

Thresholds for merger and acquisition notifications in the Philippines

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The Philippine Competition Commission (“**PCC**”) increased the thresholds for transactions required to undergo merger review in accordance with the notification requirements under Republic Act No. 10667, or the Philippine Competition Act (“**PCA**”).

Starting 1 March 2024, parties to a merger or acquisition are required to notify the PCC when the merger or acquisition exceeds the following thresholds:

1. Size of the Party increased to PHP7.8 Billion from PHP7 Billion

Size of the Party (“**SoP**”) refers to the aggregate annual gross revenues in, into, or from the Philippines, or the value of the assets in the Philippines, of the ultimate parent entity of at least one of the acquiring or acquired entities, including that of all entities that the ultimate parent entity controls directly or indirectly.²

2. Size of the Transaction increased to PHP3.2 Billion from PHP2.9 Billion

Size of the Transaction (“**SoT**”) refers to the aggregate value of the assets in the Philippines or gross revenues from sales in, into, or from the Philippines of the acquired entity, including all the entities that the ultimate parent entity controls.³ The notification requirement also applies to joint venture transactions.

Depending on the structure of the transaction, this is determined as follows:

(a) a proposed merger or acquisition of assets in the Philippines, if either the aggregate value of the assets in the Philippines being acquired in the proposed transaction exceeds PHP3.2 Billion or the gross revenues generated in the Philippines by assets acquired in the Philippines exceeds PHP3.2 Billion;

(b) a proposed merger or acquisition outside of the Philippines, if the aggregate value of the assets in the Philippines of the acquiring entity exceeds PHP3.2 Billion and the gross revenues generated in or into the Philippines by those assets acquired outside the Philippines exceed PHP3.2 Billion;

(c) a proposed merger or acquisition of assets inside and outside the Philippines, if the aggregate value of the

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² Sec. 3(a), Rule 4, Republic Act No. 10667 Implementing Rules and Regulations (“PCA IRRs”)

³ Sec. 3(b), Rule 4, PCA IRRs.

assets in the Philippines of the acquiring entity exceeds PHP3.2 Billion, and the aggregate gross revenues generated in or into the Philippines by assets acquired in the Philippines and any assets acquired outside the Philippines collectively exceed PHP3.2 Billion;

(d) a proposed acquisition of (i) voting shares of a corporation or (ii) an interest in a non-corporate entity, if the aggregate value of the assets in the Philippines that are owned by the corporation or non-corporate entity or by entities it controls, other than assets that are shares of any of those corporations, exceed PHP3.2 Billion; or the gross revenues from sales in, into, or from the Philippines of the corporation or non-corporate entity, or by entities it controls, other than assets that are shares of any of those corporations, exceed PHP3.2 Billion;⁴ and if

(1) as a result of the proposed acquisition of the voting shares of a corporation, the entity or entities acquiring the shares, together with their affiliates, would own voting shares of the corporation that, in the aggregate, carry more than either 35% of the votes attached to all of the corporation's outstanding voting shares, or 50%, if the entity/entities already own more than 35%, as the case may be, before the proposed acquisition; or

(2) as a result of the proposed acquisition of an interest in a non-corporate entity, the entity or entities acquiring the interest, together with their affiliates, would hold an aggregate interest in the non-corporate entity that entitles the entity or entities to receive more than 35% of the profits of the non-corporate entity or assets of that non-corporate entity on its dissolution, or 50% if the entity/entities acquiring the interest are already entitled to receive more than 35% before the proposed acquisition.⁵

(e) In a joint venture transaction, an acquiring entity shall be subject to the notification requirements if either (i) the aggregate value of the assets that will be combined in the Philippines or contributed into the proposed joint venture exceeds PHP3.2 Billion or (ii) the gross revenues generated in the Philippines by assets to be combined in the Philippines or contributed into the proposed joint venture exceed PHP3.2 Billion. In determining the assets of the joint venture, the following shall be included:

(1) All assets which any entity contributing to the formation of the joint venture has agreed to transfer, or for which agreements have been secured for the joint venture to obtain at any time, whether or not such entity is subject to the requirements of the act; and

(2) Any amount of credit or any obligations of the joint venture which any entity contributing to the formation has agreed to extend or guarantee, at any time.⁶

Parties to a merger or acquisition satisfying the thresholds above are required to notify the PCC within thirty (30) days from the execution of the definitive agreements relating to the transaction.⁷

⁴ Where an entity already exceeds the 35% threshold for an acquisition of voting shares or an interest in a non-corporate entity, another notification will be required if the same entity will exceed 50% after further acquisition of voting shares or interest in a non-corporate entity.

⁵ Sec. 3(b), Rule 4, PCA IRRs.

⁶ Sec. 3(d), Rule 4, PCA IRRs.

⁷ Sec. 2.1, Rule 2, PCC Rules on Merger Procedure.



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