

PHILIPPINES
INVESTMENT CLIMATE STATEMENT
2018

Executive Summary

The Philippines has improved its overall investment climate this decade. The country's sovereign credit ratings remain investment grade due to the country's sound macroeconomic fundamentals. The Philippines has recorded increased foreign direct investment (FDI), with an average growth of 32 percent over the last six years. According to Central Bank data, FDI inflows reached a record of USD 10 billion in 2017, a 21 percent increase from USD 8.2 billion in 2016, though 60 percent came from intercompany transfers by existing firms. The majority of investments were in gas; steam and air-conditioning supply; manufacturing; real estate; construction; and wholesale and retail trade activities.

However, few new foreign businesses entered the country. Foreign investment pledges approved by Philippine investment promotion agencies (IPAs) fell from USD 4.3 billion in 2016 to USD 2.1 billion in 2017, a 52 percent decrease. In addition, FDI in the Philippines remains among the lowest in the Association of Southeast Asian Nations (ASEAN). The Philippines ranked seventh of 10 ASEAN countries on FDI as a percentage of GDP in 2016.

Foreign ownership limitations in many sectors of the economy constrain investments. Poor infrastructure, including high power costs and slow broadband connections, regulatory inconsistency, and corruption are major disincentives to investment. The Philippines' complex, slow, and sometimes corrupt judicial system inhibits the timely and fair resolution of commercial disputes. Investors describe the business registration process as slow and burdensome. Traffic in major cities and congestion in the ports remain a regular cost of business. Foreign investors are also concerned about a possible reduction of investment incentives in pending tax reform legislation, although the proposed reduction of corporate income tax from the current rate of 30 percent would be a positive.

The Philippines is working to address investment constraints. In November 2017, President Rodrigo Duterte signed a memorandum order directing the National Economic Development Authority (NEDA) Board, the lead inter-agency committee drafting the Foreign Investment Negative List (FINL), to ease or lift foreign investment restrictions in certain key sectors, including public services and retail.

While the Philippine bureaucracy can be difficult and opaque, the business environment is notably better within the special economic zones, particularly those available for export businesses operated by the Philippine Economic Zone Authority (PEZA), known for its regulatory transparency, no red-tape policy, and one-stop shop services for investors. Finally, the Philippines plans to spend about USD 180 billion through 2022 to upgrade its infrastructure through the Build, Build, Build program.

Table 1

Measure	Year	Index/Rank	Website Address
TI			
Corruption Perceptions	2017	111 of 180	http://www.transparency.org/research/cpi/overview

World Bank's Doing Global Innovation Index	2018	99 of 190	http://www.doingbusiness.org/rankings
U.S. FDI in Partner Country (Millions USD, stock positions)	2016	USD 5,900	http://www.bea.gov/international/factsheet/
World Bank GNI per capita	2016	USD 3,580	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

1. Openness To, and Restrictions Upon, Foreign Investment

Policies Towards Foreign Direct Investment

The Philippines seeks foreign investment to generate employment and promote economic development. The Board of Investments (BOI) and PEZA are the lead investment promotion agencies (IPAs). They provide incentives and special investment packages to investors. Noteworthy advantages of the Philippine investment landscape include free trade zones, including PEZA, and a large, educated, English-speaking, relatively low-cost Filipino workforce. Philippine law treats foreign investors the same as their domestic counterparts, except in sectors reserved for Filipinos by the Philippine Constitution and the Foreign Investment Act (see details under Limits on Foreign Control section). Additional information regarding investment policies and incentives are available on the [BOI](#) and [PEZA](#) websites.

Restrictions on foreign ownership, inadequate public investment in infrastructure, and lack of transparency hinder foreign investment. The Philippines' regulatory regime remains ambiguous in many sectors of the economy, and corruption is a significant problem. Large conglomerates, including San Miguel, Ayala, and SM, dominate the economic landscape, crowding out others.

Limits on Foreign Control and Right to Private Ownership and Establishment

Foreigners are prohibited from fully owning land under the 1987 Constitution, although the 1993 Investors' Lease Act allows foreign investors to lease a contiguous parcel of up to 1,000 hectares for a maximum of 75 years. Dual citizens are allowed to own land.

The 1991 Foreign Investment Act (FIA) requires the publishing every two years of the Foreign Investment Negative List (FINL), which outlines sectors in which foreign investment is

restricted. A new FINL is expected to be released first half of 2018. The FINL bans foreign ownership in the following investment activities: mass media (except recording); small-scale mining; private security; marine resources, including the small-scale use of natural resources in rivers, lakes, and lagoons; and the manufacturing of firecrackers and pyrotechnic devices. With the exception of the practices of law, radiologic and x-ray technology, and criminology, other laws/regulations on professions – including medicine, pharmacy, nursing, dentistry, accountancy, architecture, engineering, criminology, teaching, chemistry, environmental planning, geology, forestry, interior design, landscape architecture, and customs brokerage – allow foreigners to practice in the Philippines if their country permits reciprocity for Philippine citizens. In practice, however, language exams, onerous registration processes, and other barriers prevent this from taking place.

The Philippines limits foreign ownership to 40 percent in the following industries: the manufacturing of explosives, firearms, and military hardware, as well as massage clinics. Other areas that carry varying foreign ownership ceilings include: private radio communication networks (20 percent); private employee recruitment firms (25 percent); contracts for the construction and repair of locally funded public works (25 percent); advertising agencies (30 percent); natural resource exploration, development, and utilization (40 percent, with exceptions); educational institutions (40 percent); operation and management of public utilities (40 percent); operation of commercial deep sea fishing vessels (40 percent); Philippine government procurement contracts (40 percent for supply of goods and commodities); construction of locally funded public works (25 percent with some exceptions); operations of Build-Operate-Transfer (BOT) projects in public utilities (40 percent); ownership of private lands (40 percent); and rice and corn processing (40 percent, with some exceptions).

Retail trade enterprises with capital of less than USD 2.5 million, or less than USD 250,000, for retailers of luxury goods, are reserved for Filipinos. Foreign investors are prohibited from owning stock in lending, financing, or investment companies unless the investor's home country affords the same reciprocal rights to Filipino investors.

