the BIR. Among others, LGUs impose business tax and real property tax within their jurisdictions.

a. Local Business Tax

Under the Local Government Code (LGC), municipalities and cities may impose business tax on persons engaged in trade or commercial activity regularly as a means of livelihood or to profit. The type of business subject to local business tax and the rate thereof shall depend upon the local tax ordinance enacted by the concerned local *Sanggunian*. The local business tax, which generally accrues on the first day of January of each year, shall be computed as a certain percentage of gross sales or receipts of the preceding calendar year.

b. Real Property Tax

Real property tax is a kind of tax imposed by provinces, cities, or municipalities within Metropolitan Manila on real property, such as land, buildings, machinery, and other improvements.

The maximum rate of real property tax that may be levied depends on the type of LGU. While a city or municipality within Metro Manila may impose real property tax not exceeding two percent (2%) of the assessed value of the real property, provinces may only impose real property tax not exceeding one percent (1%) of the assessed value of the real property.

LGUs may grant a discount not exceeding twenty percent (20%) for the annual tax due for taxpayers who make advance payments of the real property tax.

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IV GENERAL REPORTORIAL REQUIREMENTS

GENERAL REPORTORIAL REQUIREMENTS

1. ANNUAL REPORTORIAL REQUIREMENTS FOR CORPORATIONS

a. Securities and Exchange Commission ("SEC")

Every corporation, whether domestic or foreign, doing business in the Philippines shall submit the following documents annually and within such period as the SEC may provide:¹

1. Annual financial statements ("**AFS**") are audited by an independent certified public accountant. If the total assets or total liabilities of the corporation are less than Six Hundred Thousand Pesos (Php600,000.00), the financial statements shall be certified under oath by the corporation's treasurer or chief financial officer. All corporations with fiscal year ending on the 31st of December shall file their AFS in accordance with the schedule set by the SEC on the basis of the last numerical digit of the corporation's SEC registration or license number² while corporations with fiscal years ending on a date other than the 31st of December shall file their AFS within one hundred twenty (120) calendar days from the end of their respective fiscal years³; and
2. General Information Sheet ("**GIS**") must be submitted within thirty (30) calendar days from the date of the corporation's actual Annual Stockholders' Meeting.⁴ In case of postponement of the Annual Stockholders' Meeting, written notice thereof and the reason therefor shall be sent to all stockholders of record at least two (2) weeks prior to the date of the meeting, unless a different period is required under the by-laws, law, or regulation.⁵

- The non-holding of elections of directors and officers and the reasons therefore shall be reported to the SEC within thirty (30) days from the date of the scheduled election. The report shall specify a new date for the election, which shall not be later than sixty (60) days from the scheduled date.⁶
- Should a director or officer die, resign or in any manner cease to hold office, the corporation shall, within seven (7) days from knowledge thereof, report in writing such fact to the SEC.⁷ After the proper election, an amended GIS should be submitted with the SEC to reflect the roster of officers and members of the Board within seven (7) calendar days after such change occurred or became effective.⁸
- Corporations vested with public interest must submit the following documents annually and within such period as may be prescribed by the SEC:⁹
 1. A director or trustee compensation report; and
 2. A director or trustee appraisal or performance report and the standards or criteria used to assess each director or trustee.
- Branch offices of foreign corporations duly licensed to do business in the Philippines are mandated to deposit securities with the SEC in accordance with the following schedule:¹⁰
 1. Within sixty (60) days after the issuance of its SEC license, securities with an actual market value of at least Five Hundred Thousand Pesos (Php500,000.00);
 2. Additional securities shall

¹ Section 177, Revised Corporation Code.

² Section I(1), SEC Memorandum Circular No. 9, series of 2022, as amended by SEC Circular Memorandum No. 1, series of 2023.

³ Section I(2), Id.

⁴ Section II(1), Id.

⁵ Section 49, Revised Corporation Code.

⁶ Section 25, Id.

⁷ Id.

⁸ Page 1, General Information Sheet Template.

⁹ Section 177, Revised Corporation Code.

¹⁰ SEC Memorandum Circular No. 17, series of 2019.

be deposited within six (6) months after the end of the fiscal year indicated in the Financial Statements in the following situations:

- i. If the licensee's gross income within the Philippines for that fiscal year exceeds Ten Million Pesos (Php10,000,000.00), additional securities with an actual market value equivalent to two percent (2%) of the increase in said gross income; and
- ii. If the actual market value of the securities deposit or financial instruments has decreased by at least ten percent (10%) from the time it was deposited, additional securities with an actual market value would cover the decrease.

b. Bureau of Internal Revenue ("BIR")

Every corporation whose gross annual sales, earnings, receipts or output exceed Three Million Pesos (Php3,000,000.00) shall have its books of accounts audited and examined yearly by an independent Certified Public Accountant and the income tax return must be accompanied by a duly accomplished Account Information Form which shall contain, among others, information lifted from certified balance sheets, profit and loss statements, schedules listing income-producing properties and the corresponding income therefrom and other relevant statements.¹¹

a. Local Government Unit ("LGU")

Every corporation is required to renew annually its Mayor's Permit/ Business Permit with the LGU, which has jurisdiction over the principal office address of the corporation. The deadline depends upon the pertinent LGU of the corporation.

2. SEC AND PHILIPPINE STOCK EXCHANGE ("PSE")

- Corporations that issue a class of securities which are listed on an exchange such as the Philippine Stock Exchange shall file with the PSE a copy of all the reports filed with the SEC. The corporation shall file the following periodical reports containing the financial condition and results of operations of the corporation:
 - a. An annual report on SEC Form 17-A for the fiscal year in which the registration statement was rendered effective by the SEC, and for each fiscal year thereafter, within one hundred five (105) calendar days after the end of the fiscal year.¹²
 - b. A quarterly report on SEC Form 17-Q within forty-five (45) calendar days after the end of each of the first three quarters of each fiscal year. The first quarterly report shall be filed either within forty-five (45) calendar days after the effective date of the registration statement or on or before the date on which such report would have been required to be filed if the corporation had been required previously to file reports whichever is later.¹³ A current report on SEC Form 17-C, as may be necessary, shall also be filed making full, fair, and accurate disclosure to the public of every material fact or event that occurs which would reasonably be expected to affect the investors' decisions in relation to those securities, including corporate acts, developments or events relating to the operations and business of the corporation.¹⁴

¹² Section 17.1.1.1.1, Rule 17.1, Title V, 2015 Implementing Rules and Regulations of the Securities Regulation Code.
¹³ Section 17.1.1.1.2, Id.
¹⁴ Section 17.1.1.1.3(a), Id.

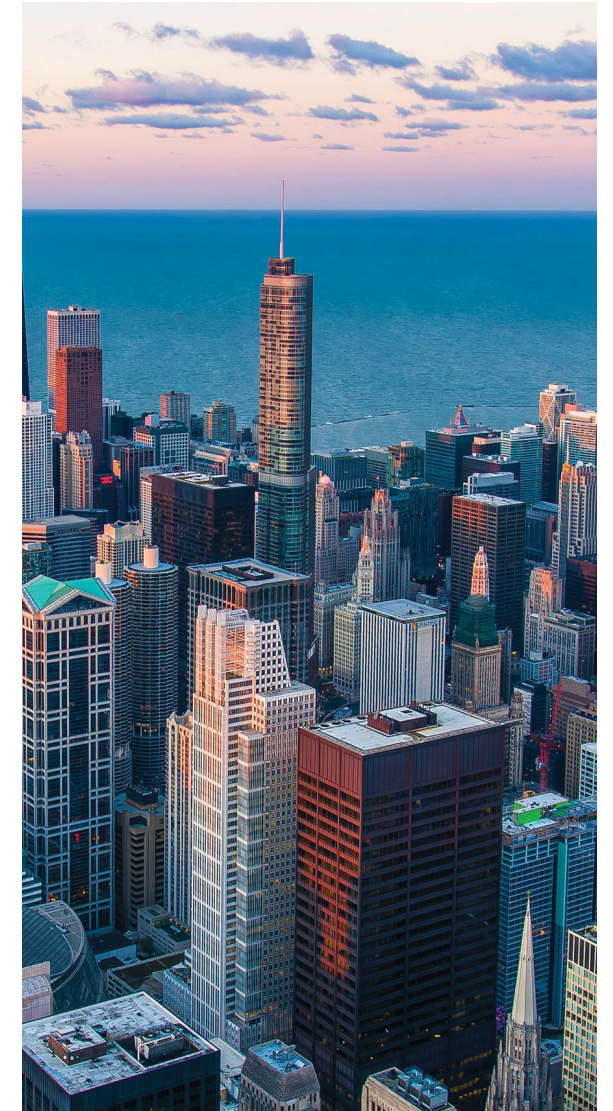
3. ANTI-MONEY LAUNDERING COUNCIL ("AMLC")

- Every covered person, as defined under the Anti-Money Laundering Act of 2001 (Republic Act No. 9160), as amended and under its Implementing Rules and Regulations, must submit the following reports within the time frame mandated by the AMLC:
 1. All covered transactions must be reported within five (5) working days from occurrence unless the AMLC prescribes a longer period not exceeding fifteen (15) working days.¹⁵ The information system of the covered person must be capable of integrating with the AMLC system for automatic generation and sending of the covered transactions reports within the mandate time frame. The amount of the covered transaction would depend upon the nature of the business of the covered person; and
 2. All suspicious transactions, including attempts thereof, must be promptly reported to the AMLC within the next working day from the "occurrence" thereof, which shall be the date of establishment of suspicion or determination of the suspicious nature of the transaction.¹⁶ Reporting of a suspicious transaction should be in accordance with the existing Money Laundering/Terrorism Financing Prevention Program of the covered person.

Should a transaction be determined to be both a covered transaction and a suspicious transaction, it shall be reported by the corporation as a suspicious transaction. In this regard, it shall be reported first as a covered transaction, subject to updating if it is finally confirmed to be reportable as a suspicious transaction.¹⁷

¹⁵ Section 2.1, Rule 22, 2018 Implementing Rules and Regulations of Republic Act No. 9160, as amended.
¹⁶ Section 2.2, Rule 22, Id.
¹⁷ Section 1.2, Rule 22, Id.

- Every covered person must also update its Money Laundering/Terrorism Financing Prevention Program at least, once every two (2) years or whenever necessary to reflect changes in anti-money laundering/ counter-terrorism financing obligations, money laundering/terrorist financing trends, detection techniques, and typologies.¹⁸



¹⁸ Section 10, Rule 16, Id.

V

LABOR AND EMPLOYMENT

LABOR

a. GENERAL CONSIDERATIONS

Constitutional Guarantees

Sections 9 and 10 of Article II of the Philippine Constitution provide that the State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation, free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all and the State shall promote social justice in all phases of national development.

The Philippines has a Pro-Labor State policy

The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

Construction in Favor of Labor (Article 4, Labor Code)

All doubts in the implementation and interpretation of the provisions of the Labor Code, including its implementing rules and regulations, shall be resolved in favor of labor.

Constitutional Guarantees, Rights of Laborers

Enshrined in the Philippine Constitution are the Seven Cardinal Rights of Workers. These are:

- i. Self-organization
- ii. Collective Bargaining and Negotiations
- iii. Peaceful and concerted activities including the right to strike following the law
- iv. Security of tenure
- v. Humane conditions of work
- vi. Living wage
- vii. Participation in policy and decision-making processes affects their rights and benefits as may be provided by law.

b. DEPARTMENT OF LABOR AND EMPLOYMENT

The Department of Labor and Employment (DOLE) is mandated as the primary policymaking, programming, coordinating and administrative entity of the Executive Branch of the government in the field of labor and employment. The Department is responsible for promoting gainful employment opportunities, optimizing the development and utilization of labor, advancing workers' welfare, and ensuring equal protection for the rights of all concerned parties.

c. TYPES OF EMPLOYMENT

A. Probationary Employment

A probationary employee is made to go on a trial period by an employer during which the employer determines whether or not he is qualified for permanent employment, based on reasonable standards made known to him at the time of engagement. Probationary employment shall not exceed 6 months from the date the employee started working unless it is covered by an apprenticeship agreement stipulating a longer period, or when the parties mutually agree to extend the original period. The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee under reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee.

B. Regular Employment

A regular employee is engaged to perform activities which are necessary and desirable in the usual business or trade of the employer, as opposed to those which are undertaken for a specific project or are seasonal. There are two kinds of regular employees:

- i. Those who are engaged to perform activities which are necessary or desirable in the usual business or trade of the employer; and
- ii. Casual employees who have rendered at least 1 year of service, whether continuous or broken, with respect to the activity in which they are employees

C. Project Employment

A project employee is hired to carry out a separate job, distinct from the other undertakings of the company, the scope and duration of which have been determined and made known to the employee at the time of employment.

D. Seasonal employment

A seasonal employee is one whose work or services to be performed are seasonal in nature. The employment is for the duration of the season.

E. Fixed-term employment

A fixed-term employee is one whose duration of employment is agreed upon by the parties which may be

any day certain, which is understood to be “that which must necessarily come although it may not be known when.”

F. Casual employment

A casual employee is one engaged to perform a job, work or service which is merely incidental to the business of the employer, and such job, work or service is for a definite period made known to the employee at the time of engagement, provided, that any employee who has rendered at least one year of service, whether such service is continuous or not, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists.

d. LABOR STANDARDS or TERMS AND CONDITIONS OF EMPLOYMENT

a. Wages

- **“No work, no pay” Principle**

General Rule: The age-old rule governing the relation between labor and capital, or management and employee is that a “fair day’s wage for a fair day’s labor.” Exception: When the laborer was able, willing, and ready to work but was illegally locked out, suspended or dismissed, or otherwise illegally prevented from working.

- **“Equal Work for Equal Pay” Principle**

Employees working in the Philippines, if they are performing similar functions and responsibilities under similar working conditions should be paid equally. If an employer accords employees the same position and rank, the presumption is that these employees perform equal work.

Sector/Industry	Basic Wage	Basic Wage Increase	New Basic Wage
Non- Agriculture	P570.00	P40.00	P610.00
Agriculture (Plantation and Non plantation)	P533.00	P40.00	P573.00
Retail/ Service Establishments employing 15 workers or less			
Manufacturing Establishments regularly employ less than 10 workers			

- **Regulating Authority**

The National Wages and Productivity Commission (NWPC), an attached agency of the DOLE, and the Regional Tripartite Wages and Productivity Boards (RTWPBs) in all regions of the Philippines are responsible for the regulation of wages in the country. Among their functions are to: advise the President and Congress on matters relating to wages, incomes, and productivity, determine and fix minimum wage rates at the regional, provincial and industry levels, undertake research and studies on wages and productivity, and formulate policies and guidelines on wages, incomes, and productivity.

- **Minimum Wage**

The minimum wage is the basic cash wage without deduction of whatever benefits, supplements or allowances the employees enjoy free of charge aside from the basic pay. The Regional Wage Orders prescribe the daily minimum wage rates per industry per locality within the region. It applies to all private sector workers and employees receiving the daily minimum wage rates regardless of their position, designation, or status of employment, and irrespective of the method by which their wages are paid subject to certain exemptions.

As per Wage Order No. NCR-24, effective 26 June 2023 which covers the cities of Caloocan, Las Pinas, Makati, Malabon, Mandaluyong, Manila, Marikina, Muntinlupa, Paranaque, Pasay, Pasig, Quezon, San Juan, Taguig, Navotas, and Valenzuela, and Municipality of Pateros, below is the prescribed minimum wage:

In cases of violation or non-compliance with the prescribed increases or adjustments in the Wage Rates, any person, whether natural or juridical, shall be punished with a fine of not less than Php25,000.00 to not more than Php100,000.00 or imprisonment of not less than 2 years not more than 4 years, or both at the discretion of the court, without the benefit of probation. In case the violation is committed by a juridical person, the penalty of imprisonment shall be imposed upon the responsible officers.

- **Night Shift Differential**

All employees are entitled to an additional compensation of 10% of an employee’s regular wage for each hour of work performed between 10 pm and 6 pm.

Exceptions:

1. Retail and service establishments regularly employ not more than 5 employees
2. Managerial employees, or those whose primary duty consists of the management of the establishment in which they are employed or of a department or subdivision thereof, and to other officers or members of the managerial staff.
3. Field personnel and other employees whose time and performance are unsupervised by the employer including those who are engaged on a task or contract basis, or those who are paid a fixed amount for performing work irrespective of the time consumed in the performance thereof.

- **13th Month Pay**

All employers are required to pay all their rank-and-file employees a 13th month pay not later than December 24 of every year provided, they have worked for at least 1 month during a calendar year. The employer may also give the employee half of the 13th month’s pay before the opening of the regular school year and half on or before 24 December of every year. The frequency of payment of this monetary benefit may be the subject of agreement between the employer and the recognized Collective Bargaining Agreement of the employees

Exceptions:

1. Employers already paying their employees the “equivalent” of 13th-month pay in a calendar year
2. Employers of those who are paid on purely commission, boundary or task basis, and those who are paid a fixed amount for performing specific work, irrespective of the time consumed in the performance thereof (except those workers who are paid on a piece-rate basis, in which case their

employer shall grant them a 13th-month pay).

- **“Equivalent” may refer to:**

1. Christmas bonus, mid-year bonus, cash bonuses
2. Other payments amounting to not less than 1/12 of the basic salary (not including cash and stock dividends, cost of living allowance (COLA), and all other allowances regularly enjoyed by the employee as well as non-monetary benefits)

Computation:

1/12 of the total basic salary earned by an employee within a calendar year

Basic Salary shall include:

1. COLA integrated into the basic salary of a covered employee pursuant to Executive Order No. 178
2. All remunerations or earnings paid by the employer for services rendered

Basic Salary does not include the cash equivalent of:

1. Unused vacation and sick leave credits
2. Overtime Premium
3. Night Shift Differential
4. Holiday Pay, and
5. COLA is not integrated into the basic salary

b. Work Hours

General Rule: The normal hours of work of any employee shall not exceed 8 hours a day.

- **Compensable Work Hours**

Rest Periods

Rest periods or coffee breaks running from 5 to 20 minutes shall be considered as compensable working time.

On Call

If the employee is required to remain on call in the employer’s premises or so close thereto that he cannot use the time effectively and gainfully for his own purpose, he/she shall be considered as working while on call and therefore, entitled to be compensated.

Travel Time

Travel that is all in the day’s work- Travel of the employee from jobsite to jobsite must be counted as hours worked.

Travel way from home- Travel that keeps an employee away from home overnight is travel away

from home. Travel away from home is worktime when it cuts across the employee's workday.

Travel from home to work- This is compensable only when the employee is called to travel during an emergency, done through conveyance furnished by the employer, travel is done under vexing and dangerous circumstances, or travel is done under the supervision and control of the employer.

Compressed Work Week (CWW)

Under the CWW scheme, the normal workday goes beyond 8 hours without the corresponding overtime premium. The total hours worked shall not exceed 12 hours a day or 48 hours a week, or else, the premium shall be paid.

Requirements:

1. The CWW scheme must be undertaken under an express and voluntary agreement of the majority of the covered employees or their duly authorized representatives.
2. In firms using substances, chemicals, noise, contaminants or others where prolonged exposure may pose hazards to employees' health and safety, there must be a certification from an accredited health and safety organization or practitioner from the firm's safety committee that works beyond 8 hours is within the threshold limits or tolerable levels of exposure, as set in the OSHS.
3. The employer shall notify DOLE, through the Regional Office having jurisdiction over the workplace, of the adoption of the CWW scheme.

Overtime

Overtime compensation is additional pay for service or work rendered or performed more than eight hours a day by employees or laborers covered by the 8-hour Labor Law.

Rules regarding Overtime:

1. Generally, no waiver of overtime pay is allowed.

Exception: Overtime pay may be waived in the following instances:

- (a) Compressed work week
- (b) In consideration of certain valuable privileges (i.e., tips during overtime)

2. An employer cannot compel an employee to work overtime except emergency overtime

work as provided in Article 89 of the Labor Code.

3. Additional compensation is demandable only if the employer has the knowledge and consent to the overtime work rendered by the employee.

Exception: Express approval by a superior is NOT a requisite to make overtime compensable:

- (a) If the work performed is necessary, or it benefitted the company; or
- (b) That the employee could not abandon his work at the end of his 8-hour work because there was no substitute ready to take his place

Note: The Supreme Court has also ruled that a claim for overtime pay is NOT justified in the absence of a written authority to render overtime after office hours during Sun- days and holidays.

