THE PHILIPPINES

INVESTMENT CLIMATE STATEMENT

2015

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Executive Summary

The Philippines is an increasingly attractive destination for Foreign Direct Investment (FDI). The country's growing middle class quickly spends its disposable income in a stable political environment, helping gross domestic product soar to an average growth of 6.3% over the last five years. FDI reached a record-high of USD 6.2 billion in 2014 and it is projected to continue to grow in the near future. The United States contributed the most FDI of any country in 2014 (USD 1.2 billion USD). Thanks to a large, educated, English-speaking workforce, the Business Process Outsourcing (BPO) and tourism industries have experienced tremendous growth in recent years, with no signs of a slowdown. Under the administration of President Benigno Aquino III, the Philippines has improved the investment climate, making strides in good governance, transparency, and accountability. The three major international credit rating agencies all lifted the Philippines to an investment grade rating for the first time starting in 2013.

Restrictions on foreign ownership, poor infrastructure, including very high power costs, and corruption continue to be significant concerns for investors. Traffic and port congestion are a regular part of business. Manila's main airport operates at full capacity. With its high economic growth, the strain is only expected to increase. Strengthening the rule of law is important, because the country's complex and slow judicial system inhibits the timely and fair resolution of commercial disputes. The Philippines lags behind its Asian neighbors in attracting FDI because of limits on foreign investment in many sectors of the economy. The Philippines recently liberalized its banking laws to stimulate investments. Invest Philippines (www.investphilippines.gov.ph) is the GPH's main portal for investors.

Investors report that Philippine bureaucracy can be difficult and opaque, business registration and procedures are slow and burdensome. Many investors report a more predictable business environment within the special economic zones, particularly those run by the Philippine Economic Zone Authority (PEZA), which is known for its regulatory transparency, no red tape policy, and "one-stop shop" services for investors. Overall, the investment climate of the Philippines has improved in recent years. If the country can maintain its reform momentum, particularly after a new president takes office in 2016, and continue to improve its infrastructure, the prospects for investment into the Philippines will continue to brighten.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

The Philippines actively seeks foreign investment to promote economic development. The Philippine investment landscape has noteworthy advantages, such as its free trade zones, including zones administered by the Philippine Economic Zone Authority (PEZA) (http://www.peza.gov.ph/), and its large, educated, English-speaking Filipino workforce. Philippine law treats foreign investors the same as their domestic counterparts, except in sectors reserved for Filipinos by the Philippine Constitution and Foreign Investment Act (detailed below). However, inadequate public investment in the physical and social infrastructure and lack of transparency hinder foreign investment. Philippine regulatory regimes remain ambiguous in many sectors of the economy, and corruption is a significant problem. A complex and slow judicial system is also a major disincentive to investment.

Other Investment Policy Reviews

The World Trade Organization conducted a Trade Policy Review of the Philippines in March 2012. It is available at: http://www.wto.org/english/tratop_e/tpr_e/tp361_e.htm.

Laws/Regulations of Foreign Direct Investment

The Board of Investments (BOI) (http://www.boi.gov.ph/) regulates and promotes investments in 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 1991 Philippine Foreign Investment Act (FIA) requires the publishing of the Foreign Investment Negative List (FINL), which 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. Part B lists areas in which foreign ownership is limited (generally to 40%) for reasons of national security, defense, public health, morals, and/or the protection of small and medium enterprises (SMEs). The current FINL was published in October 2012, and a revision is expected this year.

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

Industrial Promotion

The Investment Priorities Plan (IPP) enumerates priority investment areas entitled to incentives. The 2014-2016 IPP seeks to raise investments in infrastructure, agriculture, education and health. The IPP list includes: manufacturing (e.g. motor vehicles, shipbuilding, aerospace, etc.), agribusiness and fisheries; services (e.g. creative industries, integrated circuit design, charging stations for e-vehicles, etc.); public infrastructure and logistics (airports, seaports, transport, etc.); Public-Private Partnership (PPP) projects; energy (development of energy sources, power generation plants and ancillary services); low-cost housing; and hospitals. The BOI reviews projects, and then determines incentives.

The PPP program aims to spur private-sector participation in government development projects, specifically in infrastructure. The Build-Operate-Transfer (BOT) law provides the legal framework for the program, and a Public Private Partnership (PPP) Center (http://ppp.gov.ph/) works to promote transparency and oversee project development and approval. The PPP program has been slow to approve contracts, although the pace for approval and awarding has picked up of late. As of May 2015, only 9 out of 61 PPP projects/contracts had been awarded, with 16 contracts out for bid. In February 2015, the U.S. Department of Commerce and the Philippine National Economic Development Authority (NEDA) (http://www.neda.gov.ph) signed a Memorandum of Cooperation on infrastructure collaboration in which potential U.S. investors will receive notification and information about forthcoming PPP infrastructure projects.