Foreign banks are allowed to establish branches or own up to 100 percent of the voting stock of locally incorporated subsidiaries if they can meet certain requirements. However, a foreign bank cannot open more than six branches in the Philippines. A minimum of 60 percent of the total assets of the Philippine banking system should, at all times, remain controlled by majority Philippine-owned banks. Ownership caps apply to foreign non-bank investors, whose aggregate share should not exceed 40 percent of the total voting stock in a domestic commercial bank and 60 percent of the voting stock in a thrift/rural bank.

Other Investment Policy Reviews

The World Trade Organization (WTO) and the Organization for Economic Co-operation and Development (OECD) conducted a Trade Policy Review of the Philippines in March 2018 and an Investment Policy Review of the Philippines in 2016, respectively. The reviews are available online at the WTO website (https://www.wto.org/english/tratop_e/tpr_e/tp468_e.htm) and OECD website (<http://www.oecd.org/daf/oecd-investment-policy-reviews-philippines-2016-9789264254510-en.htm>).

Business Facilitation

Business registration in the Philippines is cumbersome due to multiple agencies involved in the business registration process. It takes an average of 28 days to start a business in Quezon City in Metro Manila, according to the 2018 World Bank's Ease of Doing Business report. Congress approved the Ease of Doing Business bill, which legislates maximum processing times of all government permits and creates an Ease of Doing Business Commission. It was awaiting the President's signature as of April 2018.

Sole proprietorships must register with Bureau of Trade Regulation and Consumer Protection (BTRCP) in the Department of Trade and Industry (DTI), while corporations or partnerships must register with the Securities and Exchange Commission (SEC). In addition, city and municipal governments require businesses located within their jurisdiction to have "business/mayor permits" renewed every year.

The Philippine Business Registry (PBR) [website \(https://www.business.gov.ph/\)](https://www.business.gov.ph/) facilitates integrated online business registrations involving various business permit-issuing agencies. However, stakeholders report the website is oftentimes unreliable and applicants are still compelled to go in person to government offices to register their businesses. In 2016, the public-private task force National Competitiveness Council (NCC) launched Project: Repeal, a government-wide regulatory reform initiative to abolish irrelevant, burdensome, and unnecessary laws/issuances imposed on businesses (<http://www.competitive.org.ph/>).

Outward Investment

No restrictions on outward portfolio investments generally apply to Philippine residents, defined to include non-Filipino citizens who have been residing in the country for at least one year; foreign-controlled entities organized under Philippine laws; and branches, subsidiaries, or affiliates of foreign enterprises organized under foreign laws operating in the country. However, outward investments funded by foreign exchange purchases above USD 60 million or its equivalent per investor per year, or per fund per year for qualified investors, may require prior approval.

2. Bilateral Investment Agreements and Taxation Treaties

The Philippines has neither a bilateral investment nor a free trade agreement with the United States. The only bilateral free trade agreement it has is with Japan. The Philippines has signed bilateral investment agreements with 39 countries or entities: Argentina, Australia, Austria, Bangladesh, Belgium-Luxembourg Economic Union, Cambodia, Canada, Chile, China, Czech Republic, Denmark, Finland, France, Germany, India, Indonesia, Iran, Italy, Kuwait, Mongolia, Myanmar, Netherlands, Pakistan, Portugal, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Spain, Sweden, Switzerland, Syria, Taiwan, Thailand, Turkey, United Kingdom, and Vietnam.

The Philippines is a member of ASEAN regional trade agreements, including an investment chapter with trading partners Australia and New Zealand, Republic of Korea, India, and China. It also has an investment agreement with Iceland, Liechtenstein, Norway, and Switzerland under the Philippines-European Free Trade Association (EFTA) Free Trade Agreement.

The Philippines has a tax treaty with United States to avoid double taxation and provide procedures for resolving interpretative disputes and tax enforcement in both countries. The treaty encourages bilateral trade and investment by allowing the exchange of capital, goods, and services under clearly defined tax rules and, in some cases, preferential tax rates or tax exemptions.

U.S. recipients of royalty income qualify for preferential tax rates (currently 10 percent) under the most favored nation clause of the United States-Philippines tax treaty. A preferential tax treaty rate of 15 percent applies to dividends and interest income. The Philippine Supreme Court ruled in 2013 that securing a tax treaty relief ruling from the Bureau of Internal Revenue (BIR) is not a legal requirement to qualify for preferential treatment and tax treaty rates; however, based on experience, tax experts generally still advise filing a tax treaty relief application to avoid potential challenges or controversies. Despite efforts to streamline processes, taxpayers find documentation requirements for tax treaty relief applications burdensome. The volume of tax treaty relief applications has resulted in processing delays, with most applications reportedly pending for over a year. Inconsistent taxation rulings are also a concern.

The BIR rules and regulations for tax accounting have not been fully harmonized with the Philippine Financial Reporting Standards. The BIR requires taxpayers to maintain records reconciling figures presented in financial statements and income tax returns. Additional information regarding BIR regulations is available on the BIR website.

The Philippines and United States signed a reciprocal Inter-Governmental Agreement (IGA) in July 2015 for automatic exchange of information between tax authorities to implement the U.S. Foreign Account Tax Compliant Act (FATCA). The bilateral agreement has yet to enter into force pending completion of domestic legal remedies to overcome stringent bank secrecy restrictions to the disclosure/sharing of information.

3. Legal Regime

Transparency of the Regulatory System

Proposed Philippine laws must undergo public comment and review. Government agencies are required to craft implementing rules and regulations (IRRs) through public consultation meetings within the government and with private sector representatives after laws are passed. New regulations must be published in newspapers or in the government's official gazette, available online, before taking effect (<https://www.gov.ph/>). The 2016 Executive Order on Freedom of Information (FOI) mandates full public disclosure and transparency of government operations, with certain exceptions. The public may request copies of official records through the FOI [website \(https://www.foi.gov.ph/\)](https://www.foi.gov.ph/). Implementing rules for the Executive Order were yet fully developed as of April 2018.