4. Compensation for work rendered more than the eight (8) normal working hours in a day.
 - (a) For ordinary days, an additional 25% of the basic hourly rate.
 - (b) For rest days/ special days/ holidays, an additional 30% of the basic hourly rate.
5. A given day is considered an ordinary day unless it is a rest day.
6. Undertime does not offset overtime.

Calculation:

Overtime work on:	
Regular Day	125% x 100%
Rest Day	130% x 130%
Special Holiday	130% x 130%
Special Holiday on a Rest Day	130% x 150%
Regular Holiday	130% x 200%
Regular Holiday on a Rest Day	130% x 200% x 130%
Double Holiday	130% x 300%
Double Holiday on a Rest Day	130% x 300% x 130%

Holidays

Regular Holidays for 2024		
Date	Day	Event
January 01, 2024	Sunday	New Year's Day
March 28, 2024		Maundy Thursday
March 29, 2024		Good Friday
April 9, 2024	Tuesday	Araw ng Kagitingan
May 01, 2024	Wednesday	Labor Day
June 12, 2024	Wednesday	Independence Day
August 26, 2024	Monday	National Heroes' Day
November 30, 2024	Saturday	Bonifacio Day
December 25, 2024	Wednesday	Christmas Day
December 30, 2024	Monday	Rizal Day
Dates to be announced on a separate Presidential Proclamation		Eid'l Fitr
		Eid'l Adha

Special (Non-Working) Holidays for 2024		
Date	Day	Event
February 10, 2024	Saturday	Chinese New Year
March 30, 2024		Black Saturday
August 21, 2024	Wednesday	Ninoy Aquino Day
November 01, 2024	Friday	All Saints' Day
November 02, 2024	Thursday	All Souls' Day
December 8, 2024	Friday	Feast of the Immaculate Concepcion
December 24, 2024	Tuesday	Christmas Eve
December 31, 2024	Tuesday	Last day of the year
Those declared by law or ordinance (e.g., Makati Day for Makati City only)		Local Special Holidays

Calculation:

Worked Performed On	Formula (% multiplied by Regular Wage)
Regular Day	100%
Rest Day	130%
Special Holiday	130%
Special Holiday on a Rest Day	150%
Regular Holiday	200%
Regular Holiday on a Rest Day	200% x 130%
Double Holiday	300%
Double Holiday on a Rest Day	300% x 130%

pregnancy and the probable date of her childbirth, which notice shall be transmitted to the SSS by the rules and regulations it may provide; and

4. **Employer:** The employer shall advance the benefit to the employee. The SSS shall immediately reimburse the employer 100% of the amount upon receipt of satisfactory proof of such payment and legality thereof.

All covered female employees, regardless of the civil status or the legitimacy of their child, shall be granted one hundred five (105) days of maternity leave with full pay and an option to extend for an additional thirty (30) days without pay. If the female employee also qualifies as a solo parent, she shall be granted an additional fifteen (15) days maternity leave with full pay. In cases of miscarriage or early termination of pregnancy, sixty (60) days of maternity leave with full pay shall be granted.

Paternity Leave

Paternity leave is granted to all married male employees in the private and public sectors, regardless of their employment status (e.g., probationary, regular, contractual, project basis). The purpose of this benefit is to allow the husband to lend support to his wife during her period of recovery and/or in nursing her newborn child. The benefit is for 7 calendar days, with full pay, consisting of basic salary and mandatory allowances fixed by the Regional Wage Board and can be availed of before or during the delivery provided, that the total number of days shall not be more than 7 days for each covered delivery. An employee can avail of paternity leave for the first 4 deliveries of the employee's wife with whom he is cohabiting.

Parental Leave for Solo Parents

Any solo parent or individual employee is entitled to a parental leave of not more than seven (7) working days every year provided he/she has rendered at least six (6) months of service whether continuous or broken and is left alone with the responsibility of parenthood due to the following causes:

- a. A parent who provides sole parental care and support of the child or children due to:
 - (1) Birth of a child or children as a consequence of rape, even without a final conviction of the offender provided, that the mother has the sole parental custody, care and is the sole support of the child or children;
 - (2) Death of his/her spouse;
 - (3) Detention of his/her spouse for at least three (3) months or service of sentence for a criminal conviction;
 - (4) Physical or mental incapacity of his/her

spouse as certified by a public or private medical practitioner;

(5) Legal separation or de facto separation from his/her spouse for at least six (6) months and the solo parent is entrusted with the sole parental care and support of the child or children;

(6) Declaration of nullity or annulment of marriage as decreed by a court recognized by law, or due to divorce, subject to existing laws, and the solo parent is entrusted with the sole parental care and support of the child or children; or

(7) Abandonment by the spouse for at least six (6) months;

- b. A spouse or any family member of an Overseas Filipino Worker (OFW), or the guardian of the child or children of an OFW provided that the said OFW belongs to the low or semi-skilled worker category, and is away from the Philippines for an uninterrupted period of twelve (12) months;
- c. An unmarried mother or father who keeps and rears his/her child or children;
- d. Any legal guardian, adoptive or foster parent who solely provides parental care and support to a child or children;
- e. Any relative within the fourth (4th) civil degree of consanguinity or affinity of the parent or legal guardian whose death, disappearance, absence or abandonment of the child or children, for at least six (6) months, led to the said relative assuming sole parental care and support of the child or children;
- f. A pregnant woman who provides sole parental care and support to her unborn child or children.

Note: The employee must have notified the employer within a reasonable period and have presented a Solo Parent Identification Card from the DSWD.

Special Leave for Women Workers

A female employee's leave entitlement of 2 months with full pay from her employer based on her gross monthly compensation following surgery caused by gynecological disorders, provided that she has rendered continuous aggregate employment service for at least 6 months for the last 12 months.

Special Leave for Victims of the Anti-Violence Against Women and Their Children Law (VAWC)

Women employees who are victims of VAWC are entitled to a leave of up to 10 days with full pay to cover

the days that the woman employee has to attend to medical and legal concerns. The leave is extendible, as specified in the protection order issued by the barangay or the court. The only requirement is for the employee to present to her employer a certification from the barangay chairman (Punong Barangay) or barangay councilor (barangay kagawad) or prosecutor or the Clerk of Court, as the case may be, that an action relative to the matter is pending.

B. Retirement

Employees shall be retired upon reaching the age of sixty (60) years or more but not beyond sixty-five (65) years old and have served the establishment for at least five (5) years.

The minimum retirement pay shall be equivalent to one-half month's salary for every year of service. A fraction of at least six (6) months is considered as one (1) whole year.

In computing retirement pay, "one-half month salary" shall include (1) fifteen (15) days salary, (2) cash equivalent of five (5) days service incentive leave, and (3) one-twelfth of the thirteenth-month pay. Hence, "one-half month salary" is equivalent to 22.5 days.

e. TERMINATION OF EMPLOYMENT

a. By the Employer

Causes

Employers may choose to terminate their employees based on just or authorized causes.

Just Causes include serious misconduct or willful disobedience (insubordination), gross & habitual neglect of duties, loss of trust and confidence, commission of a crime, and analogous causes.

Authorized Causes include installation of the labor-saving device, retrenchment, redundancy, and closure of business. If the termination was due to labor-saving devices or redundancy, the employee shall be entitled to 1 month's pay, or at least 1 month's pay for every year of service, whichever is higher. On the other hand, if the separation was due to retrenchment, closure or suspension of operations, the employee shall receive 1 month's pay, or at least ½ month's pay for every year of service, whichever is higher.

Procedure of termination

A. Leaves

Service Incentive Leave (SIL)

Every employee who has rendered at least 1 year of service shall be entitled to a yearly SIL of five days with pay.

"1 year" means service for not less than 12 months, continuous or broken, reckoned from the date the employee started working, including authorized absences and paid regular holidays unless the working days in the establishment as a matter of practice or policy, or that provided in the employment contract is less than 12 months, in which case said period shall be considered as one year.

Maternity Leave

Every pregnant woman, in the private sector, whether married or unmarried, is entitled to maternity leave benefits for every delivery of child. This applies to childbirth and miscarriage and is not included in the computation of the 13th month's pay as it is granted to an employee in lieu of wages, which is the basis for computing the 13th month. The availment of this benefit bars the recovery of sickness benefits provided by the Labor Code for the same period for which daily maternity benefits have been received.

Requisites:

1. **Employment:** A female employee employed at the time of delivery or miscarriage;
2. **Contribution:** Employee must have had at least 3 monthly contributions in the 12-month period immediately preceding the semester of her childbirth or miscarriage;
3. **Notice:** Employee notified the employer of her

A valid dismissal requires compliance with substantive and procedural due process. Substantive due process means that the dismissal must be for a just or authorized cause while procedural due process is observed when the employee is allowed to be heard and defend himself. Pursuant to this, employers must adhere to the following mandated procedure of termination:

For Just Causes of Termination:

1. **Issuance of a Show Cause Notice or Notice to Explain**
It outlines (a) specific causes or grounds for termination; (b) a detailed narration of the facts and circumstances that will serve as the basis for the charge; (c) specific rule and/or policy violated; and (d) period to submit a written explanation and/or reply which in the case shall be less than five (5) calendar days.
2. **Submission of Letter Reply/Explanation**
The employee must submit his/her letter reply or explanation within the time provided in the Show Cause Notice or Notice to Explain.
3. **Administrative Hearing or Conference**
The employer must issue a Notice for Administrative Hearing or Conference. During the said Hearing or Conference, the employee shall be allowed to (a) explain and clarify his/her defenses to the charge; (b) present evidence in support of said defenses; and (c) rebut the evidence presented against the

employee.

4. **Issuance of Final Notice of Termination**
After a determination that dismissal is justified, the Employer shall serve a written Notice of Termination indicating; that (a) all circumstances involving the charge against the employee have been considered; and (b) grounds have been established to justify the severance of employment. The effectivity date of the termination will be stated in the Notice.

Note: In the interim and prior to the final decision of the Employer regarding the charges against the employee, the Employer may, at its discretion, when the employee's continued employment poses a serious and imminent threat to the life or property of the Employer and/or its employees, issue a Preventive Suspension Order without pay for thirty (30) days only, unless the Employer decides to extend the same subject to payment of wages and other benefits due to the employee

For authorized causes of termination:

1. Service of a written Notice of Termination to the employee at least 30 days before the effectivity of the termination specifying the grounds thereof.
2. Filing of a Termination Report with the Regional Office of the DOLE at least 30 days before the effectivity of the termination
3. Payment of Separation Pay

Consequences for non-compliance with Procedural Due Process:

Situation	Validity of Dismissal	Liability of Employer
Just/ Authorized Cause + Due Process	Valid	No Liability. Separation pays only in authorized cause.
No Just or Authorized cause + Due Process	Invalid	Reinstatement or separation pay, if reinstatement not possible, + full back wages.
No Just or Authorized Cause + No Due Process	Invalid	Reinstatement or separation pay, if reinstatement not possible, + full back wages.
Just or Authorized Cause + No Due Process	Valid	liable for damages due to procedural infirmity. Separation pay is for an authorized cause.

A. By the employee

Resignation

An employee may terminate his/her employment without just cause by serving a written notice on the employer at least 1 month in advance. If no notice is received by the employer, the employee is liable for damages.

Termination for Cause

An employee may terminate his/her employment without serving any notice if the same is due to (1) serious insult to the honor and person of the employee, (2) inhuman and unbearable treatment, (3) commission of a crime against the employee or his/her immediate family and/or (4) other analogous causes.

f. RIGHT TO SELF ORGANIZATION

Self- organization is a fundamental right guaranteed by the Philippine Constitution and the Labor Code. Employees have the right to form, join or assist labor organizations for the purpose of collective bargaining or for their mutual aid and protection. The following may unionize for purposes of collective bargaining: all employees, government employees of corporations created under the Corporation Code, supervisory employees, aliens with valid working permits and whose country grants the same rights to Filipinos, and security personnel. On the other hand, the following cannot form join, or assist labor organizations: managerial and confidential employees, non-employees, member-employee of a cooperative, employees of international organizations, high-level government employees, and members of the AFP, police officers, policemen, firemen, and jail guards.

g. SOCIAL BENEFITS/ LEGISLATIONS

Employers are mandated by law to provide the following types of insurance under the country's social welfare legislation: Social Security Legislation (SSS), Home Development Mutual Fund (HDMF)/ PAG-IBIG, and Philippine Health Insurance Corporation (PhilHealth).

SSS

SSS Coverage may be compulsory or voluntary. Employers are required to register their employees who are not over 60 years of age. The exceptions to the coverage are employment that is purely casual and not for the purpose of occupation or business of the employer, service performed on or in connection with an alien vessel by an employee if he is employed when such vessel is outside the Philippines, and

contractual employees with no employee-employer relationship with the agency they serve. Employers are required to be registered with the SSS from the 1st day of operation

HDMF/ PAG-IBIG

All new employers shall first register with the Pag-ibig branch with jurisdiction over them prior to the start of their business operation. Employers shall submit to the Fund all data and information that may be required in relation to their respective businesses and employees within thirty (30) days from the start of their business operations. In addition, said employers shall ensure that their newly hired employees are registered with the Fund within thirty (30) days from the start of their employment. In case of any change in the employer's name, the New DTI Registration/ Amended DTI Registration or Articles of Incorporation/ Amended Articles of Incorporation shall be presented.

PHILHEALTH

Employers must register their company with PhilHealth for them to be assigned a PhilHealth Employer Number (PEN). They must also register their employees with the said agency within thirty (30) days from assumption to office. In case of an employee's separation, the Employer must notify PhilHealth within 30 calendar days from separation through an Employer's Remittance Report. Employers should also inform PhilHealth of any change in company data, such as address or business name, or in case of temporary/ permanent cessation of business operations.

h. FOREIGN EMPLOYEES

All foreign nationals who intend to engage in gainful employment in the Philippines are required to apply for an Alien Employment Permit (AEP) before the Regional Office of the Department of Labor and Employment (DOLE) where they will work. This is also a requirement for aliens to procure a (9G) work visa. *(Please refer to the Immigration Part of the Primer for the Alien Work Visas).*

Corporations who intend to hire foreign national employees must first register with the DOLE to obtain an Establishment Registration Number ("ERN"), which is a prerequisite for using the AEP application portal.

The requirements for obtaining an ERN are as follows:

- i. Company profile;
- ii. Certified True Copy (CTC) of the Securities and Exchange Commission (SEC) Registration with the Articles of Incorporation, By-Laws, and updated General Information Sheet ("GIS") of the corporation;
- iii. CTC by the relevant local government unit ("LGU")

- iv. PEZA registration, if applicable;
- v. Approved Accreditation of authorized representative, if applicable;
 - a. Notarized Service Agreement;
 - b. Notarized Secretary's Certificate for an authorized representative to process AEP applications;
 - c. Copy of corporate signatory/ representative's valid ID and contact details;
 - d. Secretary's Certificate authorizing the corporate representative to sign on behalf of the company;
 - e. The authorized representative's certificate of accreditation and accredited personnel's ID, as may be applicable
- vi. Copy of DOLE 1020 Registration

Prior to the AEP application proper, corporations must ensure that there is no other Filipino applicant who is qualified for the position in accordance with the general principles of the Philippine Labor Code in protecting Filipino workers by conducting a labor market test ("LMT"). The LMT is essentially important in determining the non-availability of a Filipino citizen who is competent, able and willing at the time of application to perform the services for which the foreign national is desired to be hired.

Under DOLE Department Order (DO) No. 221 series of 2021 dated 6 January 2021, it is also required for corporations to first publish in a newspaper of general circulation a job vacancy advertisement for which the foreign national will be hired. The publication must be made for one (1) day at least fifteen (15) calendar days prior to the application for AEP. Under the Supplemental and Clarificatory Guidelines for the Issuance of Employment Permits to Foreign Nationals No.1, Series of 2021, the publication shall be valid and effective for forty-five (45) days from the date of publication in a newspaper of general circulation.

Once it is established that there is no Filipino applicant who is qualified for the position, the corporation itself or through its authorized representative may file the AEP with the DOLE's electronic portal. The relevant periods that must be observed for the application are

- i. The application must be made **within the forty-five (45) day effectivity** of the job vacancy publication; and
- ii. the application must be filed **within ten (10) working days** from the signing of the employment contract.

On the other hand, the documentary requirements for a new AEP application are as follows:

- iii. Accomplished AEP Application Form
- iv. Original copy of notarized appointment or Contract of Employment
- v. Notarized Board Secretary's Certificate on the election of Foreign National (original or duplicate original is required)
- vi. Photocopy of passport bio page, latest arrival and departure, a valid visa or certificate of recognition for refugees
- vii. 2x2 ID picture with white background
- viii. Photocopy of Tax Identification Number from BIR of the foreign national applicant (BIR Form 1902, 1904, or 2316, Online TIN application through BIR e-registration system)
- ix. Certified True Copy of the Certificate of Business Name Registration in case of sole proprietorship from DTI
- x. Certified True Copy from the LGU of the corporation's latest valid business permit
- xi. Other documents (e.g., cover/ endorsement letter of application and authorization letter from company or alien)
- xii. Affidavit consenting to the filing of AEP (Data Privacy)
- xiii. Service Agreement of the authorized representative and the corporation
- xiv. Affidavit of publication issued by the publisher
- xv. News clipping containing the date of publication and name of the newspaper where it was published
- xvi. Duly notarized affidavit of company representative stating that no applications were received, or no Filipino applicants were considered for the job.

Fees

Application	Prescribed Fees
Application of AEP	Php10,000.00 for 1 year and an additional Php5,000.00 for every additional year
Renewal of AEP	Php5,000.00 for every additional year
Replacement Fee	Php 3,000.00
Processing and issuance of Certificate of Exclusion/ Exemption	Php2,000.00 per issuance of the applicable certificate

NOTE: The amount of fees may vary from time to time, subject to government regulations.

Processing Period of AEP

Pursuant to Sec. 6 of DOLE DO No. 221 Series of 2021, applications for new AEP shall be processed and issued within five (5) working days after publication.

Employer's Quarterly Report

Under Sec. 25 of DOLE DO No. 221 Series of 2021, employers must submit a quarterly report or an updated list of foreign nationals employed within thirty (30) days from the reference period and change of employer's information such as name, address, or contact details.

Effect of Transfer and Change of Position

At any given time during its validity, only one (1) AEP shall be issued to a foreign national. Change of position shall require a new AEP application.

Validity of AEP

The AEP shall be valid for either one year, two years or three years in co-terminus with the Appointment or Employment Contract presented to DOLE for the position.

Renewal of AEP

Application	When to File
Renewal	Not earlier than 60 days before its expiration Employer must submit within thirty (30) days after the date of election/ appointment a Secretary's Certificate stating such fact to the concerned DOLE-RO.
In case of travel outside the Philippines which will hinder the filing of renewal within the prescribed period	Filed before its expiration supported by a duly notarized Secretary's Certificate stating such fact
Expired AEPs	Processed as a new application
For officers whose appointment or election for a different position takes place before expiration of AEP	Not later than fifteen (15) working days after appointment or before its expiration whichever is later.
For appointment or election after the expiration of the AEP	Secretary's Certification for the appointment or election must be submitted within 15 working days after the election or appointment.

Aliens Exempted from Securing AEP

Under Sec. 18 of DOLE DO No. 221 Series of 2021, the following categories of foreign nationals are to secure a Certificate of Exemption in lieu of AEP for being exempted from securing an employment permit under existing laws or guidelines.

1. Dependent spouse of any members of the diplomatic corps, provided there is an existing reciprocity agreement and/or exchange of notes between the Philippine government and their respective country of origin.
2. Accredited officials and personnel of international organizations with which the Philippine government has entered into an agreement, and their dependent spouse desiring to work in the Philippines.
3. Foreign nationals who are officers, staff, and employees working in the embassy by reason of the extra-territoriality principle, which is one of the generally accepted principles in International Law
4. Foreign nationals who are officers and staff of the peacekeeping or international organization, either deployed in the Philippines or invited by non-governmental organizations as accredited, endorsed or certified by the appropriate government agencies, provided they will not engage in any gainful employment in the Philippines.
5. Foreign nationals who come to the Philippines to teach, present and/or conduct research studies in universities and colleges as visiting, exchange or adjunct professors under formal agreements between the universities or colleges in the Philippines and foreign universities or colleges; or between the Philippine government and foreign government, subject to the rules of reciprocity.
6. Permanent resident foreign nationals and probationary or temporary resident visa holders under the Philippines' immigration law.
7. All foreign nationals granted exemption by law

Aliens Excluded from Securing AEP

Under Sec. 20 of DOLE DO No. 221 Series of 2021, the following categories of foreign nationals providing or supplying services in the country, but their employers are located abroad or those without employer-employee relationship with the Philippine-based entity shall secure Certificate of Exclusion in lieu of AEP for being excluded from securing an employment permit under existing laws or guidelines.