Limits on Foreign Control

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 50 years, renewable one time for 25 additional years. The 2003 Dual-Citizenship Act allows dual citizens full rights to possess land. Yet, ownership deeds continue to be difficult to establish, and the court system is slow to resolve land disputes.

The FINL bans foreign ownership in the following areas: mass media (except recording); small-scale mining; private security; marine resources, including the small-scale utilization of natural resources in rivers, lakes, and lagoons; and the manufacture of firecrackers and pyrotechnic devices. Only Philippine citizens can practice the following licensed professions: engineering, medicine, accounting, architecture, interior design, chemistry, environmental planning, social work, teaching, law, real estate services, respiratory therapy, and psychology.

Other areas that carry varying foreign ownership ceilings include: private radio communications networks (20%); private employee recruitment (25%); contracts for the construction and repair of locally funded public works (25%); advertising agencies (30%); natural resource exploration, development, and utilization (40%, with exceptions); educational institutions (40%); operation and management of public utilities (40%); operation of commercial deep sea fishing vessels (40%); Philippine government procurement contracts (40% for supply of goods and commodities); construction of locally funded public works (25% with some exceptions); adjustment companies (40%); operations of Build-Operate-Transfer (BOT) projects in public utilities (40%); ownership of private lands (40%); rice and corn processing (40%, with some exceptions); financing companies and investment houses (60%).

For reasons of national security, defense and public health, the Philippines limits foreign ownership to 40% in the following industries: manufacturing of explosives, firearms, military hardware, and massage clinics.

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 ownership is capped at 60% for enterprises engaged in financing and securities underwriting, which are regulated by the Securities and Exchange Commission (SEC) (http://www.sec.gov.ph/).

A law signed on July 15, 2014 liberalized the entry of foreign banks into the Philippine market. If they can meet certain requirements, foreign banks are allowed to establish branches or own up to 100% of the voting stock of locally incorporated subsidiaries. However, banks cannot open more than six branch offices each. The new law also stipulates a minimum 60% of the total assets of the Philippine banking system should, at all times, remain controlled by majority Philippine-owned banks.

The 2007 Lending Company Regulation Act requires majority Philippine ownership for credit enterprises that do not clearly fall under the scope of existing laws.

Privatization Program

The GPH's privatization program is managed by the Privatization Management Office (PMO) (http://www.pmo.gov.ph/) under the Department of Finance (DOF) (http://www.dof.gov.ph/). Apart from restrictions in the FINL, there are no regulations that discriminate against foreign buyers and the bidding process appears to be transparent.

Screening of FDI

Corporations or partnerships wishing to invest in the Philippines must register with the Securities and Exchange Commission (SEC). Sole proprietorships must register with the Bureau of Trade Regulation and Consumer Protection (BTRCP) in the Department of Trade and Industry (DTI) (http://www.dti.gov.ph/). A foreign enterprise seeking incentives under the OIC must apply for registration with the BOI, while export-oriented manufacturing and service enterprises within the economic zones must register with PEZA or another authorized economic zone administrator (see Section 17 – Foreign Trade Zones). In addition, foreign investors must register with the Philippine Central Bank (http://www.bsp.gov.ph) if the foreign exchange for repatriation of capital and remittance of earnings will be sourced from authorized agent banks or their affiliate foreign exchange corporations.

Competition Law

The Philippines does not have a general competition law, but there are several laws dealing with competition. A Fair Competition Law is pending in Congress and is expected to be passed before the current session ends June 12. The Department of Justice (DOJ) (http://www.doj.gov.ph/) is responsible for enforcement of and the investigation of cases involving competition laws.

Investment Trends

The Philippine investment climate continues to improve due to reforms undertaken by the current government. In 2014, FDI in the Philippines reached USD 6.2 billion, a 65.9% increase from the USD 3.7 billion in 2013, and the highest to date. The majority of investment inflows are in finance and insurance, manufacturing, real estate, large-scale mining and quarrying, and wholesale and retail trade sectors. In 2013 and 2014, Fitch, Standard & Poor's, and Moody's upgraded the Philippines' sovereign credit ratings to investment grade, citing robust economic performance, continued fiscal and debt consolidation, and improved governance. The Philippines inched up 13 spots in the World Bank's Doing Business Report in 2014, almost reaching the top 50%.