Stakeholders report regulatory enforcement in the Philippines is generally weak, inconsistent, and unpredictable. Many U.S. investors describe business registration, customs, immigration, and visa procedures as burdensome and frustrating. Regulatory agencies are generally not statutorily independent, but are attached to cabinet departments or the Office of the President and, therefore, are subject to political pressure. Issues in the judicial system also affect regulatory enforcement.

International Regulatory Considerations

The Philippines is a member of the World Trade Organization (WTO) and notifies draft technical regulations to the WTO Committee on Technical Barriers to Trade (TBT) website (<http://tbtime.wto.org/en/Notifications/Search?ProductsCoveredHSCodes=&ProductsCoveredICSCodes=&DoSearch=True&ExpandSearchMoreFields=False&NotifyingMember=Philippines&DocumentSymbol=&DistributionDateFrom=&DistributionDateTo=&SearchTerm=&ProductsCovered=&DescriptionOfContent=&CommentPeriod=&FinalDateForCommentsFrom=&FinalDateForCommentsTo=&ProposedDateOfAdoptionFrom=&ProposedDateOfAdoptionTo=&ProposedDateOfEntryIntoForceFrom=&ProposedDateOfEntryIntoForceTo=>).

The Philippines continues to fulfill required regulatory reforms under the ASEAN Economic Community (AEC). The Philippines is still completing its National Single Window (NSW) Phase 2 Project and targets to run and connect the NSW trade portal to the ASEAN Single Window (ASW) by end of 2018.

The Philippines passed the Customs Modernization and Tariff Act in 2016, which enables the country to largely comply with the WTO Agreement on Trade Facilitation. However, the various implementing rules and regulations to execute specific provisions had not been completed by the Department of Finance and the Bureau of Customs as of April 2018.

Legal System and Judicial Independence

The Philippines has a mixed legal system of civil, common, Islamic, and customary laws, along with commercial and contractual laws.

The Philippine judicial system is a separate and largely independent branch of the government, made up of the Supreme Court and lower courts. The Supreme Court is the highest court and sole constitutional body. More information is available on the court's website (<http://sc.judiciary.gov.ph/>). The lower courts consist of: (a) trial courts with limited jurisdictions (i.e. Municipal Trial Courts, Metropolitan Trial Courts, etc.); (b) Regional Trial Courts (RTCs); (c) Shari'ah District Courts (Muslim courts); and (d) Court of Appeals (appellate courts). Special courts include the "Sandiganbayan" (anti-graft court for public officials) and the Court of Tax Appeals. Several RTCs have been designated as Special Commercial Courts (SCC) to hear intellectual property (IP) cases, with four SCCs authorized to issue writs of search and seizure on IP violations, enforceable nationwide. In addition, nearly any case can be appealed to appellate courts, including the Supreme Court, increasing caseloads and further clogging the judicial system.

Foreign investors describe the inefficiency and uncertainty of the judicial system as a significant disincentive to investment. Many investors decline to file dispute cases in court because of slow and complex litigation processes and corruption among some personnel. The courts are not considered impartial or fair. Stakeholders also report an inexperienced judiciary when confronted with complex issues such as technology, science, and intellectual property cases. The Philippines ranked 149th out of 190 economies, and 23rd among 25 economies from East Asia and the Pacific, in the World Bank's 2018 Ease of Doing Business report in terms of enforcing contracts.

Laws and Regulations on Foreign Direct Investment

The BOI regulates and promotes investment into the Philippines. The Investment Priorities Plan (IPP), administered by the BOI, identifies preferred economic activities approved by the President. Government agencies are encouraged to adopt policies and implement programs consistent with the IPP.

The Foreign Investment Act (FIA) requires the publishing of the Foreign Investment Negative List (FINL) that outlines sectors in which foreign investment is restricted. The FINL consists of two parts: Part A details sectors in which foreign equity participation is restricted by the Philippine Constitution or laws; and Part B lists areas in which foreign ownership is limited for reasons of national security, defense, public health, morals, and/or the protection of small and medium enterprises (SMEs).

The 1995 Special Economic Zone Act allows PEZA to regulate and promote investments in export-oriented manufacturing and service facilities inside special economic zones, including grants of fiscal and non-fiscal incentives.

Further information about investing in the Philippines is available at BOI website (<http://boiown.gov.ph/>) and PEZA website (<http://www.peza.gov.ph/>).

Competition and Anti-Trust Laws

The 2015 Philippine competition law established the Philippine Competition Commission (PCC), an independent body mandated to resolve complaints on issues such as price fixing and bid rigging, and to stop mergers that would restrict competition. More information is available on PCC website (<http://phcc.gov.ph/#content>). The Department of Justice (<https://www.doj.gov.ph/>) prosecutes criminal offenses involving violations of competition laws.

Expropriation and Compensation

Philippine law allows expropriation of private property for public use or in the interest of national welfare or defense in return for fair market value compensation. In the event of expropriation, foreign investors have the right to receive compensation in the currency in which the investment was originally made and to remit it at the equivalent exchange rate. However, the process of agreeing on a mutually acceptable price can be protracted in Philippine courts. No recent cases of expropriation involve U.S. companies in the Philippines.

The 2016 Right-of-Way Act facilitates acquisition of right-of-way sites for national government infrastructure projects and outlines procedures in providing “just compensation” to owners of expropriated real properties to expedite implementation of government infrastructure programs.

Dispute Settlement

ICSID Convention and New York Convention

The Philippines is a member of the International Center for the Settlement of Investment Disputes (ICSID) and has adopted the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, or the New York Convention.

Investor-State Dispute Settlement

The Philippines is signatory to various bilateral investment treaties that recognize international arbitration of investment disputes. Since 2002, the Philippines has been respondent to six investment dispute cases filed before the ICSID. Details of cases involving the Philippines are available on the ICSID website.

International Commercial Arbitration and Foreign Courts

Investment disputes can take years to resolve due to systemic problems in Philippine courts. Lack of resources, understaffing, and corruption make the already complex court processes protracted and expensive. Several laws on alternative dispute resolution (ADR) mechanisms (i.e. arbitration, mediation, negotiation, and conciliation) were approved to decongest clogged court dockets. Public-Private Partnership (PPP) infrastructure contracts are required to include ADR provisions to make resolving disputes less expensive and time-consuming.