1. Members of the governing board with voting rights only and do not intervene in the management of the corporation or in the day-to-day operation of the enterprise.
2. President and Treasurer, who are part-owners of the company
3. Consultancy service providers who do not have employers in the Philippines
4. Intra-corporate transferee employed by the foreign service supplier for at least one (1) year continuous employment prior to deployment to a branch, subsidiary, affiliate or representative office in the Philippines as a manager, an executive or a specialist, as defined below in accordance with Trade Agreements:
 - a. Executive – person who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors, or stockholder of business; an executive would not directly perform tasks related to the actual provision of the service or services of the organization
 - b. Manager – a person who primarily directs the organization/department/subdivision and exercises supervisory and control functions over other supervisory, managerial or professional staff. This does not include first-line supervisors unless the employees supervised are professionals, does not include employees who primarily perform tasks necessary for the provision of the service
 - c. Specialist – a person within the organization who possesses knowledge at an advanced level of expertise essential to the establishment and/or possesses proprietary knowledge of the organization's service, research equipment, techniques or management. This may include members of the licensed profession.
5. Contractual service supplier who is a manager, executive or specialist employed by a foreign service supplier which has no commercial presence in the Philippines.
 - a. Who enters in the Philippines temporarily to supply a service pursuant to a contract between his/her employer and a service customer in the Philippines
 - b. Must possess appropriate educational

- c. and professional qualifications.
 - c. Must be employed by the foreign service supplier for at least one year prior to the supply of service to the Philippines
6. Authorized representatives of the accredited/ registered foreign principal/ employer who participate in all recruitment/ manning activities by the POEA within or outside of the latter's registered address or acknowledged additional office in the Philippines.

Processing and Issuance of Certificate of Exemption or Exclusion

All foreign nationals exempted or excluded from securing AEP shall secure a Certificate of Exemption or Exclusion from the DOLE Regional Office. The Regional Office shall issue said Certificate within three working days after receipt of the complete documentary requirements and payment of fees.

i. OTHER LABOR CONCERNS

Non-diminution of benefits

General Rule: There is a prohibition against elimination or diminution of benefits (Art. 100, Labor Code) No wage order issued by any regional board shall provide for wage rates lower than the statutory minimum wage rates prescribed by Congress. (Art. 127, Labor Code, as amended by RA No. 6727, June 9, 1989)

Sexual harassment in the Workplace:

Employment or work-related sexual harassment occurs when the sexual favor is made as a condition for:

- hiring or in the employment, re-employment or continued employment of said individual, or
- granting said individual favorable compensation, terms, conditions, promotions, or privileges, or
- not limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee;

The above acts would either:

1. Impair the employee's rights or privileges under existing labor laws; or
2. Result in an intimidating, hostile, or offensive environment for the employee.

Persons who may be liable:

1. Any employer, employee, manager, supervisor, agent of the employer, or any other person, regardless of whether the demand, request for the requirement for submission is accepted by the object of the said act having authority influence or moral ascendancy over another in a work or training or education environment, who demands, requests or otherwise requires any sexual favor from another;
2. Any person who directs or induces another to commit any act of sexual harassment as herein defined; or
3. Any person who cooperates in the commission by another without which it would not have been committed shall also be held liable under the law.

Gender-Based Sexual Harassment in the Workplace.

The crime of gender-based sexual harassment in the workplace includes the following:

1. An act or series of acts involving any unwelcome sexual advances, requests or demand for sexual favors or any act of sexual nature, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems, that has or could have a detrimental effect on the conditions of an individual's employment or education, job performance or opportunities
2. Conduct of a sexual nature and other conduct based on sex affecting the dignity of a person, which is unwelcome, unreasonable, and offensive to the recipient, whether done verbally, physically or through the use of technology such as text messaging or electronic mail or through any other forms of information and communication systems
3. A conduct that is unwelcome and pervasive and creates an intimidating, hostile or humiliating environment for the recipient

The crime of gender-based sexual harassment may also be committed between peers and those committed to a superior officer by a subordinate, to a teacher by a student, or to a trainer by a trainee.

Workplace Safety

The DOLE has promulgated a set of rules known as the Occupational Safety and Health Standards (OSH), the primary objective of which is to protect every workingman against the dangers of injury, sickness or death through safe and healthful working conditions, thereby assuring the conservation of valuable manpower resources and the prevention of loss or damage to lives and properties, consistent with national development goals and with the State's commitment for the total development of every worker as a complete human being.

As an initial step in complying with these rules, in every place of employment, a health and safety committee shall be organized and for new establishments within 1 month from the date the business starts operating. The Committee shall reorganize every January of the following year.

Anti-Age Discrimination Act:

This Act covers all employers, publishers, labor contractors or subcontractors, and labor organizations, whether or not registered. As stated in the law, it is the policy of the State to:

1. Promote employment of individuals on the basis of their abilities, knowledge, skills and qualifications rather than their age.
2. Prohibit arbitrary age limitations in employment.
3. Promote the rights of all employees and workers, regardless of age, to be treated equally in terms of compensation, benefits, promotion, training, and other employment opportunities.



Materials Recovery Facility in Cebu

Owned and operated by Prime Integrated Waste Solutions Inc.

Malampaya Shallow Water Platform

Operated by Prime Energy Resources Development B.V

Tayabasan Weir

Phase 1 of the Wawa Bulk Water Supply Project, owned and operated by WawaJVCo Inc.

Building today's critical infrastructure for a sustainable future.



FOR HIGHEST ON-SHELF AVAILABILITY

Transform your retail operations with our innovative DDL model:
Seamlessly align sales with inventory for optimal stock levels and timely replenishment.
Elevate efficiency and expand effortlessly!

VI IMMIGRATION

IMMIGRATION

VISA CATEGORIES (FOR BUSINESS)

1. 9(d) Treaty Trader or Treaty Investor

This visa is available only if the foreigner is a national of a country with which the Philippines has in place an agreement for the admission of treaty traders or investors, specifically (1) the United States of America, (2) Japan, and (3) Germany.

a. Qualifications

A foreign national of the USA, Japan, and Germany who is entering the Philippines solely to carry on trade or commerce pursuant to an existing treaty of commerce and navigation, OR a foreigner who seeks admission for the purpose of developing and directing the operations of an enterprise in the Philippines.

b. Benefits

- Valid entry in the Philippines for a period of one year subject to extension upon application
- Visa may be extended to the foreigner's spouse and unmarried children below 21 years of age.

2. 9(g) Pre-arranged Employment Visa (Commercial Visa)

This is a working visa that allows employers/proprietors in the Philippines to employ foreign nationals with skills, qualifications, and experience that may be short in supply in the Philippines.

a. Qualifications

- Foreign nationals who are proceeding to the Philippines to engage in any lawful occupation, whether for wages or salary, or other forms of compensation
- A foreign national applying for a pre-arranged employee visa must make sure that he/she has been hired by a Philippine-based company, that will be applying for his/her pre-arranged employee visa as his/her petitioner.

b. Benefits

- Valid stay in the Philippines based on the duration of the employment contract. Grantee may have an initial period of one (1), two (2), or three (3) years validity on your 9(g) Pre-Arranged Employees - Commercial visa. You may also extend or renew said visa for one (1), two (2), or three (3) years depending on the Employer-Employee Contract
- Visa may be extended to the foreigner's spouse and unmarried children below 21 years of age.

3. Special Non-Immigrant Visa (47(a)(2) Visa)

The 47 (a) 2 visa is a special category of working visa under the oversight of the Department of Justice.

a. Qualifications

Unless expressly excluded from entering the

Philippines under Section 29 of CA no. 613, as amended, foreign nationals falling under the following categories may be issued for 47(a)(2) visas:

- Those employed as executives, supervisors, specialists, consultants, contractors, or personal staff at enterprises registered with Export/Special Economic Processing Zones, Philippine Economic Zone Authority (PEZA), Board of Investments, or Authority of the Freeport Area of Bataan; or
- Those employed in enterprises that have existing agreement/s with the government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries, for the completion of a project.

b. Benefits

- Valid entry in the Philippines for an authorized period, subject to extension thereof by complying with the applicable documentary requirements; and
- Visa may be extended to the dependent spouse and/or unmarried minor child/children of the foreign national, including those children born during the period of the latter's authorized stay.

4. Special Investor's Resident Visa (SIRV) under Executive Order 226 or the Omnibus Investment Code of 1987

The Special Investor's Resident Visa (SIRV) entitles the holder to reside in the Philippines for an indefinite period as long as the required qualifications and investments are maintained

c. Qualifications

Any alien, except for restricted nationals, at least twenty-one (21) years of age, who meet the following qualifications:

- He has not been convicted of a crime involving moral turpitude;
- He is not afflicted with any loathsome, dangerous, or contagious disease;
- He has not been institutionalized for any mental disorder or disability; and
- He is willing and able to invest the amount of at least US\$75,000.00.

d. Benefits

- Right to reside in the Philippines for an indefinite period;
- Multiple entry privileges;
- Exemption from the Exit Clearance and Re-Entry requirements of the Bureau of Immigration (BI), Alien Certificate of

- Registration; and
- The applicant's spouse and unmarried children under twenty-one (21) years of age may also be issued the same visa.

5. Special Resident Retiree's Visa (SRRV)

1. SRRV SMILE

a. Qualifications

- Active/healthy principal retirees 50 years old and above; and
- Deposit of at least US\$20,000.00 in any of the designated banks (non-convertible to long term lease investment or condominium purchase) of the Philippine Retirement Authority ("PRA").

b. Benefits

- Option to Retire Permanently in the Philippines
- Multiple Entry Privileges
- Exemptions from:
 - Income tax over pension and annuities;
 - Exit and re-entry permits of the Bureau of Immigration;
 - Annual registration requirement of the Bureau of Immigration;
 - Customs Duties and Taxes with regard to the importation of household goods and personal effects up to US\$7,000.00;
 - Travel tax, if stay in the Philippines is less than one year from the last entry date;
 - Alien Certificate of Registration Identity Card ("ACR I-Card"); and
 - Study Permit or Student's Visa for dependent children intending to study in the Philippines.

The assistance of the PRA to obtain basic documents from other government agencies including but not limited to:

- Alien Employment Permit;
- Driver's License and motor vehicle registration;
- Philippine Tax Exemption/Extension Certificate;
- Tax Identification Number; and
- National Bureau of Investigation ("NBI") Clearance.
- Use of foreign health cards in accredited Philippine hospitals or clinics

2. SRRV Classic

a. Qualifications

- Active/healthy principal retirees who would opt to use their visa deposit to purchase condominium units or use it for long term lease of house and lot; and

- The Visa deposit is as follows:
 - US\$ 20,000.00 - applicants aged 50 years old and above without pension; or
 - US\$10,000.00 - applicants aged 50 years old and above and currently receiving pension: at least US\$ 800.00/month for single applicants and US\$ 1,000.00/month for applicants with dependents.

b. Benefits

- Option to Retire Permanently in the Philippines
- Multiple Entry Privileges
- Exemptions from:
 - Income tax over pension and annuities;
 - Exit and re-entry permits of the Bureau of Immigration;
 - Annual registration requirement of the Bureau of Immigration;
 - Customs Duties and Taxes with regard to the importation of household goods and personal effects up to US\$7,000.00;
 - Travel tax, if stay in the Philippines is less than one year from the last entry date;
 - ACR I-Card; and
 - Study Permit or Student's Visa for dependent children intending to study in the Philippines.

- The assistance of the PRA to obtain basic documents from other government agencies including but not limited to:
 - Alien Employment Permit;
 - Driver's License and motor vehicle registration;
 - Philippine Tax Exemption/Extension Certificate;
 - Tax Identification Number; and
 - NBI Clearance
- Use of foreign health cards in accredited Philippine hospitals or clinics

6. Special Visa for Employment Generation ("SVEG")

This visa is founded on public interest, particularly on an aspect of employment generation for Filipinos.

a. Qualifications

- Non-immigrant foreigners who wish to avail of the SVEG should comply with the following conditions:
 - The foreigner shall actually, directly or exclusively engage in a viable and sustainable commercial investment/enterprise in the Philippines, exercise/perform management acts, or have the authority to hire, promote

- and dismiss employees;
- He evinces a genuine intention to indefinitely remain in the Philippines;
- He is not a risk to national security; and
- The foreigner's commercial investment/enterprise must provide actual employment to at least ten (10) Filipinos in accordance with Philippine labor laws and other applicable special laws.

The above-mentioned requirements must be satisfied continually by the foreigner for him/her to be eligible as a holder of the SVEG.

b. Benefits

- Multiple-entry privileges;
- On conditional extended stay, without the need for a prior departure from the Philippines;
- Exemption from payment of exit clearance certificate and special return certificate; and
- Privileges extend to the qualified foreigner, his/ her spouse, and dependent unmarried child/children below eighteen (18) years of age whether legitimate, illegitimate or adopted.

7. Special Investor's Resident Visa under EO 63 or the Law Granting Incentives to Foreign Investment in Tourist-Related Projects and Tourist Establishments and for Other Purposes

This visa is given as an incentive and part of the enhancement of international tourism through the acquisition or operation of tourist establishments and tourist related projects in our country and by the infusion of capital therein by foreign investors

a. Qualifications

- A foreign investor may be issued a Special Investor's Resident Visa (SIRV) provided that, he is able to prove the following qualifications:
 - He has not been convicted of a crime involving moral turpitude;
 - He is not afflicted with AIDS or any loathsome, dangerous, or contagious disease;
 - He has not been institutionalized for any mental disorder or disability; and
 - He is willing and able to invest at least US\$50,000 in a tourism related project. In the case of a foreign corporation that is willing to invest the amount of at least US\$50,000.00 in a tourist-related project, the SIRV may be issued to the corporation's Chief Executive Officer.

b. Benefits

- The wife and unmarried minor children of the foreign investor may also be issued the same visa, subject to the qualifications under items (i) to (iii);
- The investor, his wife, and an unmarried minor children shall be permitted to enter and reside in the Philippines as special investor residents

- for as long as the investment subsists;
- Multiple entries in the Philippines without further documentary requirements other than valid passports or other travel documents in the nature of passports; and
- Exempt from payment of alien immigration and registration fees and from securing alien certificates of registration.

8. Special Visas Issued by Economic Zones

Subic and Clark Special Economic Zone under Republic Act 7227 or the Bases Conversion and Development Act of 1992.

1. Subic and Clark Special Investor's Visa

a. Qualifications

Any foreign investor who has made an investment of not less than US\$250,000.00 within the Subic Bay Freeport (SBF) or Clark Special Economic Zone

b. Benefits

- Special multiple entry privileges; May reside in the Philippines for as long as his investment subsists; and
- Exemptions from exit clearance certificates, re-entry permits, and special return certificates.

2. Special Subic-Clark Working Visa

a. Qualification

A foreigner who is gainfully employed within the Subic or Clark Special Economic Zones and a holder of an Alien Employment Permit.

b. Benefits

- Special multiple entry privileges;
- Exemptions from exit clearance certificates, re-entry permits, and special return certificates;
- Grants a temporary residence status in the Philippines; and
- It is valid for two (2) years and extendible every two (2) years. It is coterminous with the employment contract or the Alien Employment Permit, whichever validity is shorter.

3. Subic Bay Freeport Residency Visas for Retirees

a. Qualifications

- Over 60 years old;
- Good moral character;
- No previous conviction of a crime involving moral turpitude;
- No longer employed or self-employed; and
- Receiving pension or passive income payable in Subic Bay Freeport in an amount of more than US \$50,000 per year.

b. *Benefits*

- Expedited visa processing by Clark Development Corporation;
- Tax & duty-free importation of supplies, raw materials, and equipment;
- Tax-free and duty-free exportation of finished goods; and
- Exemption from value added tax, local tax, and national tax.

4. **Aurora Special Economic Zone SIRV (RA 9490)**

a. *Qualifications*

Any foreign national who invests an amount of \$150,000.00 in the Aurora Special Economic Zone, either in cash and/or equipment, in a registered enterprise shall be entitled to an investor's visa: Provided that:

- He is at least eighteen (18) years of age;
- He has not been convicted of a crime involving moral turpitude;
- He is not afflicted with any loathsome, dangerous, or contagious disease; and
- He has not been institutionalized for any mental disorder or disability.

b. *Benefits*

- Permanent resident status within Aurora Special Economic Zone while his investment subsists;
- Freedom of ingress and egress to and from the Aurora Special Economic Zone without any need for special authorization from the Bureau of Immigration; and
- The visa may extend to his/her spouse and dependent children under twenty-one (21) years of age.

5. **Cagayan Special Economic Zone SIRV (RA 7922)**

a. *Qualifications*

Any foreign investor who establishes a business enterprise within the Cagayan Special Economic Zone and who maintains capital investment of not less than One hundred fifty thousand United States dollars (US\$150,000).

b. *Benefits*

- Permanent resident status within Cagayan Special Economic Zone while his investment subsists;
- Freedom of ingress and egress to and from the Cagayan Special Economic Zone without any need for special authorization from the Bureau of Immigration; and
- The visa may extend to his/her spouse and dependent children under twenty-one (21) years of age.

6. **Freeport Area of Bataan SIRV (RA 9728)**

a. *Qualifications*

Any foreign national who invests an amount of One hundred fifty thousand US dollars (US\$150,000.00), either in cash and/or equipment, in a registered enterprise in the Freeport Area of Bataan shall be entitled to an investor's visa: Provided that he has the following qualifications:

- He is at least eighteen (18) years of age;
- He has not been convicted of a crime involving moral turpitude;
- He is not afflicted with any loathsome, dangerous, or contagious disease; and
- He has not been institutionalized for any mental disorder or disability.

b. *Benefits*

- Permanent resident status within the Freeport Area of Bataan while his investment subsists; and
- This privilege may extend to the investor's spouse and dependent children under 21 years of age.

7. **Zamboanga City Special Economic Zone SIRV (RA 7903)**

a. *Qualifications*

Any foreign investor who establishes a business enterprise within the ZAMBOECOZONE and who maintains capital investment of not less than One Hundred Fifty Thousand United States Dollars (US\$150,000).

b. *Benefits*

- Permanent resident status within the ZAMBO ECOZONE while his investment subsists; and
- This privilege may extend to the investor's spouse and dependent children under 21 years of age.

NOTE: Working visas are also issued in each economic zone, renewable every two (2) years, to foreign executives and foreign technicians with highly specialized skills that no Filipino possesses, as certified by the Department of Labor and Employment.

