MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 113

PROMULGATING THE THIRTEENTH (13th) REGULAR FOREIGN INVESTMENT NEGATIVE LIST

WHEREAS, Section 10, Article XII of the Constitution provides that the State shall regulate and exercise authority over foreign investments within its national jurisdiction, and in accordance with its national goals and priorities;

WHEREAS, Republic Act (RA) No. 7042 or the "Foreign Investments Act of 1991," as amended by RA Nos. 8179 and 11647, mandates the formulation of a Regular Foreign Investment Negative List (RFINL), covering investment areas or activities which are open to foreign investors and/or reserved to Philippine nationals;

WHEREAS, Section 8 of RA No. 7042, as amended, authorizes the President to amend the RFINL upon the recommendation of the Department of Economy, Planning, and Development (DEPDev); and

WHEREAS, according to DEPDev, there is a need to amend the 12th RFINL to reflect changes to Negative Lists A and B, pursuant to existing laws and consistent with the policy to ease restrictions on foreign participation in certain investment areas or activities;

NOW, THEREFORE, I, FERDINAND R. MARCOS, JR., President of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

Section 1. 13th RFINL. Only the investment areas and/or activities listed in the attached 13th RFINL shall be reserved to Philippine nationals, subject to the exceptions and conditions indicated therein.

Section 2. Amendments. Amendments to Negative List A may be made at any time to reflect changes instituted in specific laws, while amendments to Negative List B shall not be made more often than once every two (2) years, pursuant to Section 8 of RA No. 7042, as amended, and its Implementing Rules and Regulations.

Section 3. Separability. If any provision of this Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 4. Repeal. All orders, rules and regulations, and issuances or parts thereof inconsistent with this Order, are hereby repealed, amended or modified accordingly.

Section 5. Effectivity. This Order shall take effect fifteen (15) days after its publication in the Official Gazette or in any newspaper of general circulation.

DONE, in the City of Manila, this 13th day of April, in the year of Our Lord, Two Thousand and Twenty-Six.

[redacted]

By the President:

[redacted]

RALPH G. RECTO
Acting Executive Secretary

Office of the President
MALACAÑANG RECORDS OFFICE
CERTIFIED COPY
[redacted]
ATTY. LOVELY V. TOLENTINO-NAVA
DIRECTOR IV
EDS 4-15-

REPUBLIC OF THE PHILIPPINES
PBBM012414

THIRTEENTH (13TH) REGULAR FOREIGN INVESTMENT NEGATIVE LIST

LIST A: FOREIGN OWNERSHIP IS LIMITED BY MANDATE OF THE CONSTITUTION AND SPECIFIC LAWS[1]

No foreign equity

1. Mass media, except recording (Section 11[1], Article XVI of the Constitution; Presidential Memorandum dated 5 May 1994) and internet business (Department of Justice [DOJ] Opinion No. 40 [s. 1998]);[2]
2. Corporate practice of profession in Architecture;[3,4]
3. Cooperatives (Chapter III, Article 26 of RA No. 6938 or the "Cooperative Code of the Philippines," as amended by Chapter II, Article 10 of RA No. 9520 or the "Philippine Cooperative Code of 2008"), except investments of former natural-born citizens of the Philippines;[5]
4. Private security agency (Section 4 of RA No. 11917 or the "Private Security Services Industry Act");
5. Small-scale mining (Section 3 of RA No. 7076 or the "People's Small-Scale Mining Act of 1991");
6. Utilization of marine resources in archipelagic waters, territorial sea, and exclusive economic zone, as well as small-scale utilization of natural resources in rivers, lakes, bays, and lagoons (Section 2, Article XII of the Constitution);
7. Ownership, operation, and management of cockpits (Section 5[a] of Presidential Decree [PD] No. 449 or the "Cockfighting Law of 1974");
8. Manufacture, repair, stockpiling, and/or distribution of nuclear weapons (Section 8, Article II of the Constitution);
9. Manufacture, repair, stockpiling and/or distribution of biological, chemical and radiological weapons and anti-personnel mines;[6] and
10. Manufacture and retail of firecrackers and other pyrotechnic devices (Section 5 of RA No. 7183).

Up to twenty-five percent (25%) foreign equity

11. Private recruitment, whether for local or overseas employment (Article 27 of PD No. 442 or the "Labor Code of the Philippines," as amended and renumbered); and
12. Contracts for the construction of defense-related structures (Sections 1 and 2[b] of Commonwealth Act [CA] No. 541).

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1 Foreign equity participation under the foregoing list is subject to any applicable treaty or international or executive agreement.