A separate action must be filed for foreign judgments to be recognized or enforced under Philippine law. Philippine law does not recognize or enforce foreign judgments that run counter to existing laws, particularly those relating to public order, public policy, and good customary practices. Foreign arbitral awards are enforceable upon application in writing to the regional trial court with jurisdiction. The petition may be filed any time after receipt of the award.

Bankruptcy Regulations

The 2010 Philippine bankruptcy and insolvency law provides a predictable framework for rehabilitation and liquidation of distressed companies, although an examination of some reported cases suggests uneven implementation. Rehabilitation may be initiated by debtors or creditors under court-supervised, pre-negotiated, or out-of-court proceedings. The law sets conditions for voluntary (debtor-initiated) and involuntary (creditor-initiated) liquidation. It also recognizes cross-border insolvency proceedings in accordance with the United Nations Conference on Trade and Development (UNCTAD) Model Law on Cross-Border Insolvency, allowing courts to recognize proceedings in a foreign jurisdiction involving a foreign entity with assets in the Philippines. Regional trial courts designated by the Supreme Court have jurisdiction over insolvency and bankruptcy cases. The Philippines ranked 59th out of 190 economies, and eighth

among 25 economies from East Asia and the Pacific, in the World Bank's 2018 Ease of Doing Business report in terms of resolving insolvency and bankruptcy cases.

4. Industrial Policies

Investment Incentives

The Philippines' Investment Priorities Plan (IPP) enumerates investment activities entitled to incentives facilitated by BOI, such as an income tax holiday. Non-fiscal incentives include: employment of foreign nationals, simplified customs procedures, duty exemption on imported capital equipment and spare parts, importation of consigned equipment, and operation of a bonded manufacturing warehouse.

The 2017 IPP provides incentives to the following activities: manufacturing (e.g. agro-processing, modular housing components, machinery, and equipment); agriculture, fishery, and forestry; Integrated Circuit design, creative industries, and knowledge-based services (e.g. IT-Business Process Management services for the domestic market, repair/maintenance of aircraft, telecommunications, etc.); healthcare (e.g. hospitals and drug rehabilitation centers); mass housing; infrastructure and logistics (e.g. airports, seaports, and PPP projects); energy (development of energy sources, power generation plants, and ancillary services); innovation drivers (e.g. fabrication laboratories); and environment (e.g. climate change-related projects). Further details of the 2017 IPP are available on the BOI website (<http://boi.gov.ph/>).

BOI-registered enterprises that locate in less-developed areas are entitled to pioneer incentives and can deduct 100 percent of the cost of necessary infrastructure work and labor expenses from taxable income. Pioneer status can be granted to enterprises producing new products or using new methods, goods deemed highly essential to the country's agricultural self-sufficiency program, or goods utilizing non-conventional fuel sources. Furthermore, an enterprise with more than 40 percent foreign equity that exports at least 70 percent of its production may be entitled to incentives even if the activity is not listed in the IPP. Export-oriented firms with at least 50 percent of revenues derived from exports may register for additional incentives under the 1994 Export Development Act.

Multinational entities that establish regional warehouses for the supply of spare parts, manufactured components, or raw materials for foreign markets also enjoy incentives on imports that are re-exported, including exemption from customs duties, internal revenue taxes, and local taxes. The first package of the Tax Reform for Acceleration and Inclusion (TRAIN) law which took effect January 1, 2018, removed the 15 percent special tax rate on gross income of employees of multinational enterprises' regional headquarters (RHQ) and regional operating headquarters (ROHQ) located in the Philippines. RHQ and ROHQ employees are now subjected to regular income tax rates.

Foreign Trade Zones/Free Ports/Trade Facilitation

Export-related businesses enjoy preferential tax treatment when located in export processing zones, free trade zones, and certain industrial estates, collectively known as economic zones, or ecozones. Businesses located in ecozones are considered outside customs territory and are allowed to import capital equipment and raw material free of customs duties, taxes, and other import restrictions. Goods imported into ecozones may be stored, repacked, mixed, or otherwise manipulated without being subject to import duties and are exempt from the Bureau of Customs' Selective Preshipment Advance Classification Scheme. While some ecozones are designated as both export processing zones and free trade zones, individual businesses within them are only permitted to receive incentives under a single category.

Philippine Economic Zone Authority (PEZA)

PEZA operated 379 ecozones as of November 2017, primarily in manufacturing, IT, tourism, medical tourism, logistics/warehousing, and agro-industrial sectors. PEZA manages four government-owned export-processing zones (Mactan, Baguio, Cavite, and Pampanga) and administers incentives to enterprises in other privately owned and operated ecozones. Any person, partnership, corporation, or business organization, regardless of nationality, control and/or ownership, may register as an export, IT, tourism, medical tourism, or agro-industrial enterprise with PEZA, provided the enterprise physically locates its activity inside any of the ecozones. PEZA administrators have earned a reputation for maintaining a clear and predictable investment environment within the zones of their authority.

Bases Conversion Development Authority (BCDA) and Subic Bay Metropolitan Authority (SBMA)

The ecozones located inside former U.S. military bases were established under the 1992 Bases Conversion and Development Act. The BCDA (<http://www.bcda.gov.ph/>) operates Clark Freeport Zone (Angeles City, Pampanga), John Hay Special Economic Zone (Baguio), Poro Point Freeport Zone (La Union), and Bataan Technology Park (Morong, Bataan). The SBMA operates Subic Bay Freeport Zone (Subic Bay, Zambales). Clark and Subic have their own international airports, power plants, telecommunications networks, housing complexes, and tourist facilities. These ecozones offer comparable incentives to PEZA. Enterprises already receiving incentives under the BCDA law are disqualified to receive incentives and benefits offered by other laws.