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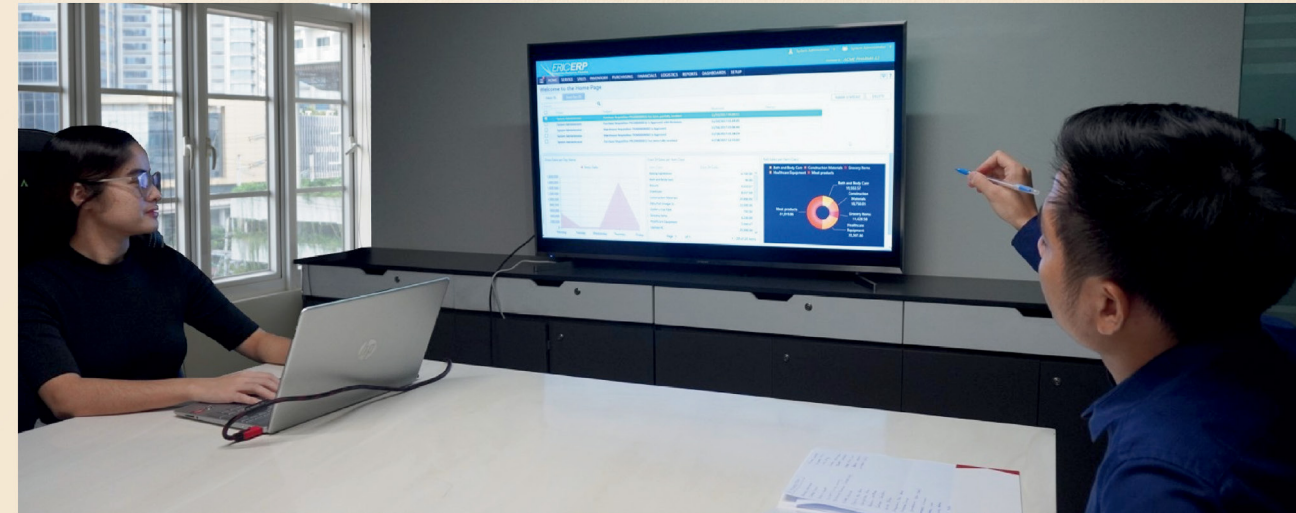
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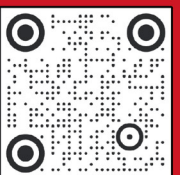
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VII

INTELLECTUAL PROPERTY

RECENT UPDATES ON INTELLECTUAL PROPERTY LAW IN THE PHILIPPINES

INTELLECTUAL PROPERTY (“IP”)

The Intellectual Property Office of the Philippines (“IPOPHL”) continues to move towards digitalization for IP prosecution and litigation, despite the easing of restrictions due to COVID-19. Trademark, copyright, patent, utility model, and industrial design applications are now made online through the IPOPHL’s website. The IPOPHL now issues electronic Registration Certificates for trademarks, inventions, utility models, and industrial design in lieu of hard copy certificates. Hard copies may still be requested however with the respective trademark, copyright, and patent bureaus.

The rules on the electronic filing of pleadings and submissions for *inter partes* and IP violation cases filed with the IPOPHL Bureau of Legal Affairs (“BLA”) remain applicable, with additional amendments to the rules and regulations on *inter partes* proceedings pursuant to IPOPHL Memorandum Circular No. 2022-013 dated 27 May 2022. Meanwhile, the service of notices, orders, and final decisions are done through electronic mail, pursuant to IPOPHL Memorandum Circular No. 2021-015 dated 14 May 2021.

I. PATENTS

In the time of the 4th Industrial Revolution or Industry 4.0, technology became a key driving factor among industries. To remain relevant, companies must ensure that they are leveraging the appropriate technology in their processes, products and services are accessible in the digital age, and its investment and intellectual property are protected.

A. Artificial Intelligence

Artificial Intelligence (“AI”) refers to a series of technologies that simulate human intelligence to perform tasks and conduct problem solving. AI continues to emerge as a general-purpose technology with widespread applications throughout the economy and society.

In the 1970s and 1980s, there were discussions on whether computer software and technology driven business methods are patentable, copyrightable

or a *sui generis* system. Currently, as widely accepted, a computer software itself is protected by copyright but industrially applicable inventions arising from the software or even the software itself can be also protected by patent as long as the inventor can prove its patentability.

However, as industries utilize AI, issues on whether the work produced by these systems is likewise protected as copyright or patent, as the case may be. Notably, in a recent decision, the United States Court of Appeals for the Federal Circuit held **that only natural persons (i.e., human beings) can be named inventors in patent applications.**

While the law relating to the patentability of software and business methods is still not harmonized internationally, these issues are inevitably clarified as more cases are filed and these issues are resolved by regulators.

B. Joint/Induced Patent Infringement

As the technology and methods involved in patents become more complicated, so do ways of committing infringement. For instance, there can be separate instances of infringement depending on the multiple claims in a patent, and multiple cross-border parties infringing with a common design.

There is Joint Patent Infringement when two or more persons conspire or cooperate to perform acts that infringe patent rights. On the other hand, when a person actively encourages or facilitates another person to directly infringe on a patent, it gives rise to an Induced Patent Infringement.

Under the Intellectual Property Code (“IP Code”), anyone who actively induces the infringement of a patent or provides the infringer with a component of a patented product or of a product produced because of a patented process knowing it to be especially adopted for infringing the patented invention and not suitable for substantial non-infringing use shall be liable as a contributory infringer and shall be jointly and severally liable with the infringer.

Under Philippine law, joint or induced patent infringement is prosecuted the same way with administrative, civil and criminal remedies available. Thus, the importance of adopting robust IP protection, monitoring and compliance policies becomes more imperative as this is the first important step in protecting a company's IP.

C. New Standard of Claim Construction

The rules governing claims in patent cases are set forth in the Implementing Rules and Regulations of Republic Act No. 8293, as amended by Republic Act Nos. 9150, 9502, and 10372 ("IRR").

At the onset, claims define the matter for which protection is sought. Each claim shall be clear and concise and shall be supported by the description.¹ In determining the scope of protection, due account shall be taken of elements which are equivalent to the elements expressed in the claims, so that a claim shall be considered to cover not only all the elements as expressed therein but also equivalents.² Under the IRR, all claims must be distinctly identified in the patent application, viz:

"Rule 416. Claims. – (a) The patent application must conclude with a claim, particularly pointing out and distinctly claiming the part, improvement, or combination which the applicant regards as his invention."³

A claim shall contain the subject matter of the invention, and its technical features, including those which may form part of a prior art.⁴ It must conform to the invention, and must be supported by the descriptions contained therein, viz:

"Rule 416. Claims. – xxx

¹ Section 36.1, Republic Act No. 8293, as amended Republic Act Nos. 9150, 9502, and 10372, or the "Intellectual Property Code of the Philippines" (hereinafter referred to as "RA 8293, as amended").

² Section 75.2, RA 8293, as amended.

³ Rule 416, Intellectual Property Office Philippines Memorandum Circular No. 2022-016, or the "Revised Implementing Rules and Regulations for Patents, Utility Models and Industrial Designs" (hereinafter referred to as the "IRR").

⁴ Rule 417, IRR.

(d) The claims must conform to the invention as set forth in the description and the terms and phrases used in the claims must find clear support or antecedent basis in the said description so that the meaning of the terms may be ascertainable by reference to the description. Claims shall not, except where necessary, rely in respect of the technical features of the invention, on reference to the description or drawings. In particular, they shall not rely on references such as, "As described in part xxx of the description" or "As illustrated in figure xxx of the drawings."⁵

As to the form and contents, the claim must define the matter for which protection is sought in terms of the technical features of the invention. Specifically, the descriptions of each claim shall use terms which are understandable in their plain meaning. Particularly, claims shall contain the following, when applicable, to wit:

"Rule 417. xxx (a) A statement indicating the designation of the subject matter of the invention and those technical features which are necessary for the definition of the claimed subject matter but which, in combination, are part of the prior art;

(b) A characterizing portion preceded by the expression, "characterized in that" or "characterized by," stating the technical features which, in combination with the features stated in subparagraph (a), it is desired to protect.

(c) If the application contains drawings, the technical features mentioned in the claims shall preferably if the intelligibility of the

⁵ Rule 415, IRR.

claim can thereby be increased, be followed by reference signs relating to these features and placed between parentheses. These reference signs shall not be construed as limiting the claim."⁶

Notably, each patent application may contain one (1) or more independent claims in the same category. Further, one (1) or more claims may be presented in dependent form which refer to, or limit, another claim in the same application. However, a dependent claim referring to more than one other claim (multiple dependent claims) shall refer to such other claims in the alternative only, viz:

"Rule 415. Claims. – xxx

(b) The application may contain one (1) or more independent claims in the same category (product, process, apparatus, or use), where it is not appropriate, having regard to the subject matter of the application, to cover this subject matter by a single claim which shall define the matter for which protection is sought. Each claim shall be clear, concise, and supported by the description.

(c) One (1) or more claims may be presented in dependent form, referring back and further limiting another claim(s) in the same application. Any dependent claim which refers to more than one other claim (multiple dependent claim) shall refer to such other claims in the alternative only. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. xxx"⁷

Additionally, if the invention relates to an improvement, the claim or claims should specifically point out and distinctly claim the improvement in combination with a preamble statement indicating the prior art features which

⁶ Rule 416, IRR.

⁷ Rule 416, IRR.

are necessary for the definition of the claimed subject matter.⁸

As for the fees, a claims fee shall be charged only for claims in excess of five (5) in one application whether such claims are presented at the time of filing, or when claims are added after the filing date but in the same application. The claims fee shall be payable within one (1) month after the filing of the application. If the claims fee has not been fully paid in due time, they may still be paid within a grace period of one (1) month from notice pointing out the failure to observe the time limit. Failure to pay the claims fee shall result in their deletion.⁹

D. Pending Legislations

Patent laws in the Philippines have consistently been reviewed by the legislature in efforts to remain relevant and responsive to the evolving social, economic, and political climate of the country. Among the pertinent pending legislation on patent laws are Senate Bill Nos. 2385 and 2326, and House Bill No. 2672.

1. Senate Bill No. 2385 ("Bill 2385")

Bill 2385 expanded the enforcement functions of the IPOPHL to include intelligence gathering, visitations, data collection, and enforcement actions in relation to violations of intellectual property rights.

The proposed enforcement functions under Bill 2385 are the following:¹⁰

"53. The Office shall perform the following enforcement functions:

(A) Gather intelligence information related to the violations of this Act, conduct inquiry and investigation, and develop effective countermeasures to deter

⁸ Rule 416, IRR.

⁹ Rule 418, IRR.

¹⁰ Section 2, Senate Bill No. 2385, An Act Amending the Powers and Functions of the Intellectual Property Office of the Philippines, Amending for the Purpose Republic Act No. 8293, as amended, otherwise known as the Intellectual Property of the Philippines, Senate of the Philippines, 19th Congress, 2nd Regular Session (hereinafter referred to as "SB 2385").

counterfeit or pirated goods or content;

(B) Conduct visits during reasonable hours to establishments and businesses of activities suspected to be in violation of this Act in accordance with the procedures prescribed herein;

(C) Develop a database of pending cases involving violations of this act;

(D) Undertake any or all of the following enforcement actions;

xxx

(3) Recommend that the concerned local government unit and/or other government agency cancel licenses and business permits of establishments or businesses for engaging in selling or making available to the public counterfeit or pirated goods or file charges against the respondents for violation of applicable laws, rules or regulations;

xxx

(G) Conduct monitoring activities related or relevant to intellectual property rights enforcement; xxx¹¹

Bill 2385 proposes to increase the penalties which the BLA can impose in case of violation of intellectual property rights, including rights granted to a patent holder. Particularly, the basic administrative fine of Five Thousand Pesos (Php5,000.00) to One Hundred Fifty Thousand Pesos (Php150,000.00), and the daily fine of not more than One Thousand Pesos (Php1,000.00) for the continuing violation, increasing the fine to One Hundred Thousand Pesos (Php100,000.00)

11 Section 2, An Act Strengthening the Powers and Functions of the Intellectual Property Office of the Philippines, Amending for the Purpose Republic Act No. 8293, as Amended, otherwise known as the Intellectual Property Code of the Philippines, Senate Bill No. 2385, 19th Congress, 2nd Regular Session (hereinafter referred to as "Bill 2385").

to One Million Pesos (Php1,000,000.00), and Ten Thousand Pesos (Php10,000.00), respectively.¹²

2. Senate Bill No. 2326 ("Bill 2326") and House Bill No. 2672 ("Bill 2672") (collectively, the "Bills")

Bill 2326 was proposed in response to the ratification of the Regional Comprehensive Partnership Agreement ("RCEP") on 21 February 2023. The RCEP is a free trade agreement that aims to provide protection and improve enforcement of intellectual property rights which shall ultimately contribute to the promotion of technological innovation and to the transfer and dissemination of technology.¹³

In compliance with the intellectual property provisions of the RCEP, Bill 2326 proposed the amendment of certain provisions of Republic Act No. 8293, as amended by Republic Act Nos. 9150, 9502, and 10372 ("RA 8293, as amended"), in relation to patents and the powers of the IPO. Specifically, Bill 2326 introduced the amendments discussed below.

Bill 2672 was likewise submitted before the House of Representatives and it is now pending with the Committee on Trade and Industry, which proposes essentially the same amendments as discussed below.

Provisional Patent Application

A provisional patent application ("PPA") is a temporary patent application that complies with the required contents of the same and is filed for purposes of establishing an early filing date. It shall then be replaced by a patent application if the latter is filed within twelve (12) months from the filing date of the PPA and complies with all the requirements set by law.¹⁴ Notably, a PPA is not

12 Section 3, Bill 2385.

13 Article 11.1, Section A, Chapter 11, Regional Comprehensive Economic Partnership, Accessed at: <https://rcepsec.org/wp-content/uploads/2020/11/Chapter-11.pdf> on 04 December 2023 (hereinafter referred to as, "RCEP").

14 Section 16, An Act Amending Certain Provisions of Republic Act 8293, otherwise known as the Intellectual Property Code of the Philippines, Senate Bill No. 2326, 19th Congress, 2nd Regular Session (hereinafter referred to as "Bill 2326"); Section 14, An Act Amending Certain Provisions of Republic Act 8293, otherwise known as the Intellectual Property Code of the Philippines and for other purposes, 19th Congress, 1st Regular

recognized under RA 8293 and is a new term under the proposed Bills.

As for the contents of a PPA, the Bills require that the following documents to support the PPA:

"32A.2. A provisional patent application shall contain the following:

a. Request Form for Provisional Application;

b. Provisional description of the invention;

c. Provisional drawings or sequence listings, if applicable;

d. At least one (1) provisional claim;

e. Provisional abstract;

f. Payment of required fees at the time of filing; and

g. If the applicant is not domiciled in the Philippines, the appointment of an agent or representative upon whom notice or process for judicial or administrative procedure relating to the application for patent or the patent may be served."¹⁵

Benefits of the PPA

The benefit of filing a PPA refers only to the right of claiming priority date and for establishing the requisite of novelty in patent applications.¹⁶ However, an undisclosed PPA shall not be considered as prior art.¹⁷ Further, the protection granted during the term of a patent shall be reckoned from the filing date of the PPA.¹⁸

Session (hereinafter referred to as "Bill 2672").

15 Section 32A.2, Bill 2326.

16 Section 20, Bill 2326.; Section 18, Bill 2672.

17 Section 17, Bill 2326.; Section 15, Bill 2672.

18 Section 20, Bill 2326.; Section 18, Bill 2672.

Expanded definition of the right of priority

Under RA 8329, as amended, the right of priority refers to the rule which states that an "application for patent filed by any person who has previously applied for the same invention in another country which by treaty, convention, or law affords similar privileges to Filipino citizens, shall be considered as filed as of the date of filing the foreign application."¹⁹

However, the same rule is qualified by the proviso which requires the concurrence of the following requirements:

"(a) the local application expressly claims priority;

(b) it is filed within twelve (12) months from the date the earliest foreign application was filed; and

(c) a certified copy of the foreign application together with an English translation is filed within six (6) months from the date of filing in the Philippines."²⁰

The Bills expand the definition of the right of priority to recognize the date of filing of the PPA as the priority date. In order for the same to be claimed as the priority date, the patent application must be filed within twelve (12) months from the filing date of the PPA and must comply with the requirements discussed above.²¹

Confidentiality of provisional patent applications

The Bills impose strict confidentiality for the filed PPAs. Particularly, a PPA shall not be published in the IPO Gazette or any other publication. Further, a forfeited PPA shall be destroyed and permanently deleted, and no records shall be kept by the IPO.²²

Qualified term of a patent

As for the term of the patent under the Bills, patents which were originally filed under a PPA

19 Section 31, RA 8293..

20 Section 31, RA 8293, as amended.

21 Section 18, Bill 2326.; Section 15, Bill 2672.

22 Section 23, Bill 2326.; Section 20, Bill 2672.

shall have a term of twenty (20) years reckoning from the filing date of the PPA.²³

Amendment on the remedies to patent infringement

Bill 2326 intends to empower the BLA to decide on petitions for declaration as true and actual inventor or person having the right to a patent.²⁴ Notably, RA 8293, as amended, does not grant this authority to the BLA as such petitions are within the exclusive cognizance of the courts.

The said bill further grants jurisdiction to Regional Trial Courts for any civil action for patent infringement brought by any patentee, or anyone possessing any right, title or interest in and to the patented invention, whose rights have been infringed.²⁵ Notably, RA 8293, as amended merely mentions a "competent court of jurisdiction."²⁶

Additional limitations to patent rights

Bill 2326 proposes a stricter limitation of patent rights in cases where the invention is being used for experiments for scientific and educational purposes. In such case, it shall be exclusive for that said purpose.²⁷

Criminal Action and Penalties for Patent Infringement

Finally, the Bills proposed additional and specific criminal penalties for patent infringement and repetition of the same.

Particularly, in cases of infringement of industrial design, the offender shall be punished with imprisonment for a period of not less than three (3) years but not more than five (5) years and/or a fine of not less than One Hundred Thousand Pesos (Php100,000.00) but not more than Three Hundred Thousand Pesos (Php300,000.00).²⁸

Further, in cases of infringement of invention patents, utility models, or layout of integrated circuits is repeated by the infringer or by anyone in

connivance with him after the finality of judgment of the court against the infringer, the offender shall be punished with imprisonment for a period of not less than three (3) years but not more than five (5) years and/or fine of not less than Five Hundred Thousand Pesos (Php500,000.00) but not more than One Million Pesos (Php1,000,000.00).²⁹

II. TRADEMARKS

The IPOPHL has issued Memorandum Circular (MC) 2023-001 or the "Rules and Regulations on Trademarks, Service Marks, Trade Names and Marked or Stamped Containers of 2023 Replacing the Revised Trademark Regulations of 2017" which took effect on 14 February 2023.

Spotlight is given to the revisions concerning the protection of non-traditional visual marks such as color, motion, position, 3D, and hologram marks and their formal filing requirements.

As regards filing and procedural requirements, the amended rules now require fully automated transactions with the IPOPHL and the use of its electronic filing system. Previously, the IPOPHL would allow personal filing in some cases such as when the filing fees reach a certain threshold amount. Bureau of Trademark correspondences and the applicant, registrant, or agent's period to reply has likewise changed is now counted from the date this was sent to the by the IPOPHL to the registered email and not from the date of sending of the hard copy of the correspondence to the listed address.

Revisions to IPOPHL's fee structure have also been made under MC 2023-002 or the "Amendments to IPOPHL Memorandum Circular No. 16-012 (IPOPHL Revised Fee Structure of 217) in Relation to Trademark-Related Fees." Highlighted in the revisions is that the payment for the publication and opposition fee shall now be paid together with the filing fee whereas in the past, these fees were paid after the receipt of a Notice of Allowance for Publication. As explained by the IPOPHL, this mitigates the chances of abandonment of applications due to inadvertent non-payment of filing fees.

Other notable revisions include the following:

²⁹ Section 30, Bill 2326. Section 22, Bill 2672.

²³ Section 24, Bill 2326.; Section 21, Bill 2672.

²⁴ Sections 9 and 25, Bill 2326.

²⁵ Section 26, Bill 2326.

²⁶ Section 76.2, RA 8293, as amended.

²⁷ Section 28, Bill 2326.

²⁸ Section 30, Bill 2326. Section 22, Bill 2672.

1. the definition of "trade names" as the "business name, company name or corporate name;
2. the definition of "registered e-mail as the email address of the applicant/ registrant or its agent/ representative as stated or entered in the online application system (eTMFile) or as may be subsequently communicated to the Bureau of Trademarks;
3. the mandatory use of IPOPHL-prescribed forms for submission to the office;
4. the requirement of disclaiming the function portion of the trademark;
5. the allowance of the examiner to suspend actions while awaiting an applicant's response;
6. the submission of the foreign registration to those claiming priority right within one (1) year from the mailing date of the Notice of Allowance rather than six (6) months; and
7. the requirement of legalisation, authentication or apostille of trademark for transfer documents notarized abroad for purposes of recordation with the Bureau of Trademarks.

On 5 October 2022, through IPOPHL MC No. 2022-022, the IPOPHL issued its rules and regulations on geographical indications (GI), which provide for a *sui generis* system of and procedure for registration and protection of GIs with the Bureau of Trademarks.

Further, consistent with the mandate to promote and provide assistance to MSMEs, and the objective of affording Filipino entrepreneurs an effective system to protect their marks abroad, the IPOPHL launched the "Juan for the World" program through IPOPHL MC No. 2021-021, by waiving the handling fee for processing Madrid Protocol International Application.