Constitutional and legal restrictions, inadequate infrastructure, regulatory inconsistency, corruption, and a slow and complex judicial process remain major constraints. The Philippines has a poor record of attracting foreign investment compared to its ASEAN counterparts. According to the United Nations Conference on Trade and Development (UNCTAD), the Philippines ranked sixth among ASEAN's ten countries in terms of FDI flows in 2013.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	85 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	95 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	100 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 3,270	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produces scorecards for countries with a per capita gross national income (GNI) of USD 4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: http://www.mcc.gov/pages/selection/scorecards. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015.

2. Conversion and Transfer Policies

Foreign Exchange

Since 2007, the Central Bank has accelerated efforts to relax and streamline the Philippine foreign exchange regulatory framework. There are no restrictions on the full and immediate transfer of funds associated with foreign investments, foreign debt servicing, or payment of royalties, lease payments, and similar fees. The Central Bank follows a market-determined exchange rate policy, with scope for intervention to smooth excess foreign exchange volatility.

Remittance Policies

Central Bank regulations provide specific requirements for foreign exchange purchases from banks and from foreign exchange dealers, money changers, and remittance agents. No mandatory foreign exchange surrender requirement is imposed on export earners or other foreign currency earners, such as overseas workers.

In June 2013, the Financial Action Task Force (FATF) removed the Philippines from its "watch list" of countries with strategic deficiencies in countering money laundering and the financing of terrorism. The FATF continues to urge regulation of the country's growing casino industry for anti-money laundering/terrorism financing purposes and is monitoring progress of pending legislation in the Philippines.

3. Expropriation and Compensation

Philippine law allows expropriation of private property for public use or in the interest of national welfare or defense, and offers fair market value compensation. In the event of expropriation, foreign investors have the right to receive the compensation in the currency in which the investment was originally made and remit it at the equivalent exchange rate. However, the process of agreeing on a mutually acceptable price can be protracted in the Philippine courts.

There are no recent cases of actual expropriation involving U.S. companies in the Philippines.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

The Philippine judicial system is a separate and independent branch of the government, made up of the Supreme Court (http://sc.judiciary.gov.ph/) and lower courts. The Supreme Court is the highest court and sole constitutional body as specified by the Philippine Constitution. 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 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.

Under Philippine law, a separate action must be filed for foreign judgments to be recognized or enforced. Philippine law also does not recognize or enforce foreign judgments that run counter to existing laws, particularly those relating to public order, public policy, and good customs.

Bankruptcy

The 2010 Philippine bankruptcy and insolvency law provides a predictable framework for the rehabilitation and liquidation of distressed companies. Rehabilitation may be initiated by debtors or creditors under court-supervised, pre-negotiated, or out-of-court proceedings. The law sets the conditions for voluntary (debtor-initiated) and involuntary (creditor-initiated) liquidation. It also recognizes cross-border insolvency proceedings in accordance with the 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. According to the International Finance Corporation (IFC)'s 2015 Ease of Doing Business report, the Philippines ranks 50th of the 189 economies in resolving insolvency and bankruptcy cases http://www.doingbusiness.org/data/exploreeconomies/philippines#resolving-insolvency.

Investment Disputes

Foreign investors describe the inefficiency and uncertainty of the judicial system as a significant disincentive to investment. Many investors do not wish to file dispute cases in court because of slow and complex litigation processes and corruption among some personnel. Stakeholders also report an inexperienced judiciary when confronted with complex issues such as technology, science, trade, and intellectual property cases.

To decongest the court's clogged dockets, several laws on alternative dispute resolution (ADR) mechanisms (i.e., arbitration, mediation, negotiation, and conciliation) have been approved. Further, PPP contracts are required to include ADR provisions to make resolving disputes less expensive and time-consuming, particularly for large-scale capital-intensive infrastructure and development contracts.

International Arbitration

Not applicable.

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." 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.

Duration of Dispute Resolution

Investment disputes can take years to resolve due to systemic problems in the Philippine judicial system. Lack of resources, understaffing, and corruption make the already complex court processes protracted and expensive.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

The Philippines currently has no measures reportedly violating WTO-TRIMS commitments.

Investment Incentives

There are about 180 fiscal incentive laws in the Philippines. The IPP lists promoted investment areas entitled to incentives facilitated by BOI. Available fiscal incentives include: an income tax holiday; tax credits; and deductions from taxable income. Non-fiscal incentives include: employment of foreign nationals; simplified customs procedures; importation of consigned equipment; and operation of a bonded manufacturing warehouse.

BOI-registered enterprises which locate in less-developed areas are entitled to “pioneer” incentives and can deduct 100% of the cost of necessary infrastructure work and labor expenses from its taxable income. Pioneer status can be granted to enterprises producing new products or using new methods, producing 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% foreign equity that exports at least 70% 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% of their revenues derived from exports may register for additional incentives under the 1994 Export Development Act.