Other Zones

The Phividec Industrial Estate (Misamis Oriental Province, Mindanao) is governed by Phividec Industrial Authority (PIA) (<http://www.piamo.gov.ph/>), a government-owned and controlled corporation. Other ecozones are Zamboanga City Economic Zone and Freeport (Zamboanga City, Mindanao) (<http://www.zfa.gov.ph/>) and Cagayan Special Economic Zone (CEZA) and Freeport (Santa Ana, Cagayan Province) (<http://ceza.gov.ph/>). CEZA grants gaming licenses in addition to offering export incentives. The Regional Economic Zone Authority (Cotabato City, Mindanao) (<http://reza.armm.gov.ph/>) is operated by the Autonomous Region in Muslim Mindanao (ARMM). The incentives available to investors in these zones are similar to PEZA, but administered independently.

Performance and Data Localization Requirements

The BOI imposes a higher export performance requirement on foreign-owned enterprises (70 percent of production) than on Philippine-owned companies (50 percent of production) when providing incentives under IPP.

Companies registered with BOI and PEZA may employ foreign nationals in supervisory, technical, or advisory positions for five years from date of registration (possibly extendable upon request). Top positions and elective officers of majority foreign-owned BOI-registered enterprises (such as president, general manager, and treasurer, or their equivalents) are exempt from employment term limitation. Foreigners intending to work locally must secure an Alien Employment Permit from the Department of Labor and Employment (DOLE), renewable every year or co-terminus with the duration of employment (which in no case shall exceed five years). The BOI and PEZA facilitate special investor's resident visas with multiple entry privileges and extend visa facilitation assistance to foreign nationals, their spouses, and dependents.

The 2006 Biofuels Act establishes local content requirements for gasoline, which must have a minimum content of locally produced biofuel (5 to 10 percent by volume). There is no other data localization requirement imposed on other goods. The Philippines does not impose restrictions on cross-border data transfers. Sensitive personal information is protected under the 2012 Data Privacy Act, which provides penalties for unauthorized processing and improper disposal of data even if processed outside the Philippines.

5. Protection of Property Rights

Real Property

The Philippines recognizes and protects property rights, but the enforcement of laws is weak and fragmented. The Land Registration Authority and the Register of Deeds (<http://www.lra.gov.ph/>), which facilitate the registration and transfer of property titles, are responsible for land administration, with more information available on their websites. Property registration processes are tedious and costly. Multiple agencies are involved in property administration, which results in overlapping procedures for land valuation and titling processes. Record management is weak due to a lack of funds and trained personnel. Corruption is also prevalent among land administration personnel and the court system is slow to resolve land disputes. The Philippines ranked 114th out of 190 economies in terms of ease of property registration in the World Bank's 2018 Ease of Doing Business report.

Intellectual Property Rights

The Philippines is not listed on the United States Trade Representative's (USTR) Special 301 Watch List, nor is it mentioned in the 2017 Notorious Markets Report. The country has a robust intellectual property rights (IPR) regime in place, although enforcement is irregular and inconsistent. The total estimated value of counterfeit goods reported seized in 2017 was USD 162 million, a 12 percent increase from USD 145 million in 2016. The sale of imported

counterfeit goods in local markets has visibly decreased, though stakeholders report the amount of counterfeit goods sold online is gradually increasing.

The Intellectual Property (IP) Code provides legal framework for IPR protection, particularly in key areas of patents, trademarks, and copyrights. The Intellectual Property Office of the Philippines (IPOP HL) is the implementing agency of the IP Code, with more information available on its website. The Philippines generally has strong patent and trademark laws. IPOP HL's IP Enforcement Office (IEO) reviews IPR-related complaints and visits establishments reportedly engaged in IPR-related violations. However, weak border protection, corruption, limited enforcement capacity by the government, and lack of clear procedures continue to weaken enforcement. In addition, IP owners still must assume most enforcement costs when counterfeit goods are seized.

Enforcement actions are often not followed by successful prosecutions. The slow and capricious judicial system keeps most IP owners from pursuing cases in court. IP infringement is not considered a major crime in the Philippines and takes a lower priority in court proceedings. Many IP owners opt for out-of-court settlements (such as ADR) rather than filing a lawsuit that may take years to resolve in the unpredictable Philippine courts. The IPOP HL has jurisdiction to resolve certain disputes concerning alleged infringement and licensing through its Arbitration and Mediation Center.

For additional information about treaty obligations and points of contact at the local IP offices, see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

Resources for Rights Holders

Contact at Mission:

Douglas Fowler, Economic Officer
Economic Section, U.S. Embassy Manila
Telephone: (+632) 301.2000
Email: ManilaEcon@state.gov

A list of local lawyers can be found on the U.S. Embassy's [website: https://ph.usembassy.gov/u-s-citizen-services/attorneys/](https://ph.usembassy.gov/u-s-citizen-services/attorneys/)

6. Financial Sector

Capital Markets and Portfolio Investment

The Philippines welcomes the entry of foreign portfolio investments, including into local and foreign-issued equities listed on the Philippine Stock Exchange (PSE). Investments in certain publicly listed companies are subject to foreign ownership restrictions specified in the Constitution and other laws. Non-residents are allowed to issue bonds/notes or similar instruments in the domestic market with prior approval from the Central Bank; in certain cases,

they may also obtain financing in Philippine pesos from authorized agent banks without prior Central Bank approval.

Although growing, the PSE (with fewer than 270 listed firms as of the end of 2017) lags behind many of its neighbors in size, product offerings, and trading activity. The securities market is growing but remains dominated by government bills and bonds. Hostile takeovers are uncommon because most companies' shares are not publicly listed and controlling interest tends to remain with a small group of parties. Cross-ownership and interlocking directorates among listed companies also decrease the likelihood of hostile takeovers.

In September 1995, the Philippines accepted International Monetary Fund (IMF) Article VIII obligations to refrain from imposing restrictions on payments and transfers for current international transactions. The IMF staff did not raise/report any issues involving restrictions on current international payments and transfers following its most recent annual consultations with the Philippines in 2017.