III. COPYRIGHT

2021-2022 was an exciting period for copyright and related rights. The IPOPHL strengthened the Bureau of Copyrights and Other Related Rights ("BCRR") in late 2020 when it issued new rules on copyright registration and deposit, which streamlined the registration and deposit process under the BCCR, including the record of exclusive copyright licences and assignments. The IPOPHL also issued:

1. the new rules on the resolution of disputes on copyright licensing, which placed the original jurisdiction over such disputes with the Director of the BCRR;
2. the rules on resale rights in relation to paintings, sculptures, and manuscripts; and
3. the rules on copyright for government works.

The IPOPHL furthered its promotion of copyright protection with the accession of the Philippines to the Beijing Treaty on Audiovisual Performance ("BTAP") in 2021, especially for local music and audiovisual works. The IPOPHL hosted the first ever international Copyright Summit in November 2021, which focused on educating the public on copyright protection in various sectors of the creative industry and published a Copyright Reference book and quarterly Copyright Bulletin, both of which are available for free on its website.

In late 2021, the IPOPHL issued:

1. its draft implementing rules of the BTAP;
2. the draft implementing rules on sound performers' rights and sound record producers' rights under the World Intellectual Property Organization Performances and Phonograms treaty (WPPT); and
3. the draft implementing rules on copyright protection and the public domain, which are currently under public consultation.

Aside from this, the IPOPHL also entered into a partnership with the Motion Picture Association of the United States trade group for purposes of

monitoring piracy, and to support the creation of a piracy monitoring system and site-blocking regime to further protect IP rights in this jurisdiction.

With these improvements, the IPOPHL is on trend to further promote and strengthen copyright protection in the Philippines, especially for local creatives and talents.

IV. Mediation and alternative dispute resolution

The IPOPHL is promoting a shift towards alternative modes of settling IP disputes by partnering with the Office of Alternative Dispute Resolution. In the stakeholder's meeting held in April 2022, IPOPHL officers and other key speakers discussed the importance of ADR as a part of the recovery phase of the business sector in terms of IP matters. As part of its efforts to minimise litigious expenses, the IPOPHL has been actively upgrading its processes and launching new mediation services to cater to stakeholder needs. In 2021 alone, the Bureau of Legal Affairs mediated 195 cases, which is 47% higher than the 133 cases it mediated in 2020. The IPOPHL has also issued new rules for the mediation of IP cases outside of litigation, with the hopes of de-clogging its dockets.



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VIII COMPETITION LAW

COMPETITION LAW

1. Legal Landscape

Republic Act No. 10667, otherwise known as the “Philippine Competition Act” (PCA), consolidates the Philippines’ antitrust policies. Notably, the PCA operates extraterritorially. The PCA not only applies to any person or entity engaged in trade, industry and commerce in the Philippines but also applies to international trade, industry or commerce having direct, substantial, and reasonably foreseeable effects in the Philippines. Thus, acts done outside the Philippine territory may be subject to PCA.

The Philippine Competition Commission (PCC) is the primary authority tasked to implement the national competition policy. It is an independent and quasi-judicial body with original and primary jurisdiction over competition law issues. The PCC was given a wide range of enforcement powers, including powers to investigate and adjudicate antitrust cases, review mergers and acquisitions, issue subpoena duces tecum and subpoena ad testificandum, conduct inspections of business premises and records, issue adjustment or divestiture orders, including corporate reorganization, and impose sanctions and penalties.

2. Prohibited Practices

- a. **Anti-Competitive Agreements.** There are two main classifications for anti-competitive agreements – (i) *per se* prohibited, and (ii) those which have the object or effect of substantially preventing, restricting, or lessening competition.

Per se prohibited agreements are those entered into between or among competitors which restrict competition as to price, or components thereof, or other terms of trade (price-fixing), or which fixes the price at an auction or bidding (bid-rigging). These agreements are inherently illegal and no further inquiry into its effect on competition is necessary.

Other agreements must be shown to have the object or effect of substantially preventing, restricting, or lessening competition to be considered anti-competitive. These agreements include output limitation and market sharing. Contribution to improving the production or distribution of goods and services or promotion of technical or economic progress, while allowing consumers a fair share of the resulting benefits may be set up as a defense for these types of agreements.

- a. **Abuse of Dominant Position.** Dominant position refers to a position of economic strength that an entity or entities hold which makes it capable of controlling the relevant market independently from any or a combination of the following: competitors, customers, suppliers, or consumers. The PCA considers several factors to determine market dominance, such as market share, ability to fix prices unilaterally or restrict market supply, existence and power of competitors, difficulty of entry of new competitors, and consumer’s switching power. There is a rebuttable presumption of market dominance if the market share of an entity in the relevant market is at least fifty percent (50%).

Having a dominant position is not *per se* prohibited. It is an abuse of a dominant position by engaging in conduct that would substantially prevent, restrict, or lessen competition that is prohibited. The PCA lists several instances that may constitute abuse of a dominant position, such as predatory pricing, imposing barriers to entry, tying/bundling, discriminatory behavior, and monopsony. Contribution to improving the production or distribution of goods and services or promotion of technical or economic progress, while allowing consumers a fair share of the resulting benefits may also be invoked as a defense against allegations of abuse of dominant position.

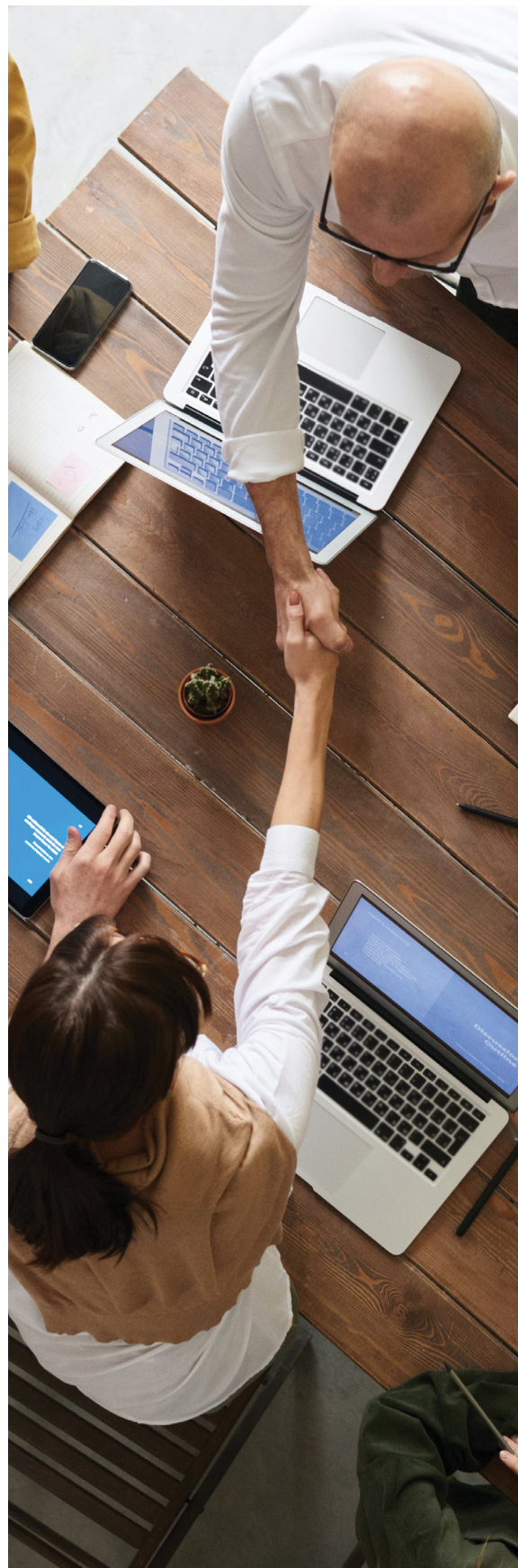
- b. **Prohibited Mergers and Acquisitions (M&A).** M&As are prohibited if it will substantially prevent, restrict, or lessen competition in the relevant market. The PCA allows two exemptions from this prohibition: (i) the concentration has brought about or is likely to bring about gains in efficiencies that are greater than the effects of any limitation on competition, or (ii) a party to the M&A is faced with actual or imminent failure, and the agreement represents the least anti-competitive arrangement among the known alternative uses for the failing entity’s assets.

The authority of PCC to review M&A transactions is not limited to those which have breached the notification threshold. The PCC may, *motu proprio* or on its own, review any M&A transaction that may come to its attention.

3. Penalties and Leniency Program

The PCC may impose administrative fines for violations of the PCA and may require divestment and disgorgement of excess profits. Anti-competitive agreements entered into by competitors are criminal offenses and are subject to imprisonment of two (2) to seven (7) years. The PCC adopts a leniency program designed to aid the detection and prosecution of anti-competitive activities.

An entity that is in doubt as to whether a contemplated act, agreement or conduct complies with the PCA may request from the PCC a binding ruling thereon. In the event of an adverse binding ruling, the entity shall be provided with a reasonable period, which shall not exceed ninety (90) days, to abide by the ruling of the PCC and shall not be subject to administrative, civil or criminal action.



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PHILIPPINE FOCUS INDUSTRIES AND SPECIFIC REGULATIONS

IX RENEWABLE ENERGY

RENEWABLE ENERGY

Powering the Future: The Regulatory Framework for Electric Power Industry in the Philippines

Power, electric utilities, and energy have collectively evolved as the most dynamic industries over the past few decades in the Philippines as they have undergone major changes and transformations. Given the multifarious nature of this important sector, the Philippine Congress and national government agencies have passed and issued numerous far-reaching Philippine energy laws, rules, and regulations to address the continuing development and complexity of the industry.

In 2001, the electric power industry in the Philippines underwent significant reorganization, through the passage of Republic Act No. (“**RA**”) 9136, otherwise known as the Electric Power Industry Reform Act of 2001 (“**EPIRA**”). The EPIRA established the overall framework for the restructuring of the electric power industry. More specifically, EPIRA was passed into law to pave the way for the: (i) reorganization of the electric power industry into four sectors: generation, transmission, distribution and supply; (ii) transfer of National Power Corporation’s (“**NPC**”) transmission and sub-transmission facilities, and all other assets related to transmission operations, including the nationwide franchise of NPC for the operation of the transmission system and the grid, and the creation of National Transmission Corporation (“**TRANSCO**”); (iii) de-monopolization and shareholding dispersal in generation companies, DUs, and their respective holding companies, and introduction of competition in the generation and supply sectors; (iv) differentiation of contestable and captive market in the supply of electricity; (v) establishment of the Wholesale Electricity Spot Market (“**WESM**”), providing procedures for, among others, merit order dispatch, market-clearing price, market administration including criteria for admission to and termination from market, market operation in system emergencies, and amendment of rules; (vi) introduction of retail competition and open access (“**RCOA**”); (vii) absorption by the national government of stranded debt and stranded contract costs of NPC; (viii) determination of universal charge to be imposed on all end-users for various purposes; (ix) parity of tax treatment for exploitation of all indigenous energy sources with existing rates for imported coal, crude oil bunker fuel and other imported fuels; (x) unbundling of electricity rates; (xi) definition and refinement of the powers and functions of the Department of Energy (“**DOE**”); (xii) creation of the ERC and definition of its mandate; (xiii) recognition of cross-ownership, market abuse, and anti-competitive behavior; (xiv) fines and penalties for violation of EPIRA; (xv) privatization of NPC assets and contracts through

independent power producers (“**IPP**”) administrators; (xvi) creation of Power Sector Assets and Liabilities Management Corporation (“**PSALM**”) and its mandate; (xvii) promotion of rural and missionary electrification, conversion of electric cooperatives, additional mandate of NEA, and assumption by PSALM of all outstanding financial obligation of electric cooperatives; (xviii) congressional oversight through the Joint Congressional Power Commission; (xix) benefits to host communities; (xx) NPC offer of transition supply contracts; (xxi) renegotiation of power purchase and energy conversion agreements; (xxii) mandated rate reduction and lifeline rate; (xxiii) removal of cross subsidies; and (xxiv) education and protection of end-users.

After seven years of reorganizing the electric power industry, the Philippine Congress proposed the transition to cleaner forms of indigenous energy resources through RA 9513, otherwise known as the “*Renewable Energy Act of 2008*” (the “**RE Law**”). The RE Law provides for the overall framework for the use of renewable energy (“**RE**”) resources, including biomass, geothermal, solar (rooftop, ground-mounted and floating), hydro (run-of-river and dam), ocean and wind (onshore and offshore), for power generation in the Philippines. As a matter of basic policy, the Philippines promotes the accelerated advancement of RE resources into useful forms of energy and the development of a strategic program to further increase the utilization of RE resources.

The RE Law promotes the efficient and cost-effective commercial application of RE systems by providing fiscal and non-fiscal incentives to RE developers, individuals, or groups engaged in the exploration, development, and utilization of RE resources and the actual operation of RE systems or facilities including RE Generation Facilities, as will be discussed below.

Moreover, the RE Law provides for the creation of the National Renewable Energy Board (“**NREB**”), which is a body composed of representatives from various agencies of the government, more particularly, the DOE, Department of Trade and Industry, Department of Finance, Department of Environment and Natural Resources, NPC, Philippine National Oil Company, Philippine Electricity Market Corporation, and representatives from the private sector appointed by the President and representing various sectors such as the RE developers, government financial institutions, private DUs, electric cooperatives, electricity suppliers and non-governmental organizations.

The NREB is tasked primarily to facilitate and recommend the NREP of the Philippines and to oversee

and monitor the utilization of the RE Trust Fund, a special account used to finance the research, development, demonstration and promotion of the widespread and productive use of RE systems, the conduct of RE studies by the public and private sectors, and the development and operation of RE resources.

Doing Business as RE Developer in the Philippines

The RE Law requires all RE developers who will explore, develop, and utilize RE resources in the Philippines to apply for a renewable energy service contract (“RESC”). The RESC is a service agreement between the Republic of the Philippines, through the DOE, and the RE developer over a period of 25 years in which the RE developer is given the exclusive right over a particular area for exploration and development of RE resources. The RESC serves as the foundation for the construction by the RE developer of an RE power plant in the Philippines.

In the Philippines, the DOE is the executive department of the national government responsible for the preparation, integration, coordination, supervision, and control of all plans, programs, projects, and activities of the government relative to energy exploration, development, utilization, distribution, and conservation. To implement the provisions of the RE Law, the Renewable Energy Management Bureau (“REMB”) under the DOE was statutorily created. The REMB is tasked to, among others, develop policies, plans and programs related to the utilization and commercialization of RE resources and technologies and promote commercialization of RE resources including new and emerging technologies for efficient and economical transformation, conversion, processing, marketing, and distribution to end users. The REMB is the body that has the power, among others, to evaluate, process, approve and issue RESC, permits, certifications, and/or accreditations as provided for in the RE Law and its IRR.

Under each RESC, the RE developer has the following obligations:

- a. Comply with all its work and financial commitment in carrying out its RE operations and provide all necessary services, technology, and financing in connection therewith;
- b. Observe applicable laws relating to labor, health, safety, environment, ecology and indigenous peoples rights, among others;
- c. Pay the government share and taxes, as may be applicable;
- d. Give priority in employment to qualified personnel in the area where the RE project is located and give preference to Filipinos in all types of employment for which they are qualified;
- e. Give preference to local companies/agencies in entering into subcontracts on RE activities or services which the RE developer may not carry

out, upon approval by the DOE, provided that these companies/agencies are competitive and the services required are locally available;

- f. Post a performance bond, if applicable, within the prescribed period;
- g. Maintain complete and accurate technical data and reports, and accounting records of all the costs and expenditures for the RE operations;
- h. Submit technical and financial reports in accordance with the format as prescribed by the DOE and in a timely manner;
- i. Be responsible for the proper handling of data, samples, information, reports, and other documents; and
- j. Allow DOE personnel, at all reasonable times, full access to RE Contract area and to accounts, books, and other records relating to RE operations.

Fiscal and Non-Fiscal Incentives of RE Developers

To further encourage investments in the use of RE resources, an RE developer who is awarded an RESC by the DOE is entitled to numerous fiscal incentives under the RE Law. Among the key fiscal incentives and tax benefits set out in the RE Law include, among others:

- a. Income tax holiday (“ITH”) for a period of seven (7) years from the start of commercial operations;
- b. Corporate tax rate of only ten percent (10%) on its net taxable income after seven (7) years of availing of the ITH (compared to the regular 25% corporate income tax rates);
- c. Exemption from tariff duties in the importation of machinery and equipment, and materials and parts thereof within the first ten (10) years from issuance of Certificate of Registration to an RE developer;
- d. Special realty and other taxes not exceeding one and a half percent (1.5%) of their original cost less accumulated normal depreciation or net book value on certain improvements actually and exclusively used for RE facilities;
- e. Deduction from gross income for the next seven (7) consecutive taxable years of the net operating loss carry-over (“NOLCO”) during the first three (3) years from the start of commercial operation, under certain conditions;
- f. Accelerated depreciation if an RE project fails to receive an income tax holiday before full operation;
- g. Zero value-added tax (“VAT”) on certain transactions related to the development of the plant facilities, and the exploration and development of the RE resources;
- h. Tax exemption on all proceeds from the sale of carbon emission credits; and
- i. Tax credit equal to one hundred percent (100%) of the value of VAT and customs duties that would have been paid on the RE machinery, equipment, materials and parts for the RE project had these items been imported, under certain conditions.

Aside from fiscal incentives, the RE Law also provides

for non-fiscal policy mechanisms to further encourage the utilization of RE resources. These mechanisms include, among others, the following:

- a. Renewable Portfolio Standards (“RPS”), which places an obligation on electric power industry participants such as generators, distribution utilities, or suppliers to source or produce a specified fraction of their electricity from eligible RE resources;
- b. Feed-in-Tariff (“FIT”) System, which involves the obligation on the part of electric power industry participants to source electricity from RE generation at a guaranteed fixed price applicable for a given period of time as determined by the ERC;
- c. Green Energy Option Program (“GEOP”), which is a mechanism to be established by the DOE to provide end-users the option to choose RE resources as their source of energy;
- d. Net-metering, which is a consumer-based incentive scheme wherein electric power generated by an end-user from an eligible on-site RE generating facility and delivered to the local distribution grid may be used to offset electric energy provided by the distribution utility to the end-user during the applicable period;
- e. Accelerated depreciation of plant, machinery and equipment may be applied if the project fails to receive an ITH before full operation; and
- f. The Renewable Energy Market (“REM”), is the market where trading of RE Certificates may be made in compliance with the RPS. With the establishment of the REM, all electricity output from RE developers may be sold and traded through the REM without the need for the RE developer to enter into bilateral supply contracts.

In June 2022, instead of the FIT System, the DOE implemented a Green Energy Auction Program (“GEAP”) seeking public bids and offers from various RE developers utilizing different RE technologies. The GEAP facilitates investments in new or additional RE capacities under a competitive process to promote the growth of RE as a primary source of energy in the Philippines.

Foreign RE Developers Allowed in the Philippines

The 1987 Constitution of the Philippines (the “Philippine Constitution”) provides that all forces of potential energy and natural resources belong to the State and their exploration, development, production and utilization shall be under the full control and supervision of the State. Further, the Philippine Constitution provides that only Filipino citizens or corporations or associations at least sixty percent (60%) of whose capital is owned by Filipino citizens are allowed to engage in the exploration, development, production and utilization of forces of potential energy through co-production, joint-venture

or co-production sharing agreements with the State as represented by the Government.

While, as provided in the Philippine Constitution, all forces of potential energy are owned by the State, the Department of Justice (“DOJ”) recently interpreted such a statement to exclude kinetic energy such as solar, wind, hydro and ocean or tidal energy resources. In September 2022, the DOJ Secretary issued *Legal Opinion No. 21, series of 2022 (“DOJ Legal Opinion”)*, which declared that the exploration, development and utilization of solar energy, among others, should not be subject to the 40% foreign equity limitation found under the Constitution.

The rationale for such an opinion lies in the interpretation of the term “natural resources” and a consideration of the spirit of the law. According to the DOJ, the enumeration accompanying the term “natural resources” found in the Philippine Constitution refers only to those resources that are susceptible to appropriation, such as lands, fisheries, forests and wildlife. Such terms could not then include the sun, wind, or ocean as they cannot be subject to appropriation. This is also in accordance with the legal principle *noscitur a sociis* and *ejusdem generis*.