Philippine law also provides incentives for multinational enterprises to establish regional or area headquarters in the Philippines. 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.

Research and Development

The participation of foreign entities in research and development is limited by several laws and regulations that stem from the limiting of the practice of professions, including engineering and teaching, to Filipino citizens, except when otherwise prescribed by law. An example is the “Balik Scientist” Program of the Department of Science and Technology (DOST) (http://bsp.dost.gov.ph/), where Filipino-born scientists who have acquired foreign citizenship are encouraged to return to the Philippines to help accelerate scientific, agro-industrial and economic development of the country. The DOST secures a special/temporary permit from the Professional Regulatory Commission (PRC) (http://www.prc.gov.ph/) to allow these “foreign” scientists to practice their profession in the Philippines.

Performance Requirements

In general, only Filipino citizens are allowed to practice licensed professions but companies registered with BOI and PEZA may employ foreign nationals in supervisory, technical, or advisory positions for five years from the date of registration (possibly extendable upon request). Top positions and elective officers of majority foreign-owned BOI-registered enterprises (i.e., president, general manager, and treasurer, or their equivalents) are exempt from the five-year limitation. Foreigners intending to work locally must secure an Alien Employment Permit (AEP) from the Department of Labor and Employment (DOLE) (http://www.dole.gov.ph), renewable every year or co-terminus with the duration of employment (which in no case shall exceed five years). The BOI and PEZA can help facilitate a special Non-Immigrant Visa with Multiple Entry Privileges and extend Visa Facilitation Assistance to foreign nationals, their spouses and dependents.

The 2003 Government Procurement Reform Act (GPRA) requires the public sector to procure goods, supplies, and consulting services from enterprises at least 60% Filipino-owned and infrastructure services from enterprises with at least a 75% Filipino interest. Under Philippine law, a single portal electronic procurement system (the Philippine Government Electronic Procurement System [http://philgeps.gov.ph/]) exists to provide transparency and efficiency in procurement procedures, the U.S. and other countries continue to raise concerns about irregularities and inconsistent implementation of government procurement. The Philippines is not a signatory to the WTO Agreement on Government Procurement.

Data Storage

The Philippines has no data localization law and does not impose restrictions on cross-border data transfers. Sensitive personal information is protected under the 2012 Data Privacy Act that provides penalties for unauthorized processing and improper disposal of data even if processed outside the Philippines.

6. Right to Private Ownership and Establishment

Philippine law recognizes the private right to acquire and dispose of property or business interests, subject to foreign nationality caps specified in the Constitution and other laws.

7. Protection of Property Rights

Real Property

The Land Registration Authority (LRA) (http://www.lra.gov.ph/) and the Register of Deeds, which facilitates the registration and transfer of property titles, are responsible for land administration. The Philippines recognizes and protects property rights, but the laws are weakly implemented. Multiple agencies are involved in property administration, which results in overlapping procedures for land valuation and titling processes. Property registration is tedious and costly. 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 108 out of 189 economies in terms of ease of property registration in the 2015 World Bank Doing Business Report.

Intellectual Property Rights

The Philippines remains off the United States Trade Representative's (USTR) Special 301 Watch List, and has no physical markets listed in the 2014 Notorious Markets Report due to sustained efforts by the Philippine government to improve IPR protection and civil and administrative enforcement. That effort included amendments to the IP Code in 2013. Challenges, however, remain as U.S. rights holders report concerns about the availability of counterfeit items such as medicines, clothing and software, and judicial inexperience in IPR enforcement. Nevertheless, the Philippines is considered a leader in ASEAN for its IP enforcement efforts.

The Intellectual Property (IP) Code provides the legal framework for IPR protection, particularly in the key areas of patents, trademarks, and copyright. The Intellectual Property Office (IPOPHL) (http://www.ipophil.gov.ph/) is the implementing agency of the IP Code. The Philippines generally has strong patent and trademark laws.

IPOPHL seeks to expand cooperation between the government and rights-holders to strengthen enforcement. In 2014, the National Committee on Intellectual Property Rights (NCPIR) reported

USD 302 million worth of seized goods – their highest to date. In addition, the amended IP Code created an IP Enforcement Office (IEO) under IPOPHL that reviews IPR-related complaints and conducts visits to establishments reportedly engaged in IPR-related violations. Stakeholders report that the IEO has been effective in streamlining the process of filing complaints, coordinating among enforcement agencies, and reducing possibilities for corrupt officers to request bribes.

Enforcement actions, however, are often not followed by successful prosecutions. IP infringement is not considered a major crime in the Philippines and takes lower priority in court proceedings. Many stakeholders opt for out-of-court settlements (such as ADRs) rather than filing a lawsuit that may take years to resolve in Philippine courts. IPOPHL has jurisdiction to resolve certain disputes concerning alleged infringement and licensing through its Arbitration and Mediation Center (AMC). IPOPHIL reported 51% of cases received in 2014 had successful mediation.