Credit is generally granted on market terms and foreign investors are able to obtain credit from the liquid domestic market. However, some laws require financial institutions to set aside loans for preferred sectors (e.g. agriculture, agrarian reform, and MSMEs). To help promote lending at competitive rates to MSMEs, the government is working to fully operationalize a centralized credit information system that collects and disseminates information about the track record of borrowers and credit activities of entities in the financial system.

Money and Banking System

The Bangko Sentral ng Pilipinas (BSP, the Central Bank) is a highly respected institution. The banking system is stable. The Central Bank has pursued regulatory reforms promoting good governance and aligning/adapting risk management regulations and the risk-based capital framework with international standards. Capital adequacy ratios are well above the 8 percent international standard and the central bank's 10 percent regulatory requirement. The non-performing loan ratio was at 1.7 percent as of the end of 2017. There is ample liquidity, with the liquid assets-to-deposits ratio estimated at about 48 percent. Commercial banks constitute more than 90 percent of the total assets of the Philippine banking industry. The five largest commercial banks represented about 60 percent of the total resources of the commercial banking sector as of 2017. Twenty-one of the 43 commercial banks operating in the country are foreign branches, including three U.S. banks (Citibank, Bank of America, and JP Morgan Chase). Citibank has the largest presence among the foreign bank branches and currently ranks 12th overall in terms of assets.

Foreign residents and non-residents may open foreign and local currency bank accounts. Although non-residents may open local currency deposit accounts, they are limited to the funding sources specified under central bank regulations. Non-residents' foreign currency accounts cannot be funded from foreign exchange purchases from banks and banks' subsidiary/affiliate foreign exchange corporations.

Foreign Exchange and Remittances

Foreign Exchange Policies

The Central Bank has actively pursued reforms since the 1990s to liberalize and simplify foreign exchange regulations. As a general rule, the Central Bank allows residents and non-residents to purchase foreign exchange from banks, banks' subsidiary/affiliate foreign exchange corporations, and other non-bank entities operating as foreign exchange dealers and/or money changers and remittance agents to fund legitimate foreign exchange obligations, subject to provision of information and/or supporting documents on underlying obligations. No mandatory foreign exchange surrender requirement is imposed on exporters, overseas workers' incomes, or other foreign currency earners; these foreign exchange receipts may be sold for pesos or retained in foreign exchange in local and/or offshore accounts. The Central Bank follows a market-determined exchange rate policy, with scope for intervention to smooth excessive foreign exchange volatility.

Remittance Policies

The Central Bank does not restrict payments and transfers for current international transactions, including payments for imports, subject to submission of a duly accomplished foreign exchange purchase application form if the foreign exchange is sourced from banks and/or their subsidiary/affiliate foreign exchange corporations within specified thresholds (currently USD 500,000 for individuals and USD 1 million for corporates/other entities). Purchases above the thresholds are also subject to the submission of minimum documentary requirements but do not require prior Central Bank approval.

Foreign exchange policies do not require approval of inward foreign direct and portfolio investments. Registration of foreign investments with the Central Bank or custodian banks is generally optional. Duly registered foreign investments are entitled to full and immediate repatriation of capital and remittance of dividends, profits, and earnings.

As a general policy, current regulations require prior Central Bank approval of government-guaranteed foreign loans/borrowings (including those in the form of notes, bonds, and similar instruments) by the private sector. Although there are exceptions, private sector loan agreements should also be registered with the Central Bank if serviced through the purchase of foreign exchange from the banking system.

The Financial Action Task Force (FATF) removed the Philippines from its gray list of countries with strategic deficiencies in countering money laundering and the financing of terrorism in 2013. Although a high reporting threshold and exclusion of junket operators and non-cash transactions are weaknesses, a law signed in July 2017 to include casinos as covered institutions in the Philippine anti-money laundering regime has allowed the Philippines to stave off a return to the FATF gray list thus far. Although not a systemic issue, some local banks and money service businesses have been affected by the "de-risking" phenomenon reported by various jurisdictions in recent years, driven in part by risk aversion of foreign banks due to anti-money laundering/terrorism financing compliance costs. The Philippines has a restrictive regime for accessing bank accounts to detect or prosecute financial crimes, which is a significant

impediment to enforcing laws against corruption, tax evasion, smuggling, laundering, and other economic crimes.

Sovereign Wealth Funds

The Philippines does not have sovereign wealth funds.

7. State-Owned Enterprises

State-owned enterprises, known in the Philippines as government-owned and controlled corporations (GOCC), are predominant in the power, transport, infrastructure, communications, land and water resources, social services, housing, and support services sectors. There were 162 operational GOCCs as of April 2017 (a list is available on the Governance Commission for GOCC [GCG] website). GOCCs are required to remit at least 50 percent of their annual net earnings (e.g. cash, stock, or property dividends) to the national government.

Private and state-owned enterprises generally compete equally, with some clear exceptions. The National Food Authority (NFA), which has exclusive authority to import rice and corn, allowed the private sector to import rice in 2002. The Government Service Insurance System (GSIS) is the only agency, with limited exceptions, allowed to provide coverage for the government's insurance risks and interests, including those in BOT projects and privatized government corporations. Since the national government acts as the main guarantor of loans, stakeholders report GOCCs often have an advantage in getting financing from government financial institutions and some private banks. Most GOCCs are not statutorily independent, but attached to cabinet departments, and, therefore, subject to political interference.

OECD Guidelines on Corporate Governance of SOEs

The Philippines is not an OECD member country. The 2011 GOCC Governance Act addresses problems experienced by GOCCs, including poor financial performance, weak governance structures, and unauthorized allowances. The law allows unrestricted access to GOCC account books and requires strict compliance with accounting and financial disclosure standards; establishes the power to privatize, abolish, or restructure GOCCs without legislative action; and sets performance standards and limits on compensation and allowances. The GCG formulates and implements GOCC policies. GOCC board members are limited to one-year term, subject to reappointment based on a performance rating set by GCG, with final approval by the Philippine President.

Privatization Program

The Philippine Government's privatization program is managed by the Privatization Management Office (PMO) under the Department of Finance (DOF). The privatization of government assets undergoes a public bidding process. Apart from restrictions stipulated in FINL, no regulations discriminate against foreign buyers and the bidding process appears to be transparent. Additional information is available on PMO website (<http://www.pmo.gov.ph/index.htm>).