The DOE Secretary, upon the issuance of the DOJ Legal Opinion, declared his full support in opening the development of RE Resources to 100% foreign participation and conducted a public consultation on the proposed amendment to the Implementing Rules and Regulations (“IRR”) of the RE Law, which then provided that kinetic energy was covered by the constitutional limitation on foreign equity participation. In 2022, the DOE Secretary issued a Department Circular which expressly amended the RE IRR, and officially allowed foreign citizens or Filipino and foreign-owned corporations or associations to enter into RESCs with the Philippine government.

Thus, under existing laws, rules and regulations, foreigners may now engage in the exploration, development and utilization of RE resources in the Philippines. There is also no nationality restriction in the operation of power plants in the Philippines utilizing fossil fuels, such as coal, oil and natural gas.

After securing the necessary RESC, the foreign RE developer may proceed to obtain all other relevant permits required to engage in the electric power industry in the Philippines, including, among others, the certificate of compliance with the ERC, local government unit business permits, environmental compliance certificate from the Department of Environment and Natural Resources, transmission and metering service agreements with the National Grid Corporation of the Philippines (“NGCP”), among others.

X

FINANCIAL TECHNOLOGY

FINANCIAL TECHNOLOGY

1. FINTECH LANDSCAPE IN THE PHILIPPINES

The financial inequality in the Philippines has become the main driving force that enticed FinTech companies to invest in technology with the goal of making certain that everyone has equitable access to financial services. To date, some 66 percent of Filipinos remain unbanked, catapulting the Philippines to fourth place among the world's most unbanked countries in 2021. However, we also have the advantage of high Internet and smartphone penetration at over 70 percent each, as well as a supportive Bangko Sentral ng Pilipinas (BSP).

This environment is highly conducive for FinTech platforms to flourish and address the financial divide. With the right support and innovation, FinTech companies can unlock better access to digital payment solutions, democratized investments, digitized traditional financial services, and even new verticals such as e-commerce for all Filipinos, driving the Philippines' digital economy to greater heights.

2. REGULATORY SANDBOX FRAMEWORK

The regulation of fintech industry participants in the Philippines is based on the specific service or product offered by the participant, and closely follows the regulations applicable to non-fintech entities intending to engage in the same or similar service or products.

On Sept. 5, 2022, the Bangko Sentral ng Pilipinas (BSP) issued BSP Circular No. 1153 which institutionalizes a regulatory sandbox framework to better evaluate entities under its regulatory purview that offer or use financial products/services utilizing emerging or new technology. As part of its "test-and-learn" approach, the BSP attempts to gain firsthand, evidence-based insights on how these emerging technologies operate, identify consequences and risks on usage and implementation, and how these technological solutions can be properly regulated without impeding innovation.

A regulatory sandbox is defined under the Circular as "a controlled, time-bound, live testing environment, which may feature regulatory waivers xxx [that] involve limits or parameters within which participants must operate."

Fintech companies test their products/services in a controlled environment – consisting of select groups of consumers with whom these fintech startups may interact with – under the supervision of BSP's Sandbox Oversight Team. Those who wish to participate in the regulatory sandbox must first meet the eligibility

standards under the Circular before they can be approved to become part of the sandbox activity.

Under the Circular, the applicants should meet the following criteria to be able to participate in the regulatory sandbox:

- a. The financial solution:
 1. uses new or emerging technology or utilizes an existing technology in an innovative manner, or,
 2. bridges a market gap in the delivery of financial products/services. The financial solution must be supported by research that shall be part of the documents submitted to the BSP.
- b. The applicant must demonstrate its capability to deploy the proposed solution through a roll-out plan or strategy.
- c. The applicant shall provide an initial test plan, which includes test case scenarios and expected outcomes of the experiment.
- d. The applicant must be able to identify significant risks, including money laundering and terrorist financing risks, IT and cybersecurity, data integrity and data privacy, market acceptability, consumer protection, and project implementation/execution, relevant to the innovation and the corresponding proposed safeguards and risk mitigation strategies.
- e. The applicant must be able to identify Key Performance Indicators or other metrics in monitoring the progress of the pilot implementation; and,
- f. The applicant shall provide an acceptable exit and transition strategy once the experimentation is completed regardless of the outcome.

The BSP, in the course of its evaluation, reserves the right to reject an application based on the merits of the submitted documents and representations, without prejudice to the filing of a new application after a six-month cooling off period.

Those who are eligible will be allowed to test their proposed innovation in accordance with the BSP-approved test plan which shall be suited to the features of the proposed innovation/solution. Specific regulatory requirements may be relaxed during the testing period in accordance with the test plan. Once the test plan is approved, the BSP will issue a Letter to Proceed with the Test Implementation.

From there, the Testing Implementation Phase commences, with testing duration ranging from three to 12 months from the go-live date, depending on the complexity of the proposed solution. After

the testing stage, a comprehensive evaluation of the whole experimentation shall take place as part of the exit procedures. The participants must comply with the reportorial requirements mandated by the BSP to establish the necessary information and final results of the experimentation.

Participants whose sandbox activities are assessed as successful and whose products or services are deemed fit for public consumption may apply to operate and offer for public use and consumption the proposed product or service that was subjected to the sandbox activity. The Sandbox Oversight Team shall endorse for approval the product or service that resulted in successful sandbox testing. The pertinent requirements and processing timelines for the issuance of an authority to offer electronic products and financial services shall apply for this purpose. However, the approving authorities in the BSP reserve the right to approve or disapprove the proposed product or service despite the successful sandbox testing.

3. FINTECH LICENSES

Local and foreign investors who wish to establish a fintech business in the Philippines must register with the appropriate government bodies, such as the Securities and Exchange Commission (SEC) and the Bangko Sentral ng Pilipinas (BSP), to be allowed to operate legally in the country. In the Philippines, several types of fintech companies focus on providing specific services. Such are:

- Digital Payments & Mobile Wallets
- Digital Remittance
- Blockchain & Cryptocurrency
- Alternative Finance
- Payroll & HR

These services are among the most popular kinds of fintech companies operating in the Philippines. Depending on the business goals, the SEC and BSP may require the Fintech company to secure different documentation during its business registration process.

Although most businesses only require registration with the SEC, the Philippines require fintech companies that engage in remittance, money-changing, foreign exchange, and virtual currency exchanges (later termed as virtual asset service providers or VASP) to also register with BSP.

To further supervise and regulate fintech companies in the Philippines, BSP initially created two special regulations: BSP Circular No. 942 and 944, including a specialized government unit the Financial Technology Sub-Sector (FTSS).

BSP Circular No. 942 monitors fintech companies engaged in remittance, money-changing, or foreign exchange dealing. BSP Circular No. 944, on the other hand, governs the operations and reporting obligations of fintech companies that offer virtual currency exchanges or engage in activities that provide facilities for the conversion or exchanges of virtual currencies. Fintech companies that provide alternative financing, however, may be regulated under the Lending Company Regulation Act.

A Fintech startup can apply for any of the following licenses from the BSP:

1. Electronic Money Issuer (“EMI”);
2. Virtual Asset Service Provider (“VASP”);
3. Operator of a Payment System (“OPS”);
4. Money Service Business (“MSB”); and
5. Digital Banks.

Note: There is a two-year moratorium on the issuance of new EMI Licenses for non-bank financial institutions until mid-December 2023, and of new VASP Licenses until September 2025; and a three-year moratorium on the issuance of new Digital Bank Licenses until August 2024.

Electronic Money Issuer (EMI) License

Section 702 of the Manual of Regulations for Banks defines E-money and an EMI as follows:

“E-money shall mean monetary value as represented by a claim on its issuer, that is –

- a. electronically stored in an instrument or device;
- b. issued against receipt of funds of an amount not lesser in value than the monetary value issued;
- c. accepted as a means of payment by persons or entities other than the issuer;
- d. withdrawable in cash or cash equivalent; and
- e. issued in accordance with this Section.”

Electronic money issuer (EMI) shall be classified as follows:

- a. Banks (EMI-Bank);
- b. NBFIs supervised by the Bangko Sentral (hereinafter called EMI-NBFI); and
- c. Non-bank institutions registered with the Bangko Sentral as a monetary transfer agent under Sec. 4511N of the MORNBFI (hereinafter called EMI-Others).

A Certificate of Registration to Operate as an EMI will provide a licensee with the capability to convert cash into electronic money, issue stored value cards, transfer funds and provide payment solutions to its business

clients subject to compliance with other BSP license requirements. In addition, an application to operate a Money Service Business (MSB) can be integrated with the EMI application since non-bank EMIs or EMI-others are usually previously registered as Remittance and Transfer Companies or MSB Type C.

However, BSP Memorandum No. M-2021-064 and Monetary Board Resolution No. 1549 dated 11 November 2019 suspended the regular application window for new Electronic Money Issuers – Others (“EMI Others”) licenses for non-bank financial institutions until 16 December 2023 except for new non-bank EMI applicants with proposals involving (i) new business models, (ii) unserved, targeted niches, and/or (iii) new technologies may request for exception under the Test-and-Learn / Regulatory Sandbox Framework (“Sandbox”).

Virtual Asset Service Provider

Under BSP Circular No. 1108, Virtual Assets (“VA”) and VASP are defined as follows:

- a. **Virtual asset** refers to any type of digital unit that can be digitally traded, or transferred, and can be used for payment or investment purposes. It can be defined as a “property”, “proceeds”, “funds”, “funds or other assets”, and other “corresponding value”. It is used as a medium of exchange or a form of digitally stored value created by agreement within the community of VA users. VAs are broadly construed to include digital units of exchange that (i) have a centralized repository or administrator; (ii) are decentralized and have no centralized repository or administrator; or (iii) may be created or obtained by computing or manufacturing effort. VAs are not issued nor guaranteed by any jurisdiction and do not have legal tender status.

Digital units of exchange that are used for (i) the payment of goods and services solely provided by its issuer or a limited set of merchants specified by its issuer (e.g., gift checks); or (ii) the payment of virtual goods and services within an online game (e.g., gaming tokens) shall not be considered as VAs. Also, virtual currencies as previously defined in Bangko Sentral Circular No. 944 (Guidelines for Virtual Currency Exchanges) shall now be referred to as VAs.

- b. **Virtual Asset Service Provider (VASP)** refers to any entity that offers services or engages in activities that provide facility for the transfer or exchange of VA, which involve the conduct of one or more of the following

activities:

1. exchange between VAs and fiat currencies;
2. exchange between one or more forms of VAs;
3. transfer of VAs; and
4. safekeeping and/or administration of VAs or instruments enabling control over VAs.

As a derivative of EMI licenses, a VASP license holder may also operate international and local remittance and payment functions subject to compliance with MSB and OPS requirements.

However, in BSP Memorandum No. M-2022-035, BSP closed the regular application window for new VASP Licenses for three years from 1 September 2022, subject to reassessment. Nevertheless, existing BSP Supervised Financial Institutions who wish to expand operations by offering VASP services may still apply for a license.

Operator of a Payment System

Section 4 (1) of RA 11127 defines an operator of a payment system as “any person who provides clearing or settlement services in a payment system, or defines, prescribes, designs, controls or maintains the operational framework for the system.” Section 4(p) of the same law provides that a Payment System is “the set of payment instruments, processes, procedures and participants that ensures the circulation of money or movement of funds.”

Subsequently, BSP issued Circular No. 1049 and defined an Operator of a Payment System as a person that performs any of the following functions:

- a. Maintains the platform that enables payments or fund transfers, regardless of whether the source and destination of accounts are maintained within the same or different institutions;
- b. Operates the systems or network that enables payments or fund transfers to be made through the use of payment instruments;
- c. Provides a system that processes payments on behalf of any person or the government; and
- d. Performs such other similar activities, as may be determined by the Monetary Board.

All operators of payment systems (OPS) are obliged to comply with the regulations and guidelines set out by the BSP. All OPS are required to register with the BSP. Registered OPS that intend to operate within a designated payment system must secure prior approval from the BSP, which shall designate any payment system that:

- poses, or may pose, systematic risk that threatens the stability of the national payment system; or
- could have a major economic impact or undermine the confidence of the public in the national payment system.

Money Service Business

Under Section 4511N.1 of the Manual of Regulations for Non-Bank Financial Institutions (“MORNBFI”), Remittance

(a) Remittance and Transfer Company (RTC) - refers to any entity that provides Money or Value Transfer Services (MVTs). MVTs refers to financial services that involve the acceptance of cash, cheques, other monetary instruments or other stores of value and the payment of a corresponding sum in cash or other form to a beneficiary by means of a communication, message, transfer, or through a clearing network. This includes the following:

(1) Remittance Agent - refers to any entity that operates a remittance business network which includes any or combination of the following:

- Remittance Direct Agent (RDA) - refers to any entity that is covered by a direct contracted remittance agreement or similar agreement to act on behalf of a third party engaged in remittance business.
- Remittance Agent Network Provider (RANP) - refers to any entity that provides a network to perform remittance business.
- Such other similar entities as may be determined by the Monetary Board. For the purpose of this Section, entities already registered as Remittance Agents shall be automatically classified as such, notwithstanding whether they are acting as Remittance Sub-Agent (RSA) of a third party engaged in local/international remittance business.

(2) Remittance Platform Provider (RPP) - refers to any entity that provides a shared or common platform/ IT infrastructure and maintains settlement accounts in order to provide funds for remittance transactions within its network.

Digital Banks

Under BSP Circular No. 1105, series of 2020, a digital bank is defined as one that offers financial products and services that are processed end-to-end through a digital platform and/or electronic channels with no physical branch/sub-branch or branch-lite unit offering financial products and services.

Under the Circular, a digital bank may perform any or all of the following services:

- grant loans, whether secured or unsecured;
- accept savings and time deposits, including basic deposit accounts as defined under Sec. 213;
- accept foreign currency deposits, as defined under R.A. No. 6426, as amended;
- invest in readily marketable bonds and other debt securities, commercial papers and accounts receivable, drafts, bills of exchange, acceptances or notes arising out of commercial transactions;
- act as a correspondent for other financial institutions;
- act as collection agent for non-government entities;
- issue electronic money products subject to the guidelines provided under Sec. 702;
- issue credit cards;
- buy and sell foreign exchange; and
- present, market, sell and service microinsurance products subject to the guidelines provided under Sec. 113-B.

However, BSP imposed a three-year moratorium and closed the application for a new Digital Bank License until August 2024.

Related Regulations: (i) Regulation of Value-Added Services

The delivery of financial services through mobile applications or online platforms generally falls under the definition of value-added services subject to National Telecommunications Commission (NTC) regulation, pursuant to the Philippines’ Public Telecommunications Policy Act.

Value-added services are broadly defined as “services which add a feature or value to basic telephone service not ordinarily provided by a public telecommunications entity such as format, media, conversion, encryption, enhanced security features, paging, internet protocol, computer processing and the like”.

The NTC considers value-added services as enhanced services beyond those ordinarily provided by carriers or telecommunications entities. Applications services, including all types of applications delivered to and/or accessed by users or subscribers - such as mobile banking, electronic payments, point-of-sale service and similar applications - are among those categorized by the NTC as value-added services.

Related Regulations: (ii) Crowdfunding

In view of the recent financial innovation of raising funds for a venture or business using internet platforms,

the SEC promulgated SEC Memorandum Circular No. 14 or the Rules and Regulations Governing Crowdfunding (Rules Governing Crowdfunding) in accordance with the Securities Regulation Code (SRC) and international practices standards. The rules shall primarily govern the operations and use of equity-based and lending-based Crowdfunding (CF) by registered persons who participate in CF through an online platform. Under said rules, crowdfunding platforms should be duly registered with the SEC. Section 2 (c) of said Rules defines crowdfunding platforms as “programs accessible via the Internet or other similar electronic communication medium through which a registered broker or a registered funding portal acts as an intermediary in a transaction involving the offer or sale of securities.”

Related Regulations: (iii) Financing and Lending Companies

Under R.A. 8556 or the Financing Company Act, Financing Companies are defined as corporations, except banks, investment houses, savings and loan associations, insurance companies, cooperatives, and other financial institutions organized or operating under other special laws, which are primarily organized for the purpose of extending credit facilities to consumers and industrial, commercial, or agricultural enterprises, by direct lending or by discounting or factoring commercial papers or accounts receivable, or by buying and selling contracts, leases, chattel mortgages, or other evidence of indebtedness, or by financial leasing of movable as well as immovable property. They are regulated by the BSP. While under R.A. 9474, or the Lending Company Regulation Act, Lending Companies are defined as a corporation engaged in granting loans from its own capital funds or from funds sourced from not more than nineteen (19) persons and shall not be deemed to include banking institutions, investment houses, savings and loan associations, financing companies, pawnshops, insurance companies, cooperatives and other credit institutions already regulated by law. Lending companies are regulated by the SEC.

Related Regulations: (iv) Cagayan Economic Zone Authority (CEZA)

CEZA is the governing body and the board of directors of the Cagayan Special Economic Zone and Free Port (CZESFP), which constitutes a separate customs territory covering the entire area embraced by the Municipality of Sta. Ana and the islands of Fuga, Barit, and Mabbag in the Municipality of Aparri, all in the province of Cagayan.¹

¹ Id. at Section 3.

Financial Technology Solutions and Offshore Virtual Currency Business (FTSOVCB) Activity

FTSOVCB Activity refers to any one of the following types of activities that take place outside the Philippines and require CEZA approval:

- The use of:
 - Digital Ledger Technology for storing or transmitting value² belonging to others.
 - Any other software, systems, and platforms for the creation and delivery of financial technology products and solutions
- The conduct of:
 - VC-based transactions, such as, but not limited to:
 - Receiving Virtual Currency (VC)³ for transmission or transmitting virtual currency;
 - Storing, holding, or maintaining custody or control of VC on behalf of others;
 - Trading or buying and selling VC as a customer business;
 - Performing offshore exchange services as a customer business; or controlling, administering, or issuing a VC.
 - An intermediary, brokerage or agency service for the acts described in (i);
 - Management or custody of a fiat currency or VC on behalf of the users or recipient in relation to the acts described in (i) and (ii).
- The maintenance of data centers within the CSEZFP to service FTSOVCE operations contemplated herein.⁴

Digital Asset and Token Offerings

The Rules on Digital Asset and Token Offerings (CEZA DATO Supplemental Rules) is a supplement to the CEZA FTSOVCB Rules and Regulations of 2018 which shall apply to (1) any person who intends to offer Digital Assets to the public and is acting in the capacity of an Issuer; and (2) to the extent set out under the Rules, to any Digital Asset (DA) Agent, Expert or Relevant person.⁵

The Rules cover the offer of the various products, innovations or digital instruments which figure in

² Value for the purpose of this subsection shall refer to assets, holdings and other forms of ownership, rights or interests, with or without related information, such as agreements or transactions for the transfer of value or its payment, clearing or settlement.

³ Id. at Section 4.

⁵ Section 1. 02, Rules on Digital Asset and Token Offerings (Supplemental Rule to the Financial Technology Solutions and Offshore Virtual Currency Business Rules and Regulations of CEZA of 2018).

the digital economy of today and of the future – all of which are captured by the Rules-specific concept of a “Digital Asset.” As defined under the Rules, a DA refers to “a uniquely identifiable electronic representation of value, property or chattel, the conferral, storage and transfer of which is recorded electronically including by transmission of electronic information or adjustment of an electronic record” and which is any or a combination of (i) a Virtual Currency; (ii) an Asset Token; and/or (iii) a Utility Token, all as defined thereunder. However, DAs do not include electronic representations of value which are part of an affinity or rewards program or those used in online games or gaming platforms. Different rules and requirements for registration may apply.