2 DOJ Opinion No. 40 uses the term "Internet Business" to refer to internet access providers that merely serve as carriers for transmitting messages and not creators of messages/information.

3 DOJ letter to the Department of Economy, Planning, and Development dated 12 October 2021 states that "licensed/registered foreign professionals who are allowed, on the basis of reciprocity, to practice profession in the Philippines, can have an equity in a corporation authorized to practice the same profession, subject to the limitations provided, if any, in the relevant regulatory or Board law and other relevant laws."

4 Only Filipino citizens properly registered and licensed as architects may form a firm, company, partnership, association, or corporation for the practice of architecture (Section 37 of Republic Act [RA] No. 9266).

5 Former natural-born citizens of the Philippines have the same investment rights that Filipino citizens have in cooperatives (Section 4 of RA No. 8179).

6 Various treaties to which the Philippines is a signatory and conventions supported by the Philippines.

Up to thirty percent (30%) foreign equity

13. Advertising (Section 11 [2], Article XVI of the Constitution).

Up to forty percent (40%) foreign equity

14. Retail trade enterprise with paid-up capital of less than ₱25,000,000.00 (Section 2 of RA No. 11595);[7]
15. Exploration, development, and utilization of natural resources including the appropriation of water direct from a natural source,[8] except: (a) agreements entered into with the President, involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils (Section 2, Article XII of the Constitution); and (b) renewable energy, such as solar wind, hydro and ocean or tidal energy (DOJ Opinion No. 21 [s. 2022]); DOE Department Circular No. DC2022-11-0034), where full foreign participation is allowed;[9]
16. Ownership of private lands (Section 7, Article XII of the Constitution; Section 22 of CA No. 141; and Section 4 of RA No. 9182 or the "Special Purpose Vehicle Act of 2002"), except a natural-born citizen who has lost his/her Philippine citizenship and who has the legal capacity to enter into a contract under Philippine laws (Section 8, Article XII of the Constitution; and Section 5 of RA No. 8179);
17. Operation of public utilities (Section 11, Article XII of the Constitution; and Section 13 of CA No. 146 or the "Public Service Act," as amended by Section 4 of RA No. 11659);[10,11]
18. Educational institutions other than those established by religious groups and mission boards, for foreign diplomatic personnel and their dependents, and other foreign temporary residents (Section 4[2], Article XIV of the Constitution; and Section 9 of RA No. 11448 or the "Transnational Higher Education Act") or for short-term high level skills development that do not form part of the formal education system as defined in Section 20 of *Batas Pambansa Blg.* 232;[12]
19. Culture, production, milling, processing, and trading, except retailing, of rice and corn, and acquiring, by barter, purchase, or otherwise, rice and corn and the

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[7] Foreign-owned partnerships, associations, and corporations are allowed to engage or invest in retail trade provided, that: (a) the foreign retailer shall have a minimum paid-up capital of ₱25 Million; (b) the foreign retailer's country of origin does not prohibit entry of Filipino retailers; and (c) the foreign retailer with more than one (1) physical store must have at least ₱10 Million minimum investment per store (Section 2 of RA No. 11595).

[8] Article 15 of PD No. 1067 or the "Water Code of the Philippines," in relation to *IDEALS vs. PSALM*, G.R. No. 192088, 9 October 2012, DOJ Opinion No. 21 (s. 2022), and Department of Energy (DOE) Department Circular No. DC2022-11-0034.

[9] DOJ Opinion No. 21 states that "considering that solar, wind, hydro, and ocean or tidal energy sources are beyond the ambit of the term 'natural resources' in Section 2, Article XII of the Constitution and that the term 'all forces of potential energy' is to be understood in its technical sense, which necessarily excludes kinetic energy, we believe that the exploration, development, and utilization of solar, wind, hydro, and ocean or tidal energy should not be subject to the forty percent (40%) foreign equity limitation under Section 2."

[10] The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines (Section 11, Article XII of the Constitution).

[11] Public Utility refers to a public service that operates, manages or controls for public use any of the following: (1) distribution of electricity; (2) transmission of electricity; (3) petroleum and petroleum products pipeline transmission systems; (4) water pipeline distribution systems and wastewater pipeline systems, including sewerage pipeline systems; (5) seaports; and (6) public utility vehicles. No other person shall be deemed a public utility unless otherwise subsequently provided by law (Section 13 of CA No. 146, as amended by Section 4 of RA No. 11659).

