



30 May 2015

Hon. Congressman Mark A. Villas
Chairperson
Committee on Trade and Industry
House of Representatives

Attention: **Valentino R. Palanca**
Committee Secretary

Dear **Congressman Villar**:

With reference to your request for comments on House Bill 4407 or the proposed "An Act Amending Batas Pambansa Blg. 68 or the Corporation Code of the Philippines", please find below our comments:

1. We find that the proposed legislation has a strong economic rationale as it will: (i) promote efficiency given that there are provisions aiming to modernize the operations and regulation of corporations in the Philippines; and (ii) promote inclusive economic growth as it will encourage the setting up of small and medium enterprises (SMEs) as well as the formalization of SMEs that are currently operating in the informal economy. Thus, we strongly support the passage of such legislation, subject to refinements and improvements that may arise from the deliberations at Congress.
2. On Section 6 (amending Section 12 of the Corporation Code), clarification may be necessary why the Php1 million requirement for minimum capital stock is being proposed and how the amount is arrived at. Note that the existing law states that stock corporations shall not be required to have any minimum authorized capital stock. The minimum capital stock requirement of Php1 million may be burdensome to some SMEs and run counter to the aim of encouraging SMEs in the informal sector to be registered as corporations. Although the proposed amendment states that the Commission may also determine an amount different from Php1 million, it adds another layer in the permitting process and, possibly, additional cost of doing business. There may be a need to examine and analyze what the effect would be of this requirement on SMEs. Isn't this requirement more appropriate for public listing in stock exchanges? The best practice for stock exchanges is to require companies to have a minimum amount of authorized capital stock before being publicly listed on the exchange.

3. On Section 32 (amending Section 50), there are additional documentary requirements for the regular and special meetings of stockholders or members which seem vague, namely, Board Appraisal or Performance Report and the standards or criteria and procedure used to assess the Board, and Director or Trustee appraisal or performance report and the standards or criteria and procedure used to assess each director or trustee. The proposal does not specify what the policy is—whether independent appraisal or internal appraisal. Will it be an independent appraisal (e.g., via a third-party performance audit)? Or will it be an internal appraisal (e.g., via the corporation's executive officers or peer assessment)?
4. On Section 59, introducing the concept of one-person corporation, among others, clarification may also be necessary why the Php1 million requirement for minimum capital stock is being proposed and how the amount is arrived at. The proposed Php1 million minimum amount of capital stock may be high and prohibitive to young and dynamic entrepreneurs in some service-related businesses, especially those that can be delivered and transacted online, given that these have low capitalization requirements.
5. Lastly, with respect to the power of the Securities and Exchange Commission to review de facto mergers, there may be a need to cross-refer with the work of the House Committee deliberating on the proposed Competition Law in order to find areas that need to be harmonized.

Thank you for inviting us to submit comments and we hope we have been of help. Should you have any queries, please do not hesitate to get in touch with us.

Sincerely,



Adoracion M. Navarro
OIC Vice President

cc: Dr. Gilberto M. Llanto, PIDS President