4. INNOVATION

R.A. No. 11293 or the Philippine Innovation Act and its IRR. R.A. No. 11293 or the Philippine Innovation Act aims to promote a culture of strategic planning and innovation to encourage creative thinking knowledge creation and dissemination towards expanding and maintaining economic competitiveness. It strengthens the position of Micro, Small and Medium Enterprises (MSMEs) by removing obstacles to innovation by suppressing bureaucratic hurdles such as red tape and adapting a regulatory framework which supports the creation of and diffusion of new knowledge, products, and processes.⁶

The Philippine Innovation Act likewise created the National Innovation Council (NIC), which develops the country’s innovation goals, priorities, and long-term national strategy.⁷ The NIC is likewise tasked to develop a National Innovation Agenda and Strategy Document (NIASD), which shall establish the country’s vision and long-term goals for innovation and provide a road map and strategies for improving innovation governance through clear-cut delineation and complementation of innovation efforts across agencies; deepening and accelerating innovation efforts, including inclusive innovation programs that are targeting the poorest of the poor; and integrating and fostering public-private partnerships, including those with large businesses, MSMEs, academe, and research, development and extension (RD&E) institutions.⁸

Innovation Development Credit and Financing. An innovation development credit and financing program shall be developed to generate and scale up innovation in accordance with the NIASD. Innovation development

credit, as used herein, shall consist of loans and other financing activities for purposes of including the development of new technologies, product innovation, process innovation, organizational innovation, and marketing innovation.⁹

Credit Quota. All banking institutions, whether government or private, shall set aside at least four percent (4%) of their total loanable funds for an innovation development credit, subject to the following qualifications:

1. The loanable funds shall refer to funds generated from the effectivity of the Philippine Innovation Act;
2. Innovation development loans benefitting agricultural sector workers and businesses shall be considered as part of the compliance with the credit quota requirement of R.A. No. 10000 or the Agri-Agra Reform Credit Act of 2009;
3. The four percent (4%) credit quota is subject to a joint review by the NIC and the BSP after three (3) years of implementation to determine whether the law has been effective in accomplishing its goals.¹⁰

NEDA-DBM Joint Memorandum Circular (JMC) No. 2023-01. For the effective implementation of R.A. No. 11293, the NEDA authorized the appropriation of an amount of One Hundred Million Pesos (Php 100,000,000.00) to be used for the issuance of grants for innovation programs, activities, and projects.¹¹

The JMC shall apply to innovation grants for programs, activities, and projects that work on promoting and implementing all potential types and sources of innovation (product, process, organizational, social, marketing, academic, educational or policy) proposed by an agency of the government.¹²

Proponents and eligibility requirements under the JMC. A proponent is an agency of the government which intends to submit or has submitted a proposal for an innovation grant.¹³ The following are the proponent’s eligibility requirements: **(i)** An agency of the government, including departments, bureaus, offices, other government instrumentalities, LGUs, SUCs, constituent units, or GOCCs, capable of receiving and managing grants; **(ii)** Attached agencies, regional offices, and operating units are eligible to submit a

9 Philippine Innovation Act, Section 22.
 10 Philippine Innovation Act, Section 23.
 11 1.0, NEDA-DBM Joint Memorandum Circular No. 2023-01.
 12 3.0, NEDA-DBM Joint Memorandum Circular No. 2023-01.
 13 4.7, NEDA-DBM Joint Memorandum Circular No. 2023-01.

proposal separate from their respective central offices or parent agencies provided they met all the required criteria.¹⁴

Types of funding support under the JMC. Funding support can be provided to new or existing programs, activities, and projects implemented by an agency of the government, that qualify for innovation grants, which include, but are not limited to the following:

- MSME innovation programs;
- Innovation centers and business incubators;
- Regional innovation and cluster policy;
- Strategic research, development, and extension programs;
- Innovation instruments;
- Diaspora for innovation and development;
- Advocacy and community education; or
- Other related innovation development activities.¹⁵

The following may also qualify for innovation grants, which the applicants may choose to combine elements from each as they deem relevant¹⁶ (i) Pre-commercialization, Commercialization, or Diffusion Projects; (ii) Innovation Facilities and Services; (iii) Innovation Culture Promotion; (iv) Innovation Policy Research

The funding support threshold for the implementation of new or existing innovation-related programs, activities, and projects shall not exceed five million pesos (Php 5,000,000.00)¹⁷

R.A. No. 11337 or the Innovative Startup Act. R.A. No. 11337 or the Innovative Startup Act (ISA) aims to encourage the establishment and operation of innovative new businesses, businesses crucial to their growth and expansion, and develop an ecosystem of businesses, government, and non-government institutions that foster an innovative entrepreneurial culture in the Philippines by providing incentives and removing constraints.¹⁸

A startup is any person or entity registered in the Philippines which aims to develop an innovative product, process, or business model. A person refers to a natural person who may be a Filipino citizen or a foreign national. An entity refers to a juridical person registered in the Philippines, including but not limited

14 5.0, NEDA-DBM Joint Memorandum Circular No. 2023-01.
 15 6.1, NEDA-DBM Joint Memorandum Circular No. 2023-01.
 16 6.2, NEDA-DBM Joint Memorandum Circular No. 2023-01.
 17 7.0, NEDA-DBM Joint Memorandum Circular No. 2023-01.
 18 Innovative Startup Act, Section 2.

to, sole proprietor, company, partnership, joint venture, cooperative, or association.¹⁹ Startup Enabler refers to any person or registered entity in the Philippines registered under the Philippine Startup Development Program that provides goods, services, or capital identified to be critical in supporting the operation and growth of startups by the DTI in consultation with DOST, DICT, and pertinent government and non-government organizations (NGOs).²⁰

Startups and/or startup enablers who have passed the host agencies’ (i.e., DOST, DTI, DICT, or other national government agency, local government unit, or public academic institution that provides programs, benefits and incentives to startups or startup enablers, subject to an application or selection process)²¹ selection and application process are entitled to the following benefits:

- a. Full or partial subsidy for the registration and cost in the application and processing of permits and certificates required for the business registration and operation of an enterprise with the appropriate local or national government agencies;²²
- b. Endorsement of the host agency for the expedited or prioritized processing of applications with other government agencies;²³
- c. Endorsement to the Intellectual Property Office of the Philippines (IPOPHL) for appropriate assistance and expedited intellectual property registration and protection, consistent with the law and existing rules and regulations;²⁴
- d. Endorsement to the Department of Foreign Affairs (DFA) for the expedited processing of appropriate visas;²⁵
- e. Full or partial subsidy for the use of facilities, office space, equipment, and/or services provided by government or private enterprises or institutions;²⁶
- f. Full or partial subsidy in the use of repurposed government spaces and facilities of the host agency as the registered business address;²⁷ and
- g. Grants-in-aid (GIA) for research, development, training, and expansion projects.²⁸

19 ISA-IRR, Rule 2, Section 1(i).
 20 ISA-IRR, Rule 2, Section 1(j).
 21 Innovative Startup Act, Section 3 (a).
 22 Innovative Startup Act, Section 7 (a).
 23 Innovative Startup Act, Section 7 (b).
 24 ISA-IRR, Chapter 2, Rule 1, Section 1(c).
 25 ISA-IRR, Chapter 2, Rule 1, Section 1(d).
 26 Innovative Startup Act, Section 7 (c).
 27 Innovative Startup Act, Section 7 (d).
 28 Innovative Startup Act, Section 7 (e).

Benefits and Incentives. The host agencies shall provide benefits and incentives to startups who have passed their selection and application process. These benefits and incentives are:

- a. Full or partial subsidy for the registration and cost in the application and processing of permits and certificates required for the business registration and operation of an enterprise with the appropriate local or national government agencies;
- b. Endorsement of the host agency for the expedited or prioritized processing of applications with other government agencies;
 - (i) Endorsement to the Intellectual Property Office of the Philippines (IPOPHL) for appropriate assistance and expedited intellectual property registration and protection, consistent with the law and existing rules and regulations;
 - (ii) Endorsement to the Department of Foreign Affairs (DFA) for the expedited processing of appropriate visas;²⁹
- c. Full or partial subsidy for the use of facilities, office space, equipment, and/or services provided by government or private enterprises or institutions;
- d. Full or partial subsidy in the use of repurposed government spaces and facilities of the host agency as the registered business address; and
- e. Grants-in-aid (CIA) for research, development, training, and expansion projects.³⁰

ARTIFICIAL INTELLIGENCE. In May 2021, the Department of Trade and Industry launched the country's Artificial Intelligence (AI) Roadmap which contains four major dimensions for AI readiness, namely: (1) Digitization and Infrastructure, (2) Research and Development, (3) Workforce Development, and (4) Regulation. These dimensions are then supported by seven (7) measurable strategic imperatives and forty-two (42) strategic tasks. Under the "workforce" dimension, the strategic imperatives are to transform education, nurture future AI talents, and upskill and reskill the workforce.

In line with this, the country has recently enacted Republic Act No. 11927, the Philippine Digital Workforce Competitiveness Act, which seeks to enhance the skills and competitiveness of the Philippine workforce

²⁹ Section 1, Rule 1, Chapter 2, Implementing Rules and Regulation of R.A. No. 11337.

³⁰ Section 7, R.A. No. 11337.

in human, and digital technology and innovations in light of the transformation in the world of work due to rapid acceleration of digitalization and advances in technologies such as artificial intelligence and automation across range of industries and sectors. Towards this end, it seeks to enter into public-private partnerships with stakeholders in the formulation and implementation of training, skills development, and certification programs, covering areas, including web development and designing, animation, mobile application development; search engine optimization, and virtual assistance, among others. For another, the country also enacted Republic Act 11899, the Second Congressional Commission on Education Act II, which seeks to put education at the center of the development policies of the state. Towards this end, the law institutionalizes educational reforms necessary to meet the new challenges to education, such as the implementation of alternative learning and delivery modes for basic education, higher education and post-secondary technical-vocational education and training as part of the adjustments and responses to the global pandemic, and the advent of the Fourth Industrial Revolution characterized, among others, by digital technology such as artificial intelligence, automation, data analytics, blockchain data sharing, quantum computing, and internet of things analytics.

Another important dimension of the AI Roadmap is "regulation" under which a human-centric approach³¹ is currently the prevailing approach by the government. This human-centric approach is aligned with the EU and UK's approach to AI, as reflected in the Bletchley Declaration signed by the EU and 28 other countries including the Philippines. Under this Declaration, "AI should be designed, developed, deployed, and used, in a manner that is safe, in such a way as to be human-centric, trustworthy and responsible." Months earlier, a proposed bill had been filed in the House of Representatives (House Bill 7913) seeking to create an "AI Bill of Rights" which includes the right to be protected from unsafe and ineffective AI systems, the right against algorithmic discrimination, right to privacy, right to know, and right to remedy. Another similar bill is likewise filed (House Bill 7396) which, while promoting the advancement of artificial intelligence also seeks to ensure that its development and deployment are aligned with national priorities, socially responsible, and respectful of human rights.

³¹ Peter A. Sy, Developing an AI Governance Framework for the Philippines: a Report of Preliminary Stakeholder Consultations and Review of the Literature



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XI

TELECOMMUNICATIONS



TELECOMMUNICATIONS

Latest Developments in the Telecommunications Industry

COVID-19 undoubtedly transformed the global telecommunications industry. Demand for high-speed internet spiked due to the shift to remote work and online classes, while traditional avenues of communication, such as text messaging and voice calls, decreased in popularity. Nowadays, customer experience is given primary consideration. This posed several challenges to telco businesses, such as facilitating the deployment of infrastructure among unserved populations, improving technologies, and securing customers from cyber threats.

To overcome these challenges, telco players need to rethink their business strategies to meet consumer demand and compete with industry leaders. This article identifies some of the most recent developments in the telco industry in the past year and provides insights into the latest telco trends in the Philippines.

Proliferation of 5G

5G technology continues to bring innovations to the telco industry, with a renewed focus on customer experience. 5G enables faster, more reliable connections and supports immersive experiences, such as virtual reality (VR) and augmented reality (AR). By using 5G technology, telco companies can offer higher-quality video streaming, real-time gaming, and seamless communication services.

Services can reach customers faster through 5G's low latency and improved data rates. It can also upgrade digital factory solutions, omnichannel retail experiences, and telemedicine and classroom encounters.

Coupled with the country's high mobile use penetration in the market (60.3% as of 2022), existing and new players in the industry can capitalize on this technology by breaking the barriers of adopting the technology in the country.

AI, Cloud Computing and the Internet of Things (IoT)

Artificial intelligence brings customer service to a whole other level through user participation, reduced response time, and big data processing. It can also detect network issues, perform self-repairs, or safeguard networks from fraudulent activity. When integrated with machine learning, AI can empower telco companies to offer personalized services to users, leveraging data analytics to understand user preferences and behaviors. Likewise, through automation, telco customers can have instant

access to 24/7 customer service.

Utilizing AI is especially attractive to Filipinos as they are known for having the highest amount of time connected to the internet, spending roughly 10 hours per day, way beyond the world average of two to three hours per day. As such, Philippine telco players can use AI features to their own advantage.

Telco providers must meet the increasing demand of industries, as more and more corporations become technology and data driven. This requires scaling their infrastructure network to provide reliable and safe speed for data heavy work processes, such as cloud storage and computing. Outsourcing remains a critical industry in the Philippine economy, which means consistent demand from the sector that can be a driving force for small and big industry players alike.

Using a combination of these technologies, the telco industry can also use IoT to implement services or products leveraging data collected from their own network and sensors/chips attached to component materials to improve the efficiency of processes and supply chains. The same processes can be used to partner with third parties for bundled products or tailor fit services that can be used in a multitude of verticals including software, manufacturing, logistics, and even B2C industries such as smart homes products, healthcare, and agri-business.

100% Foreign ownership

Starting April 1, 2023, the telecommunications sector in the Philippines is now open to 100 percent foreign ownership, following the amendments to the Public Service Act. Previously, this sector was limited to 40 percent foreign ownership. The implementing rules and regulations of said law include a reciprocity requirement, which means foreign nationals cannot own more than 50% of a telco company unless their country extends reciprocal treatment to Philippine nationals.

This move of allowing 100% foreign direct investment presents a growth opportunity for telco businesses wanting to make a presence in the Philippines. It has opened up the market, making foreign direct investment simpler and more rewarding, eliminating the once perceived barriers because of outdated restrictions on investment competition. It may also be a key driving factor in upgrading the network infrastructure, which is also a key challenge in the country as an archipelago.

Streamlined permitting process

Following the amendments to the Public Service Act, the Philippines, through Executive Order (EO) 32 (s. 2023), endeavored to streamline the permitting process for its telco tower infrastructure. The purpose of this new issuance is to ensure the uninterrupted progress of the Philippines' digital infrastructure. In conjunction with the new order, local government units will not have room to dilly dally as they are enjoined to observe a zero-backlog policy, which will be closely monitored by the Anti-Red Tape Authority (ARTA).

Consequently, the National Telecommunications Commission (NTC) has developed and launched an automated platform for licensing and permit processes called the Online Processing System with Digital Payment System (OPS-DPS). It aims to expedite the processing and issuance of licenses, permits, certificates and other documents for telecommunications and internet infrastructure.

These enactments enable more convenience in complying with regulatory permits and licenses for foreign-owned entities like telco companies.

Common tower policy

Since 2020, the Philippines has implemented a common tower policy, which encourages telco companies to allow co-sharing arrangements between separate telecommunications services. With this setup, both telco companies and their consumers enjoy respective benefits.

For telcos, the policy provides efficiency that allows multiple telecommunication companies to co-locate at a single site and share the operating expenses. Thanks to their savings in terms of capital and operational expenditures, telcos can optimize their profits and funnel their resources into strengthening the reach and quality of their mobile services.

On the other hand, consumers enjoy faster, more affordable, and more secure ICT (information communications technology) services, fulfilling their everyday communication needs and having access to important information.

SIM card registration

Ever since the prevalence of scams, smishing, and other forms of online and mobile fraud in the Philippines, the NTC ventured to safeguard consumers against these nefarious practices. Pursuant to the SIM Registration Act, the NTC mandated that all mobile phone users register their sim cards with their respective service providers by July 25, 2023, or face disconnection.

The statistics show that the total number of registered SIM cards as of July 30, 2023, was 113,969,014, out of a total of 168,016,400 SIM cards in circulation. This means that 67.83% of the SIM cards in the country were registered, and the rest were deactivated. Sim card registration aims to increase accountability and prevent fraud which industries and government can in turn use to provide more efficient services.

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LIST OF ACRONYMS

ABS - Asset-Backed Securities	EC - Employees' Compensation	IT - Information Technology	tion
ADR Act - Alternative Dispute Resolution Act of 2004	ECC - Environmental Compliance Certificate	JDR - Judicial Dispute Resolution	PHP - Philippine Peso
AEP - Alien Employment Permit	EFTA - European Free Trade Association	JVA - Joint Venture Agreements	PHREB - Philippine Health Research Ethics Board
ARMM - Autonomous Region of Muslim Mindanao	EIA - Environmental Impact Assessment	LGU - Local Government Unit	PNHRS - Philippine National Health Research System
ASEAN - Association of Southeast Nations	EIS - Environmental Impact Statement	LTO - License to Operate	PPP - Public Private Partnership
BCDA - Bases Conversion and Development Authority	EMB - Environmental Management Bureau	M&A - Mergers and Acquisitions	PRA - Philippine Retirement Authority
BIMP-EAGA - Brunei Darussalam-Indonesia-Malaysia- Philippines East ASEAN Growth Area	EP - Exploration Permit	MCTC - Municipal Circuit Trial Courts	PTE - Public Telecommunications Entity
BIR - Bureau of Internal Revenue	EPIRA - Electric Power Industry Reform Act of 2001	Med-Arb - Mediation-Arbitration	RA - Republic Act
BOC - Bureau of Customs	ERC - Energy Regulatory Commission	MeTC - Metropolitan Trial Courts	RE Act - Renewable Energy Act of 2008
BOI - Board of Investments	FDA - Food and Drug Administration	MORFXT - Manual of Regulations on Foreign Exchange Transactions	RHQ - Regional Headquarters
BOT - Build-Operate and Transfer	FIA - Foreign Investments Act of 1991	MPP - Mineral Processing Permit	ROHQ - Regional Operating Headquarters
BSP - Bangko Sentral ng Pilipinas (Central Bank of the Philippines)	FIA IRR - Foreign Investments Act Implementing Rules and Regulation	MPSA - Mineral Production Sharing Agreement	SBMA - Subic Bay Metropolitan Authority
CAM - Court-Annexed Mediation	FLSP - Financial Liquidation and Suspension of Payments	MRO - Maintenance, Repair, and Overhaul	SEC - Securities and Exchange Commission
CBA - Collective Bargaining Agreement	FRIA - Financial Rehabilitation and Insolvency Act	MTC - Municipal Trial Courts	SRC - Securities Regulation Code
CDC - Clark Development Corporation	FTA - Free Trade Agreement	MTCC - Municipal Trial Courts in Cities	SSS - Social Security System
CIAC - Construction Industry Arbitration Commission	FTAA - Financial or Technical Assistance Agreement	NGCP - National Grid Corporation of the Philippines	SFZ - Subic Freeport Zone
CPE - Customer Premises Equipment	GDPR - General Data Protection Regulation	NPC - National Privacy Commission	SIRV - Special Investor's Resident Visa
CRO - Contract Research Organizations	GSP+ - Generalized System of Preferences Plus	NREB - National Renewable Energy Board	SPE - Special Purpose Entity
CFSEZ - Clark Freeport and Special Economic Zone	HDMF - Home Development Mutual Fund	NTC - National Telecommunications Commission	SRRV - Special Resident Retiree's Visa
DENR - Department of Environment and Natural Resources	IB - Inclusive Business models	OCRA - Out-of-Court Restructuring Agreements	SSEZ - Subic Special Economic Zone
DOE - Department of Energy	IC - Insurance Commission	OIC - Omnibus Investments Code	SWP - Special Work Permit
DOJ - Department of Justice	IC - Integrated Circuit	PA - Provisional Authority	TRANSCO - National Transmission Corporation
DOLE - Department of Labor and Employment	IEE - Initial Environmental Examination	PCA - Philippine Competition Act	TRIPS - Trade Related Aspects of Intellectual Property Rights
DPA - Data Privacy Act Of 2012	IP Code - Intellectual Property Code of the Philippines	PCBA - Philippine Contractors Accreditation Board	TTA - Technology Transfer Arrangement
DTI - Department of Trade and Industry	IPOP - Intellectual Property Office	PCC - Philippine Competition Commission	UITF - Unit Investment Trust Fund
	IPP - Investments Priorities Plan	PD - Presidential Decree	UNCITRAL - United Nations Commission on International Trade Law
	IRR - Implementing Rules and Regulations	PDRCI - Philippine Dispute Resolution Center, Inc.	VAS - Value Added Services
		PEZA - Philippine Economic Zone Authority	VAT - Value Added Tax
		PhilHealth - Philippine Health Insurance Corporation	VoIP - Voice-Over Internet Protocol

PEZA PUBLIC ECONOMIC ZONES

CAVITE ECONOMIC ZONE

Location: Rosario, Cavite

Area: 280.6725 hectares

Existing Industries:

Tobacco products, wearing apparel, leather products, wood and wood products, paper and paper board products, plastic/rubber/glass products, fabricated metal products, office computing machinery, electrical machines apparatus/appliances, food industries, clocks and watch parts, packaging of airline and hotel supplies, fiberglass products

Total No. of Enterprises: 432

Total No. of Employment: 69,503

Export Sales: 2,535.873 million USD

MACTAN ECONOMIC ZONE

Location: Lapu-Lapu City, Mactan, Cebu

Area: 119 hectares

Existing Industries:

Wearing apparel, iron and steel, electronics, camera and camera parts/ binoculars, novelty items, processed food, plastic products, industrial chemicals/gases, machinery, bags/luggage, fashion jewelry, wood products, paper and paper products, rubber products, watches, optical lenses/glass filters, electrical machinery, industrial gloves, auto wire harness/parts and accessories

Total No. of Enterprises: 200

Total No. of Employment: 56,011

Export Sales: 1,676.491 million USD

BAGUIO ECONOMIC ZONE

Location: Loakan Road, Baguio City

Area: 114 hectares

Existing Industries :

Manufacture of textiles, wearing apparel, electronics/semiconductors, plastic and paper products, eco-friendly machinery, wooden home decors, burn-in board repairs

Total No. of Enterprises: 37

Total No. of Employment: 4,488

Export Sales: 2,112.582 million USD

PAMPANGA ECONOMIC ZONE

Location: Pulong Maragul, Angeles City, Pampanga

Area: 367,072 square meters

Total No. of Enterprises: 14

Total No. of Employment: 1,121

Export Sales: 7.435 million USD

PEZA PRIVATE ECONOMIC ZONES

CEBU LIGHT INDUSTRIAL PARK

Location: Basak, Lapu-Lapu City, Mactan, Cebu

Developer: Cebu Light Industrial Park, Inc.