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

Resources for Rights Holders

Contact at Mission:
Brian Breuhaus, Economic Officer
Economic Section, U.S. Embassy Manila
Telephone: (+632) 301.2000
Email: ManilaEcon@state.gov

Local lawyers list:
http://manila.usembassy.gov/service/information-for-travelers/legal-assistance/lawyers2.html.

8. Transparency of the Regulatory System

In general, regulatory enforcement in the Philippines is weak, inconsistent, and unpredictable. Regulatory agencies are generally not statutorily independent, but are attached to cabinet departments or the Office of the President and, therefore, subject to political pressure. Many U.S. investors describe business registration, customs, immigration, and visa procedures as burdensome and a source of frustration. To counter this, several government agencies have established express lanes or "one-stop shops" to reduce bureaucratic delays.

All proposed laws must undergo public comment and review. When laws are passed, concerned government agencies are also required to develop implementing rules and regulations (IRRs) through public consultation hearings. New regulations must be published in newspapers or in the government's official gazette before taking effect.

The Philippines follows the Philippine Financial Reporting Standards, patterned after the International Financial Reporting Standards (IFRSs) issued by the International Accounting Standards Board (IASB). Those standards also apply to Small and Medium-sized Entities.

The Philippine SEC requires an entity's Chairman of the Board, Chief Executive Officer, and Chief Financial Officer to assume management responsibility and accountability for financial statements. Financial statements are examined by independent auditors in accordance with Philippine Standards on Auditing, which are based on international auditing standards. Certain regulatory agencies, such as the Central Bank, Insurance Commission (http://www.insurance.gov.ph/), and Bureau of Internal Revenue (BIR) (http://www.bir.gov.ph/) enforce separate accreditation rules.

9. Efficient Capital Markets and Portfolio Investment

The Philippines supports the entry of foreign portfolio investments, including into local and foreign-issued equities listed on the Philippine Stock Exchange (PSE) (http://www.pse.com.ph). There are minimal requirements for the divestment of portfolio investments and the subsequent repatriation of capital.

There are generally no restrictions on outward portfolio investments by 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/affiliates of foreign enterprises organized under foreign laws that are operating in the country. However, foreign exchange purchases from banks and foreign exchange subsidiaries/affiliates above USD 60 million per investor or per fund per year require prior Central Bank approval.

Although growing, the 260-listed firm Philippine stock market lags behind many of its neighbors in size, product offerings, and trading activity. By mid-2015, the PSI plans to launch a new industry-leading trading system procured from NASDAQ OMX. The securities market is growing, but remains dominated by government bills/bonds.

The Central Bank does not restrict payments and transfers for current transactions, subject to the submission of specified documentary requirements.

Credit is generally granted on market terms and foreign firms are able to obtain credit from the domestic market. However, some laws require financial institutions to set aside loans for preferred sectors. To help promote lending at competitive rates to MSMEs, the Philippines enacted the Credit Information System Act, which established the legal and regulatory framework for a centralized credit information system that collects and disseminates information about the track record of borrowers and the credit activities of entities in the financial system. The system is in place, but not yet operational.

Money and Banking System, Hostile Takeovers

The banking system is stable. Since 2011, the Central Bank has broadly revised its risk-based capital framework in step with adjustments in the Basel Committee on Banking Supervision capital adequacy rules. Capital adequacy ratios are well above the 8% international standard and the Central Bank's 10% regulatory requirement. The non-performing loan ratio was under 2.5% as of end-2014. There is ample liquidity, with the liquid assets-to-deposits ratio estimated at more than 56%. Commercial banks constitute more than 90% of the total assets of the Philippine banking industry. As of 2014, the five largest commercial banks represented about 53% of the total resources of the commercial banking sector.

Foreign residents and non-residents may open foreign exchange and local currency bank accounts. Although non-residents may open local currency deposit accounts, they are subject to conditions on the funding sources specified under Central Bank regulations.

Hostile takeovers are not common 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 number of hostile takeovers.

10. Competition from 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 142 operational GOCCs as of November 2014 (see list at http://gcg.gov.ph/site/goccclassification).

The Philippine government derives substantial revenues from GOCCs, which are required to remit at least 50% of their annual net earnings (e.g. cash, stock or property dividends) to the national government. In 2013, the total assets of all GOCCs were 5.7 trillion Philippine pesos (about USD 125.7 billion). GOCCs remitted 32.3 billion pesos (about USD 751 million) in dividends to the national government in 2014.