[12] Control and administration of educational institutions shall be vested to Filipino citizens (Section 4[2], Article XIV of the Constitution).

by-products thereof (Section 5 of PD No. 194) subject to period of divestment (National Food Authority [NFA] Council Resolution No. 193 [s. 1998]);[13]

20. Government procurement of goods;[14,15,16]
21. Government procurement of infrastructure projects;[17] in cases where the structures to be built require the application of techniques or technologies which are not adequately possessed by Filipino entities, foreign ownership or interest is allowed up to 75%;[18]
22. Government procurement of consulting services;[19,20]
23. Operation of commercial fishing vessels (Section 27 of RA No. 8550 or the "Philippine Fisheries Code of 1998," as amended by RA No, 10654); and
24. Ownership of condominium units (Section 5 of RA No. 4726 or the "Condominium Act").

Up to one hundred percent (100%) foreign equity

25. Operation and management of telecommunications in case the country of the foreign national accords reciprocity to Philippine nationals, and up to 50% foreign equity in the absence of such reciprocity (Section 25 of RA No. 11659 and Section 45, Rule IX of the Implementing Rules and Regulations [IRR] of RA No. 11659).

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[13] Full foreign participation is allowed provided that within the 30-year period from actual operation of the business, the foreign investor shall divest a minimum of 60% of their equity to Filipino citizens (Section 5 of PD No. 194; NFA Council Resolution No. 193 [s. 1998]).

[14] Section 52.4.1.1 (b), (c), and (e) of the IRR of RA No. 12009 or the "New Government Procurement Act."

[15] Foreign bidders may be eligible to participate under any of the following circumstances: (i) when provided for under any treaty or international or executive agreement; (ii) when the foreign supplier is a citizen, corporation, or association of a country, the laws or regulations of which grant reciprocal rights or privileges to citizens, corporations, or associations of the Philippines; (iii) when the goods sought to be procured are not available for local suppliers; or (iv) when there is a need to prevent situations that defeat competition or restrain trade (Section 52.4.1.2 of the IRR of RA No. 12009).

[16] Section 12 of RA No. 11981 or the "*Tatak Pinoy* (Proudly Filipino) Act."

[17] Section 52.4.2.1 (b), (c), and (e) of the IRR of RA No. 12009.

[18] Section 52.4.2.1 (e) of the IRR of RA No. 12009.

[19] Section 52.4.3.1 (b), (c), and (e) of the IRR of RA No. 12009.

[20] Foreign consultants may be hired in the event Filipino consultants do not have the sufficient expertise and capability to render the services required under the project, as determined by the Head of the Procuring Entity (Section 52.4.3.3 of the IRR of RA No. 12009).

LIST B: FOREIGN OWNERSHIP IS REGULATED FOR REASONS OF SECURITY, DEFENSE, RISK TO HEALTH AND MORALS, AND PROTECTION OF SMALL- AND MEDIUM-SCALE ENTERPRISES

Up to forty percent (40%) foreign equity

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. Amorphousphosphorus;
      ix. Hydrogen peroxide;
      x. Strontium nitrate powder;
      xi. Toluene; and
   f. Telescopic sights, sniper scope, and other similar devices.

   However, the manufacture and repair of these items may be specifically authorized by the Chief of the PNP to non-Philippine nationals[21] (IRR of RA No. 11647);

2. Development, production, manufacturing, assembly, servicing or operation of *materiel*[22] by an in-country enterprise (RA No. 12024);
3. Distribution and manufacture of dangerous drugs as authorized by law (Sections 5 and 8 of RA No. 9165 or the "Comprehensive Dangerous Drugs Act of 2022"; and RA No. 7042 or the "Foreign Investments Act of 1991," as amended by RA Nos. 8179 and 11647);
4. Sauna and steam bathhouses, massage clinics, and other like activities regulated by law because of risks posed to public health and morals (RA No. 7042, as amended);
5. All forms of gambling (RA No. 7042, as amended) except those covered by investment agreements with the Philippine Amusement and Gaming Corporation (PD No. 1869, as amended by RA No. 9487);
6. Micro and small domestic market enterprises with paid-in equity capital of less than the equivalent of US$200,000 (RA No. 7042, as amended); and

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[21] The extent of foreign equity ownership allowed shall be specified in the PNP authority/clearance.

[22] *Materiel* refers to military technology, weapons systems, arms, ammunition, combat clothing, armor, vehicles, and other similar military equipment, and materials (Section 3[g] of RA No. 12024 or the "Self-Reliant Defense Posture Revitalization Act").

7. Micro and small domestic market enterprises that: (i) involve advanced technology as determined by the Department of Science and Technology (DOST); endorsed as startup or startup enablers by the lead host agencies, namely the Department of Trade and Industry, Department of Information and Communications Technology, and DOST (RA No. 11337 or the "Innovative Startup Act"); or (iii) with a majority of their direct employees are 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$100,000.00 (RA No. 7042, as amended).