8. Responsible Business Conduct

Responsible Business Conduct (RBC) is regularly practiced in the Philippines, although no domestic laws require it. The Philippine Tax Code provides RBC-related incentives to corporations, such as tax exemptions and deductions. Various non-government organizations and business associations also promote RBC. The Philippine Business for Social Progress (PBSP) is the largest corporate-led social development foundation involved in advocating corporate citizenship practice in the Philippines. U.S. companies report strong and favorable responses to RBC programs among employees and within local communities.

OECD Guidelines for Multinational Enterprises

The Philippines is not an OECD member country. The Philippine government strongly supports RBC practices among the business community but has not yet endorsed the OECD Guidelines for Multinational Enterprises to stakeholders.

9. Corruption

Corruption is a pervasive and long-standing problem in both the public and private sectors. The country's ranking in Transparency International's Corruption Perceptions Index declined from 101 in 2016 to 111 in 2017 of 176 countries worldwide. The World Economic Forum's 2016-2017 Global Competitiveness Report ranked corruption among the top problematic factors for doing business in the Philippines. The Bureau of Customs is considered to be one of the most corrupt agencies in the country.

The Philippine Development Plan 2017-2022 outlines strategies to reduce corruption by streamlining government transactions, modernizing regulatory processes, and establishing mechanisms for citizens to report complaints. A front line desk in the Office of the President, the Presidential Complaint Center, or PCC (<https://op-proper.gov.ph/contact-us/>), receives and acts on corruption complaints from the general public. The PCC can be reached through its complaint hotline, text services (SMS), and social media sites.

The Philippine Revised Penal Code, the Anti-Graft and Corrupt Practices Act, and the Code of Ethical Conduct for Public Officials all aim to combat corruption and related anti-competitive business practices. The Office of the Ombudsman investigates and prosecutes cases of alleged graft and corruption involving public officials, with more information available on its website. Cases against high-ranking officials are brought before a special anti-corruption court, the Sandiganbayan, while cases against low-ranking officials are filed before regional trial courts.

The Office of the President can directly investigate and hear administrative cases involving presidential appointees in the executive branch and government-owned and controlled corporations. Soliciting, accepting, and/or offering/giving a bribe are criminal offenses punishable by imprisonment, a fine, and/or disqualification from public office or business dealings with the government. Government anti-corruption agencies routinely investigate public officials, but convictions by courts are limited, often appealed, and can be overturned. Recent

positive steps include the creation of an investors' desk at the Ombudsman's Office, and corporate governance reforms of the Securities and Exchange Commission.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

The Philippines ratified the United Nations Convention against Corruption in 2003. It is not a signatory to the OECD Convention on Combating Bribery.

Resources to Report Corruption

Contact at government agency or agencies are responsible for combating corruption:

Office of the Ombudsman
Ombudsman Building, Agham Road, North Triangle
Diliman, Quezon City
Hotline: (+632) 926.2662
Telephone: (+632) 479.7300
Email/Website: pab@ombudsman.gov.ph / <http://www.ombudsman.gov.ph/>

Presidential Complaint Center
Gama Bldg., Minerva St. corner Jose Laurel St.
San Miguel, Manila
Telephone: (+632) 736.8645, 736.8603, 736.8606
Email: pcc@malacanang.gov.ph / <https://op-proper.gov.ph/presidential-action-center/>

Contact Center ng Bayan
Text: (+63) 908 881.6565
Call: 1-6565
Email/Website: email@contactcenterngbayan.gov.ph / contactcenterngbayan.gov.ph

10. Political and Security Environment

Terrorist groups and criminal gangs operate in some regions. The Department of State publishes a consular information sheet and advises all Americans living in or visiting the Philippines to review the information periodically. A travel advisory is in place for those U.S. citizens contemplating travel to the Philippines.

Terrorist groups, including the Abu Sayyaf Group (ASG), Jema'ah Islamiyah (JI), ISIS-Philippines, and a Moro Islamic Liberation Front (MILF) splinter group called Bangsamoro Islamic Freedom Fighters (BIFF), periodically attack civilian targets in Mindanao, kidnap civilians – including foreigners – for ransom, and engage in armed skirmishes with government security forces. These groups have mostly carried out their activities in the western and central regions of Mindanao, including the Sulu Archipelago and Sulu Sea. They are also capable of operating in some areas outside Sulu, as evidenced by the 2015 kidnapping of four hostages from Samal Island, just outside Davao City.

ISIS-affiliated groups in Mindanao occupied and held siege to Marawi City for five months in 2017. When the siege began, President Duterte declared martial law over the entire Mindanao region – approximately one-third of the country’s territory – and Congress granted an extension of martial law until end of 2018. Security forces ultimately cleared the city and eliminated much of the terrorist leadership, but suffered many casualties during the siege.

The New People’s Army (NPA), the insurgent militarized arm of the Communist Party of the Philippines (CPP), is responsible in some parts of the country, mostly Mindanao, for civil disturbances through assassinations of public officials, sporadic attacks on military and police forces, bombings, and attacks on infrastructure, such as power generators and telecommunications towers. The NPA relies on extortionist revolutionary taxes from local and some foreign businesses to fund its operations. The Philippine government ended a unilateral ceasefire with the CPP/NPA in 2017 and initiated a process for designating the group as a terrorist organization under domestic law.

The Philippines’ most significant human rights problems were killings allegedly undertaken by vigilantes, security forces, and insurgents; cases of apparent governmental disregard for human rights and due process; and a weak and overburdened criminal justice system notable for slow court procedures, weak prosecutions, and poor cooperation between police and investigators.

President Duterte’s administration continued a nationwide campaign, led primarily by the Philippine National Police (PNP), to eliminate illegal narcotics. The ongoing operation received worldwide attention for its harsh tactics.