Private and state-owned enterprises generally compete equally, with some clear exceptions. In 2002, the National Food Authority (NFA) (http://www.nfa.gov.ph/) first allowed the private sector to import rice. The Government Service Insurance System (GSIS) (http://www.gsis.gov.ph) 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 that GOCCs often have an advantage in getting financing from government financial institutions and some private banks. Also, 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. Problems experienced by GOCCs, including poor financial performance, weak governance structures, and unauthorized allowances, led to the passage in 2011 of the GOCC Governance Act. 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 law also created the GOCC Commission on Governance (GCG) (http://gcg.gov.ph/) to formulate and implement GOCC policies. GOCC Board Members are now limited to one-year terms, subject to reappointment based on a performance rating set by the GCG, with final approval by the President of the Philippines.

Sovereign Wealth Funds

The Philippines does not have sovereign wealth funds.

11. Corporate Social Responsibility

Corporate social responsibility (CSR) is regularly practiced in the Philippines, although no domestic laws require it. The Philippine Tax Code provides CSR-related incentives to corporations, such as tax exemptions and deductions. Various non-government organizations and business associations also promote CSR. The Philippine Business for Social Progress (PBSP) (http://www.pbsp.org.ph/) 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 CSR programs among employees and within local communities.

OECD Guidelines for Multinational Enterprises

The Philippines is not an OECD member country. While the Philippine government strongly supports CSR practices among the business community, it has not endorsed the OECD Guidelines for Multinational Enterprises to its stakeholders.

12. Political Violence

Terrorist groups and criminal gangs operate in some regions of the country. The Department of State publishes a consular information sheet and advises all Americans living in or visiting the Philippines to review this information periodically. A travel warning is in place for those U.S. citizens contemplating travel to the Philippines:
http://travel.state.gov/content/passports/english/alertswarnings/philippines-travel-warning.html.

The State Department strongly encourages Americans in the Philippines to register with the Consular Section of the U.S. Embassy through the State Department's travel registration website found at the Smart Traveler Enrollment Program (STEP) at https://step.state.gov/step/.

The Philippines’ most significant human rights problems continued to be extrajudicial killings and disappearances at the hands of security forces; a dysfunctional criminal justice system notable for poor cooperation between police and investigators; few prosecutions and lengthy procedural delays; and improving but still widespread official corruption and abuse of power.

The Philippines will hold a national election in May 2016 for president, vice president, Senate, House of Representatives, provincial governorships and a range of local offices. Unofficial campaigning will begin in late 2015 and some election-related violence may occur.

In 2014, the Philippine government and the Muslim insurgency group Moro Islamic Liberation Front (MILF) signed the Comprehensive Agreement on the Bangsamoro (CAB) that seeks to create a new, autonomous political entity by 2016 replacing the existing Autonomous Region in Muslim Mindanao (ARMM). A draft Bangsamoro Basic Law implementing the CAB is still pending at Philippine Congress as of the reporting period.

The New People's Army (NPA), the military arm of the Communist Party of the Philippines, is responsible in some parts of the country, mostly in Mindanao, for civil disturbances through assassinations of public officials, sporadic attacks on military and police forces, bombings, and other attacks. It frequently demands "revolutionary taxes" from local and, at times, foreign businesses. To enforce its demands, the NPA attacks infrastructure such as power facilities, telecommunications towers, and bridges.

Terrorist groups, including the Abu Sayaaf Group (ASG), Jema'ah Islamiyah (JI), and including an MILF splinter group called the 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. So far these groups have mostly carried out these activities in the western and central regions of Mindanao, including the Sulu Archipelago and its surrounding waters.

13. Corruption

Corruption is a pervasive and long-standing problem in the Philippines. Recent government efforts have improved the country's ranking in Transparency International's Corruption Perceptions Index from 94 in 2013 to 85 in 2014. Nevertheless, the World Economic Forum's 2014-2015 Global Competitiveness Report ranked corruption as the top problematic factor for doing business in the Philippines. Although President Aquino has made fighting corruption a central part of his presidency, the problem is too endemic to change in a short time. The Bureau of Customs, known widely as the most corrupt agency in the Philippines, is a particular concern. The previous commissioner, who resigned in late April, took steps to decrease opportunities for employees to take bribes, such as fully automating many of the procedures.

The Philippines continues to implement anti-corruption reforms outlined in the Philippine Development Plan 2011-2016. Its 2012-2016 Good Governance and Anti-Corruption Cluster Plan further identifies specific measures to curb corruption through greater transparency and accountability in government transactions. Several bills supporting anti-corruption efforts are currently pending in Congress. A private-sector group has pushed an "Integrity Initiative" for the past four years, seeking a system of certification for businesses that adhere to ethical standards. Since President Aquino took office in 2010, corruption charges have been filed against several high-profile public officials, with no convictions to date.

