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May 26, 2021

FOREIGN CHAMBERS BACK LOWER CAPITALIZATION LIMIT ON RETAIL TRADE

The Joint Foreign Chambers (JFC), in a letter sent to the House and Senate, expressed support for the version proposing the lower minimum capitalization requirement of $200,000 for foreigners to enter the domestic retail sector.

The Senate has recently approved Senate Bill 1840, which requires Php50 million ($1 million) capital for foreign entities to engage in domestic retail enterprises while the House of Representatives earlier approved House Bill 59 with a lower limit of $200,000.

The Retail Trade Liberalization Act (RTLA), along with Public Service Act and Foreign Investments Act amendments, was certified as urgent for immediate enactment by President Rodrigo Duterte in a bid to “address the immediate and continuing need for legislative reforms to provide a more conducive investment climate, increase job opportunities, foster more competition, and further spur the country’s economic growth.”

While the pandemic has resulted in growing sentiments for domestic preference, the administration, thru the economic manager secretaries, has identified key legislation to further open the economy in order to support government’s policies to increase Foreign Direct Investment (FDI) levels substantially. DOF Secretary Carlos Dominguez, DTI Secretary Ramon Lopez, and NEDA Director General Karl Kendrick Chua have all advocated these bills, in addition to CREATE, as crucial for the country’s economic recovery.

The Php50 million ($1 million) capitalization restriction in the approved Senate version poses a major impediment to new FDI in retail during a global recession. This still-protectionist level is far higher than in Cambodia, Indonesia, Singapore, Vietnam, and others, who also have large numbers of MSMEs like the Philippines, according to the JFC. For example, Indonesia has some 5 million retail firms but without such a high barrier to foreign retail investors.

On April 12, 2021, the president, seeing how crucial this bill is for the country’s economic recovery, certified the version with $300,000 capitalization requirement. He certified the version with $200,000 requirement in the 17th Congress.

We encourage legislators to look beyond the current crisis and consider the major impact this amendment can contribute to make the Philippine economy quickly recover post-pandemic, the letter stated.

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Little has changed in foreign ownership in the Philippine retail sector since over 20 years ago when the Retail Trade Liberalization Act (RA 8762) was passed in 2000 to amend the Retail Trade Act of 1954, which for 46 years absolutely prohibited foreign nationals from participating in domestic retail trade.

RA 8762 was enacted to allow foreign investors to own domestic retail enterprises with a minimum capitalization of US$ 2.5 million. However, this requirement, is much higher than ASEAN members, has been deemed highly restrictive by the World Bank and the OECD, as well as foreign investors who have stayed away. Indeed, since 2000 only an average of two foreign retailers per year have invested in the Philippines.

The entry of more foreign retail investors will create jobs at every stage of the retail process as well as in firms servicing the retail sector. One new retail job is not just the employees whom customers see in a store or restaurant. These are the tip of the retail iceberg; the hidden part includes jobs in advertising, agriculture, construction, design, logistics, media, telecommunications, and wholesale retail, among others. In other words, foreign investment in retail cascades through the economy.

More foreign retail players create more competition, which is good for the Filipino consumer, especially the fast-growing middle class, who can purchase higher quality and more variety of goods at lower cost. Foreign retailers can introduce better technologies for their logistics, inventory management, sales, accounting, and other business operations.

Meanwhile, the JFC also expressed support for the Senate version on the deletion of requirements for inward remittance and pre-qualification; and, the amendments on documentation to prove paid-in capital and promotion of locally manufactured products. These are all expected to lower barriers to entry of foreign retailers.

Likewise, the other JFC proposed amendments were on the per store requirement of USD 100,000, reciprocity and penalty provisions.

The disagreeing provisions of the House and Senate versions of the RTLA amendments are expected to be reconciled soon by both chambers before enactment by President Duterte.

Approved by the following:

American Chamber of Commerce of the Philippines
Australian-New Zealand Commerce of the Philippines
Canadian Chamber of Commerce of the Philippines
European Chamber of Commerce of the Philippines
Japanese Chamber of Commerce & Industry of the Philippines
Korean Chamber of Commerce of the Philippines
Philippine Association of Multinational Companies Regional Headquarters, Inc.