11. Labor Policies and Practices

Managers of U.S. companies in the Philippines report that local labor costs are relatively low and workers are highly motivated, with generally strong English language skills. In 2017, the Philippine labor force reached 42.8 million workers, with an employment rate of 94.3 percent and an unemployment rate of 5.7 percent. These figures include employment in the informal sector and do not capture the substantial rates of underemployment in the country. Youths between the ages of 15 and 24 made up nearly 50 percent of the unemployed. More than half of all employment was in the services sector, with 25.4 percent and 18.3 percent in agriculture and industry sectors, respectively.

Compensation packages in the Philippines tend to be comparable with those in neighboring countries. Regional Wage and Productivity Boards meet periodically in each of the country’s 16 administrative regions to determine minimum wages. The non-agricultural daily minimum wage in Metro Manila is approximately USD 9.86, although some private sector workers receive less. Most regions set their minimum wage significantly lower than Metro Manila. Violation of minimum wage standards is common, especially non-payment of social security contributions, bonuses, and overtime. Philippine law also provides for a comprehensive set of occupational safety and health standards. The Department of Labor and Employment (DOLE) has responsibility for safety inspection, but a shortage of inspectors has made enforcement difficult.

The Philippines Constitution enshrines the right of workers to form and join trade unions. The trend among firms using temporary contract labor to lower employment costs continues despite government efforts to regulate the practice. The DOLE Secretary has the authority to end strikes and mandate a settlement between parties in cases involving national interest. DOLE amended its rules concerning disputes in 2013, specifying industries vital to national interest: hospitals, the electric power industry, water supply services (excluding small bottle suppliers), air traffic control, and other industries as recommended by the National Tripartite Industrial Peace Council (NTIPC). Economic zones often offer on-site labor centers to assist investors with recruitment. Although labor laws apply equally to economic zones, unions have noted some difficulty organizing inside the zones.

The Philippines is signatory to all International Labor Organization (ILO) core conventions, but has faced challenges with enforcement. Unions allege that companies or local officials use illegal tactics to prevent workers from organizing. The quasi-judicial National Labor Relations Commission reviews allegations of intimidation and discrimination in connection with union activities. Meanwhile, the NTIPC monitors the application of international labor standards.

Reports of forced labor in the Philippines continue, particularly in connection with human trafficking in the commercial sex, domestic service, agriculture, and fishing industries.

12. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) provides debt financing, political risk insurance, and private equity capital to support U.S. investors and their investments. It does so under a bilateral agreement with the Philippines.

OPIC can provide debt financing in the form of direct loans and loan guarantees of up to USD 350 million per project for business investments with U.S. private sector participation in the Philippines. OPIC's political risk insurance for currency inconvertibility, expropriation, and political violence is also available for U.S. investments including equity, loans and loan guarantees, technical assistance, leases, and consigned inventory or equipment. In addition, OPIC supports three private equity funds eligible to invest in projects in the Philippines. In all cases, OPIC support is available only where sufficient or appropriate investment support is unavailable from local or other private sector financial institutions.

Past OPIC programs in the Philippines include projects with the National Power Corporation (NAPOCOR), the Asia Foundation for economic development activities, and a cloud-based technology program for the local cargo and courier industry.

13. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical Source*		USG or International Statistical Source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (M USD)	2017	USD 315,900	2016	USD 304,900	www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or International Statistical Source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in Partner Country (M USD , stock positions)	2017	N/A	2017	N/A	BEA data available at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Host Country's FDI in the United States (M USD , stock positions)	2017	N/A	2016	Not stated	BEA data available at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total Inbound Stock of FDI as % host GDP	2017	25%	2016	11%	

*Host Country Statistical Sources:

Philippine Statistical Authority (<http://psa.gov.ph/nap-press-release/data-charts>)

Bangko Sentral ng Pilipinas (http://www.bsp.gov.ph/statistics/efs_ext2.asp#FCDU)

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data
From Top Five Sources/To Top Five Destinations (US Dollars, Millions)

Inward Direct Investment			Outward Direct Investment		
Total Inward	33,478	100%	Total Outward	6,324	100%
Japan	7,699	23%	China, P.R.: Mainland	1,121	18%
Netherlands	5,158	15%	China, P.R.: Hong Kong	997	16%
United States	4,616	14%	Cayman Islands	855	13.5%
Singapore	3,260	10%	British Virgin Islands	848	13.4%
Switzerland	2,592	8%	United States	707	11%
"0" reflects amounts rounded to +/- USD 500,000.					

The Philippine Central Bank does not publish or post inward and outward FDI stock broken down by country. Total stock figures are reported under the “International Investment Position” data that the Central Bank publishes and submits to the International Monetary Fund (IMF)’s Dissemination Standards Bulletin Board (DSBB). As of 2017, inward direct investment (i.e. liabilities) is USD 78.7 million, while outward direct investment (i.e. assets) is USD 47.8 million.

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			Equity Securities			Total Debt Securities		
All Countries	10,677	100%	All Countries	698	100%	All Countries	9,979	100%
United States	4,573	43%	United States	375	54%	United States	4,378	44%
Indonesia	2,173	20%	Luxembourg	166	24%	Indonesia	2,173	22%
China, P.R.: Mainland	657	6%	China, P.R.: Hong Kong	55	8%	China, P.R.: Mainland	651	6.5%
Cayman Islands	348	3.2%	Ireland	36	5%	Cayman Islands	381	4%
China, P.R.: Hong Kong	335	3.1%	Netherlands	12	2%	China, P.R.: Hong Kong	280	3%

The Philippine Central Bank disaggregates data into equity and debt securities but does not publish or post the stock of portfolio investments assets broken down by country. Total foreign portfolio investment stock figures are reported under the “International Investment Position” data that Central Bank publishes and submits to the International Monetary Fund (IMF)’s Dissemination Standards Bulletin Board (DSBB). As of 2017, outward portfolio investment (i.e. assets) was USD 17.4 million, of which USD 1.5 million was in equity securities and USD 15.9 million was in debt securities.

14. Contact for More Information

Douglas Fowler
Economic Officer
U.S. Embassy Manila
1201 Roxas Boulevard, Manila, Philippines
Telephone: (+632) 301.2000
Email: ManilaEcon@state.gov