The Philippine Revised Penal Code, the Anti-Graft and Corrupt Practices Act, and the Code of Ethical Conduct for Public Officials aim to combat corruption and related anti-competitive business practices. The Office of the Ombudsman (http://www.ombudsman.gov.ph/) investigates and prosecutes cases of alleged graft and corruption involving public officials. Cases against high-ranking officials are brought before the 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.

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 Combatting Bribery.

Resources to Report Corruption

Contact at government agency:
Office of the Ombudsman
Ombudsman Building
Agham Road, North Triangle, Diliman
Quezon City, Philippines 1101
Telephone: (+632) 479.7300
Email: pab@ombudsman.gov.ph
http://www.ombudsman.gov.ph/

Contact at Watchdog Organization:
Transparency International Philippines, Inc.
4/F Libran House Building
144 Legazpi St. cor. V.A. Rufino and Bolanos Sts., Legazpi Village
Makati City, Philippines
Telephone: (+632) 869.9702
Email: info@transparency-ph.org
http://www.transparency-ph.org/

14. Bilateral Investment Agreements

The Philippines has neither a bilateral investment nor a free trade agreement with the United States. The Philippines has bilateral investment agreements with 38 countries: Argentina, Australia, Austria, Bangladesh, Belgium and Luxembourg, Cambodia, Canada, Chile, China, the Czech Republic, Denmark, Finland, France, Germany, India, Indonesia, Iran, Italy, Japan, Republic of Korea, Kuwait, Mongolia, Myanmar, Netherlands, Pakistan, Portugal, Romania, Russian Federation, Saudi Arabia, Spain, Sweden, Switzerland, Syria, Taiwan, Thailand, Turkey, United Kingdom, and Vietnam.

The Philippines is a member of four ASEAN free trade agreements that include an investment chapter with trading partners Australia, New Zealand, Republic of Korea and China.

Bilateral Taxation Treaties

U.S. – Philippines Tax Treaty

The Philippines has a tax treaty with the United States to avoid double taxation, provide procedures for resolving interpretative disputes, and enforce taxes 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%) under the most favored nation clause of the United States-Philippines tax treaty. A preferential tax treaty rate of 15% applies to dividends and interest income. An entity must obtain a tax treaty relief ruling from the BIR to qualify for preferential tax treaty rates and treatment; tax practitioners find the requirements burdensome. Although the Supreme Court ruled in October 2013 against stricter regulations issued by the BIR in 2010 disqualifying late filings from preferential tax rates, issues reportedly can arise during tax audits. The volume of tax treaty relief applications also has resulted in processing delays, with most applications reportedly pending for over a year. Concerns also exist about inconsistent taxation rulings.

The BIR rules and regulations for tax accounting have not been fully harmonized with the Philippine Financial Reporting Standards. The disparities between reports for financial accounting and tax accounting purposes are common issues in tax assessments and are an irritant between taxpayers and tax collectors. The BIR requires taxpayers to maintain records reconciling figures presented in financial statements and income tax returns.

15. OPIC and Other Investment Insurance Programs

Pursuant to the U.S.-Philippines Investment Incentive Agreement, the Overseas Private Investment Corporation (OPIC) is able to offer the following:

Investment Insurance: The Philippine government does not provide guarantees against losses due to inconvertibility of currency, expropriation, or damage caused by war. OPIC can provide U.S. investors with political risk insurance.

Financing: OPIC financing is available for creditworthy projects and companies with substantial U.S. investment or participation and where sufficient or appropriate financing is not available from local or other private sector financial institutions.

16. Labor

Managers of U.S.-based companies report that Philippine labor costs are low, and the workers are highly motivated with strong English language skills. In 2014, the Philippine labor force reached 41.3 million, with an unemployment rate of 6% at the end of the year. This figure includes employment in the informal sector and does not capture the substantial rates of underemployment in the country. Youths between the age of 15 and 24 made up nearly 50% of the unemployed. More than half of all employed persons worked in services, with about 30% in agriculture and 15% in industry.

Multinational managers report that compensation packages in the Philippines tend to be comparable with 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 PhP493 (approximately USD 11), 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) (http://www.dole.gov.ph/) has responsibility for safety inspection, but a shortage of inspectors has made enforcement difficult.