Area: 62.49 hectares

Preferred Industries:

Export-oriented manufacturing companies

Total No. of Enterprises: 54

Total No. of Employment: 13,168

Export Sales: 567.426 million USD

FIRST PHILIPPINE INDUSTRIAL PARK

Location: Sta. Anastacia, Sto. Tomas, Batangas

Developer: First Philippine Industrial Park, Inc.

Area: 353.429 hectares

Preferred Industries:

Electronic products, precision machinery, semi-conductors and electrical wirings

Total No. of Enterprises: 142

Total No. of Employment: 50,773

Export Sales: 2,797.340 million USD

HERMOSA ECOZONE INDUSTRIAL PARK

Location: Hermosa, Bataan

Developer: Hermosa Ecozone Development Corp.

Area: 162-hectares industrial estate component of a 478-hectare mixed use property development

Preferred Industries:

Non-pollutive light to medium, export-manufacturing industries

Total No. of Enterprises: 16

Total No. of Employment: 10,978

Export Sales: 244.853 million USD

LAGUNA TECHNOPARK

Location: Biñan, Laguna

Developer: Laguna Technopark, Inc.

Area: 337.215 hectares

Preferred Industries:

Manufacture/fabrication of dies and molds, manufacture of standard IC, plastic injection, flex printed circuit assembly, copper foil, synthetic, natural, precious & semi-precious gemstones, computer parts, various automobile parts; production of gaseous & liquid nitrogen and special gases

Total No. of Enterprises: 341

Total No. of Employment: 105,979

Export Sales: 6,370.810 million USD

LIGHT INDUSTRY SCIENCE PARK I

Location: Diezmo, Cabuyao, Laguna

Developer: LISP-I Locators' Association, Inc.

Area: 178 hectares

Existing Industries:

Electronics/semiconductors, automotive/motorcycle parts, wearing apparel, fashion accessories

Total No. of Enterprises: 90

Total No. of Employment: 28,000

Export Sales: 1,803.332 million USD

LIGHT INDUSTRY SCIENCE PARK II

Location: Real & La Mesa, Calamba, Laguna

Developer: LISP-II Locators' Association, Inc.

Area: 69 hectares

Existing Industries:

Manufacture of thermoforming trays, flexible circuit board, rewritable CD drive mechanical loader assembly, hi-focus asymmetric digital subscriber line, pressed metal parts for terminal printers and micro-printers, main board printers, plastic injected gears for washing machine hinges, paperboard and various filing systems, base and blocks for computer hard disk drives, multi-layer capacitor, assembly of planer, CPU & other miscellaneous cards, various pumps and other related products

Total No. of Enterprises: 48

Total No. of Employment: 10,000

Export Sales: 1,522.625 million USD

LIGHT INDUSTRY SCIENCE PARK III

Location: San Rafael & Sta. Anastacia, Sto. Tomas, Batangas

Developer: RFM-Science Park of the Philippines, Inc.

Area: 124 hectares

Preferred Industries:

Clean, non-polluting, light to medium primarily export-oriented industries

Total No. of Enterprises: 68

Total No. of Employment: 6,164

Export Sales: 297.649 million USD

LIGHT INDUSTRY SCIENCE PARK IV

Location: Barangays Bulihan, Luta Sur, Luta Norte, San Fernando, San Pedro, West and Poblacion, Malvar, Batangas

Developer: Science Park of the Philippines, Inc.

Area: 232 hectares industrial area, 5-hectare retail and institutional destination, & 37-hectare residential neighborhood

Preferred Industries:

light to medium, non-polluting manufacturing operations including support industries

Total No. of Enterprises: 14

Total No. of Employment: 3

LIMA TECHNOLOGY CENTER

Location: Santiago & Payapa, Malvar, Batangas & San Lucas & Bugtong na Dulo, Inosluban, Lipa City, Batangas

Developer: Lima Land, Inc.

Area: 429.9686 hectares (total area)

149.7986 hectares (Malvar)

109.15 hectares (Malvar)

171.02 hectares (Lipa City)

Preferred Industries:

Electronics Autoparts, Food processing Pharmaceuticals

Total No. of Enterprises: 117

Total No. of Employment: 50,514

Export Sales: 2,377.220 million USD

EASTWOOD CITY CYBERPARK

Location: E. Rodriguez Avenue, Bagumbayan Quezon City, Metro Manila

Developer: Megaworld Corporation

Area: 18.5 hectares (total area)

Preferred Industries:

Information Technology, i.e. call center, business process outsourcing, software dev't, multimedia graphics and design

Total No. of Enterprises: 92

Total No. of Employment: 32,039

Export Sales: 559.415 million USD

E-SQUARE IT PARK

Location: Fort Bonifacio Global City, Taguig City, Metro Manila

Developer: Fort Bonifacio Development Corporation

Area: 24.3699 hectares (total area)

Preferred Industries:

Information Technology, i.e. call center, business process outsourcing, software dev't, multimedia graphics and design

Total No. of Enterprises: 120

Total No. of Employment: 40,832

Export Sales: 981.083 million USD

ROBINSONS CYBERPARK BACOLOD

Location: Lacson Street, Barangay Banago, Bacolod City

Developer: Robinsons Land Corporation

Area: 17,165 sq. m

Preferred Industries: Information Technology

EXPANSION OF LIMA TECHNOLOGY CENTER – SPECIAL ECONOMIC ZONE

Location: Barangays Santiago, Luta Sur, and Bagong Pook in Malvar Batangas

Developer: LIMA Land, Inc.

Preferred Industries: Information Technology

NAGA CITY INDUSTRIAL PARK (NCIP)

Location: Barangay Carolina, Naga City, Bicol

Developer: Enjoy Realty Development Corporation (ERDC)

Preferred Industries: Information Technology

Area: 25 hectares

Preferred Industries: Light manufacturing industries focused on high-value engineering products

Total no. of employment: (potential) 12,000

LOPUE'S MANDALAGAN IT CENTER

Location: Lacson Street, Barangay Mandalagan, Bacolod City

Area: 3,963 sq. m

Preferred Industries: Information Technology

MARINA TOWN DUMAGUETE

Location: Flores Avenue, Barangay Piapi, Dumaguete City, Negros Oriental

Developer: Filinvest

Area: 3,785 sq. m

Preferred Industries: Information Technology

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DIRECTORY OF PARTNERS



COMPANY PROFILE:

Isla Lipana & Co. is the Philippine member firm of the PwC global network.

We draw on the collective skills and experience of more than 364,000 people across our network of firms in 151 countries to help our clients transform and build enduring success as they navigate a rapidly changing world.

Our purpose is to build trust in society and solve important problems. We stick to the highest quality standards in delivering audit and assurance, tax and advisory services within and outside the Philippines.

Find out more and tell us what matters to you by visiting us at www.pwc.com.

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COMPANY PROFILE:

SHROFF TRAVEL is a leading Destination Management Company (DMC) providing services for inbound travel into the Philippines and International services.

Celebrating 30 years of specializing in Corporate M.I.C.E Travel and Leisure Travel. We have a team of professional Travel Consultants who deliver personalized service to our customers. We love providing meaningful lifetime experiences!

Choose your destination. Call us first!

CONTACT INFORMATION:

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Inbound Team:

+63917358187 | inbound@shrofftravel.com



COMPANY PROFILE:

Pueblo de Panay Township, Real Estate Asia's Masterplan Development of the Year winner for 2023, is the largest township development in Central Visayas in the Philippines. A 670-hectare flagship project of Pueblo de Panay, Inc. (PDPI), master-planned by Surbana Jurong, a Singaporean government-owned consultancy company focusing on infrastructure and urban development. It is a mixed-use, master-planned, and Filipino-inspired township located in the Seafood Capital of the Philippines, Roxas City, that has designated areas for different uses seamlessly integrated into one another. It is a place where people can live, work, relax, and have fun; a place that embodies PDPI's advocacy - LIFE.WORK.BALANCE.

CONTACT INFORMATION:

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Contact Number: +63 917 632 4949



MANILA BOOKKEEPERS

COMPANY PROFILE:

Manila Bookkeepers aims to assist foreign-owned companies with the process of establishing a business presence in the Philippines such as a representative office, domestic subsidiary, or a branch office. Our management has more than two decades of experience in the finance and accounting industry. Our team can assist you in acquiring the required documents to start your representative office, branch office, or domestic subsidiary in the country. Our services include PEZA and BOI registration, local tax compliance, transfer pricing, and payroll accounting and bookkeeping.

ADDRESS:

22F Tower 1, One Ayala Corporate Center, Ayala Ave, Makati, 1226 Metro Manila

CONTACT INFORMATION:

Website: www.manilabookkeepers.com

Email: marketing@manilabookkeepers.com



ELECTRO PREMIER VENTURE INT'L INC.

COMPANY PROFILE:

ELECTRO PREMIER VENTURE INT'L INC., a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines to undertake the supply of high and low voltage line materials, equipment substations, transmission and distribution transformers, safety devices and providing other real-time solutions and cost-effective measures for the power and utility sectors.

The company's committed service has evolved into an integrated result driven entity. It provides a wide range of services that composed of a seasoned management team with different specific and comprehensive field of expertise that is dedicated, dynamic, innovative professionals abreast with the fast-changing technology.

ADDRESS:

10F Pacific Star Building, Sen. Gil Puyat Ave. cor. Makati Avenue

Makati City, Philippines

CONTACT INFORMATION:

Tel: +63(2)-8442-2403

Email: Sales@electropremierventureintl.com

Website: <https://www.electropremierventureintl.com>

COMPANY PROFILE:

The Authority of the Freeport Area of Bataan (AFAB) is a government agency attached to the Office of the President of the Philippines that operates and manages the Freeport Area of Bataan (FAB) in Mariveles, Bataan, Philippines. The FAB is currently home to 96 Operational FAB Registered Enterprises employing a total of 38,565 workers as of September 2023. To further spread the development and opportunities to the rest of the province of Bataan, FAB Expansion Areas can now be declared anywhere in Bataan given the concurrence of the local government unit concerned. As of the end of September 2023, the AFAB has approved 18 expansion areas located in one city and nine municipalities of Bataan.

ADDRESS:

AFAB Administration Building, Freeport Area of Bataan, Mariveles, Bataan, Philippines 2106

CONTACT INFORMATION:

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Website: <https://afab.gov.ph/>

E-mail: info@agab.gov.ph



COMPANY PROFILE:

Nestled on the northern tip of Boracay Island, Mövenpick Resort & Spa Boracay is an idyllic retreat with 312 contemporary rooms. Boasting the largest multi-level swimming pool on the island, families can indulge in the serene ambiance while kids enjoy the dedicated Little Bird's club. Seven diverse food and beverage venues cater to every palate, from international to Japanese and Italian cuisine. The resort features Sagay spa for relaxation. Notably, Mövenpick Resort & Spa Boracay is the first Green Globe-certified hotel in Boracay, reflecting our commitment to sustainable and eco-friendly hospitality. Recognized as a highly commended destination wedding venue, our beachfront garden can host up to 150 guests for a truly memorable celebration.

CONTACT INFORMATION:

Franck Merot

General Manager

Movenpick Resort and Spa Boracay

Email: franck.merot@movenpick.com

Tel: +63 36 288 2256

COMPANY PROFILE:

Prime Infra is Enrique K. Razon Jr.'s infrastructure arm that focuses on building assets that support the most urgent sustainability priorities - energy, access to clean water, and waste management.

With sustainability at the core of the business and projects carried out by a fast and lean management process, Prime Infra helps transform countries around the world by developing economically critical and socially relevant infrastructure that people depend on today and tomorrow.

Prime Infra is committed to ensuring its investments are socially relevant so that its customers and stakeholders are able to transition to their decarbonization goals, multiply social benefits, and promote inclusive economic growth.

ADDRESS:

16th Floor Three E-com Center, Block 21, Bayshore Drive corner Ocean Drive Mall of Asia Complex, Pasay City

CONTACT INFORMATION:

Tel: +63 2 83965320



COMPANY PROFILE:

Kerry Logistikus, a leader in end-to-end supply chain logistics and store distribution, offers comprehensive solutions backed by a 2021 joint venture with Kerry Logistics Network, a top global 3PL. With access to cutting-edge technology, it provides a full suite of services, including high-velocity warehousing, cross-dock operations, cold chain transport, and freight forwarding. Its unique Demand-Driven Logistics (DDL) system, which aligns sales and supply chain for optimal in-store product availability, sets it apart in the Philippine retail sector. In 2023, the strategic implementation of DDL marked a paradigm shift, enhancing operational efficiency and boosting revenues for clients, reaffirming Kerry Logistikus as an industry innovator.

ADDRESS:

20th Floor Inoza Tower, 40th St. BGC Taguig City

CONTACT INFORMATION:

Facebook Page: <https://www.facebook.com/KerryLogistikus>

LinkedIn: <https://www.linkedin.com/company/76638705/admin/feed/posts/>

Phone Number: +632 8461 5500

Mobile Number: +63917 877 0616

Website: www.kerrylogistikus.com



COMPANY PROFILE:

We are a Filipino business IT solutions provider dedicated to delivering computerized systems for Mid-Market companies. Pioneering local Enterprise Resource Planning (ERP) development in the country, JSI has built ERIC as the reliable brand used in the Philippines by a wide base of more than a thousand installations in the last four decades.

ERIC is a modern comprehensive ERP system covering financial, distribution, manufacturing and personnel software applications. Its computerized accounting system has been validated compliant with PH BIR standards.

ERIC has extended its scope with an end-to-end system for automotive dealership operations, ERIC DMS.

These solutions have been made available as a cloud service through ERIC Nimbus.

ADDRESS:

7F Nexus Center, 1010 Metropolitan Avenue, San Antonio Village, Makati City, PH 1203

CONTACT INFORMATION:

Tel: +(63) 2 8812 6149 | +(63) 2 5328 3343

Email: info@jupitersystems.com

Website: www.jupitersystems.com



COMPANY PROFILE:

The Ascott Limited, has grown to be one of the largest hospitality players in the Philippines, boasting an extensive portfolio of 31 properties. With 14 operational properties across its Ascott, Somerset, Citadines, Oakwood, and lyf brands, the company is steadfast in its goal to achieve a twofold increase in its operating portfolio. Ascott is committed to providing flexible accommodations, featuring diverse room configurations, comprehensive kitchen setups, and convenient launderette options. Geared for further expansion, Ascott in the Philippines is strategically planning to introduce additional properties, including hotels and resorts, in new locations to extend its renowned hospitality to an even broader market.

ADDRESS:

The Ascott Limited, Glorietta 4, Ayala Center Makati City 1224 Philippines

CONTACT INFORMATION:

Tel.: (63-2) 7755 8220

Email: enquiry.philippines@the-ascott.com

Website: https://www.discoverasr.com/

COMPANY PROFILE:

For over 10 years, HCM Nexus has been dedicated to serving clients with end-to-end HR Solutions:

- Recruitment and Staffing
- HR Outsourcing
- Training and Development

Our seasoned consultants are committed to creating value for you. Whether you need exceptional talent, optimized HR practices, or workforce development, we deliver tailored solutions that drive success. Our commitment to creating value through people drives us to forge meaningful business relationships and offer the best-fit HR solutions and job candidates.

ADDRESS:

Unit 1210 Cityland 10 Tower 1, 156 HV Dela Costa Street, Salcedo Village, Makati City 1209 Philippines

CONTACT INFORMATION:

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Website: www.hcmnexus.com



COMPANY PROFILE:

InCorp Philippines (formerly Kittelson and Carpo Consulting) is a subsidiary of InCorp Global, a prominent provider of corporate solutions in Southeast Asia with a strong regional presence in eight countries, including Australia, Singapore, Indonesia, Malaysia, Vietnam, Hong Kong, and India.

The company aspires to reshape the Philippine business landscape by providing end-to-end corporate assistance to local and global firms looking to invest, expand, or do business in the country.

Established in 2007, InCorp Philippines provides company incorporation, corporate secretarial, and related services to more than 1,000 local and foreign enterprises in the Philippines.

ADDRESS:

8F Marajo Tower, 312 26th Street West corner 4th Avenue, Bonifacio Global City, Taguig, 1634

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Email: philippines@incorp.asia

Website: https://philippines.incorp.asia



COMPANY PROFILE:

CROWN Asia Chemicals Corporation, a premier Philippine plastic manufacturer with a 35-year legacy, excels in PVC compounds, uPVC, PP-R, HDPE pipes & fittings, PVC Thermal Roofing, and Septic-Tech. Committed to world-class quality since 1989, CROWN's global presence has expanded via diverse product lines, ISO certifications, and international recognition (Financial Times Citation 2018, Forbes Asia Best under 1B Dollar Publicly Listed Company 2020 & 2022, Shariah Compliant 2017-2019 & 2021-2022, and two-time Golden Arrow Awardee 2021 & 2022). As a publicly listed entity since 2015, CROWN is a trusted supplier of plastics, construction, telecommunications, and infrastructure. Our mission is to deliver superior products competitively, ensuring sustainable solutions for the next generation.

CONTACT INFORMATION:

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General Manager

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Department of Energy

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Department of Information and Communication Technology

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Department of the Interior and Local Government

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Department of Labor and Employment

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Tourism Infrastructure and Enterprise Zone Authority

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Bureau of Internal Revenue

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Bureau of Customs

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South Harbor, Gate 3, Port Area, Manila
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Bureau of Treasury

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Philippine Export-Import Credit Agency

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Insurance Commission

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Securities and Exchange Commission

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Maritime Industry Authority

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Public-Private Partnership Center

<https://ppp.gov.ph/>
 8th Floor, One Cyberpod Centris, Eton Centris, Piñahan, Quezon City
 (+632) 8709 4146
info@ppp.gov.ph

Banko Sentral ng Pilipinas (BSP)

www.bsp.gov.ph
 A. Mabini St. cor. P. Ocampo St., Malate Manila, Philippines 1004
 (+632) 8811 1277 (8811 1BSP)
bspmail@bsp.gov.ph

Intellectual Property Office of the Philippines

www.ipophil.gov.ph
 Intellectual Property Center, #28 Upper McKinley Rd, Taguig, 1634 Metro Manila
 (+632) 7238 6300
customerservice@ipophil.gov.ph
operations@ipophil.gov.ph

Philippine Ports Authority

www.ppa.com.ph
 PPA Corporate Bldg. Bonifacio Drive, South Harbor, Port Area, Manila 1018, Philippines
 (+632) 8527 8374 up to 77
ogm@ppa.com.ph

BCDA – Bases Conversion Devt Authority

www.bcda.gov.ph
 2nd Floor, Bonifacio Technology Center 31st St., corner 2nd Avenue Bonifacio Global City, Taguig Metro Manila 1634
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bcda@bcda.gov.ph
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