The Philippine Constitution enshrines the right of workers to form and join trade unions. The trend among firms of using temporary contract labor continues to grow. The DOLE Secretary has the authority to end strikes and mandate a settlement between parties in cases involving the national interest. In 2013, the DOLE amended its rules concerning disputes, specifying industries vital to national interest: hospitals, 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 a signatory to all International Labor Organization (ILO) core conventions but has faced challenges enforcing them. Unions allege that companies or local officials use illegal tactics to prevent them from organizing workers. The quasi-judicial National Labor Relations Commission reviews allegations of intimidation and discrimination in connection with union activities. Meanwhile, the Philippines National Tripartite Industrial Peace Council (NTIPC) monitors the application of international labor standards.

There have been some reports of forced labor in the Philippines in connection with human trafficking in the commercial sex, domestic service, agriculture, and fishing industries.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

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 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 currently operates 300 ecozones, primarily in the manufacturing, IT, tourism, medical tourism, logistics/warehousing, and agro-industrial sectors. PEZA manages three government-owned export-processing zones (Mactan, Baguio, and Cavite) and administers incentives to enterprises located in the other 297 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 that the enterprise physically locates its activity inside any of the proclaimed 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 the Clark Freeport Zone (Angeles City, Pampanga), the John Hay Special Economic Zone (Baguio), the Poro Point Freeport Zone (La Union), and the Bataan Technology Park (Morong, Bataan). The SBMA operates the 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 are independent of PEZA, though they offer comparable incentives. 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, Mindanao) is governed by the Phividec Industrial Authority (PIA) (http://www.piamo.gov.ph/pia/), a government-owned and controlled corporation. Two lesser-known ecozones are the Zamboanga City Economic Zone and Freeport (Zamboanga City, Mindanao) (http://www.zambofreeport.com.ph/) and the Cagayan Special Economic Zone and Freeport (Santa Ana, Cagayan Province) (http://ceza.gov.ph/). The incentives available to investors in these zones are similar to PEZA incentives but administered independently. In addition to offering export incentives, the Cagayan Economic Zone Authority (CEZA) is authorized to grant gaming licenses.

18. 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)	2014	284,615	2013	272,066	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 ($M USD, stock positions)	2013	N/A	2013	4,376	http://bea.gov/international/factsheet/factsheet.cfm?Area=623
Host country's FDI in the United States ($M USD, stock positions)	2014	N/A	2013	268	http://bea.gov/international/factsheet/factsheet.cfm?Area=623
Total inbound stock of FDI as % host GDP	2013	18.8%	2013	11.9%	

Host Country Statistical Sources: http://www.nscb.gov.ph/sna/DataCharts.asp
http://www.bsp.gov.ph/statistics/sdds/iip_bpm6_liabilities.htm

Table 3: Sources and Destination of FDI

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’s (IMF) Dissemination Standards Bulletin Board (DSBB) using BPM6 concept. As of 2013, inward direct investments (i.e. liabilities) are USD 51,497 million, while outward direct investments (assets) are USD 27,617 million.

Host Country Statistical Sources:
http://www.bsp.gov.ph/statistics/sdds/iip_bpm6_liabilities.htm
http://www.bsp.gov.ph/statistics/sdds/iip_bpm6_assets.htm

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	33,238	100%	Total Outward	3,238	100%
Netherlands	6,917	21%	British Virgin Islands	919	28%
Japan	6,173	18%	China, P.R.: Mainland	845	26%
Singapore	6,124	18%	Cayman Islands	648	20%
United States	4,306	13%	China, P.R.: Hong Kong	257	8%
China, P.R.: Hong Kong	2,059	6%	United States	181	6%
"0" reflects amounts rounded to +/- USD 500,000.					

Table 4: Sources of Portfolio Investment

While it disaggregates data into equity and debt securities, the Philippine Central Bank does not publish or post the stock of portfolio investment assets broken down by country. Total foreign portfolio investment stock figures are reported under the "International Investment Position" data that the Central Bank publishes and submits for the International Monetary Fund's (IMF) Dissemination Standards Bulletin Board (DSBB) using BPM6 concept. As of 2013, outward portfolio investments (i.e., assets) are USD 7,851 million, of which USD 151 million are in equity securities and USD 7,699 million are in debt securities.

Host Country Statistical Sources:
http://www.bsp.gov.ph/statistics/sdds/iip_bpm6_assets.htm

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	5,775	100%	All Countries	244	100%	All Countries	5,531	100%
United States	1,869	32%	United States	134	55%	United States	1,735	31%
Indonesia	932	16%	Luxembourg	40	16%	Indonesia	932	17%
Cayman Islands	292	5%	Hong Kong, PRC	15	6%	Cayman Islands	289	5%
Korea, Republic of	287	5%	Australia	14	6%	Korea, Republic of	281	5%
United Kingdom	254	4%	Singapore	14	6%	United Kingdom	253	5%

19. Contact for More Information

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U.S. Embassy Manila
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