



02 March 2021

CUSTOMS MEMORANDUM CIRCULAR
NO. 53-2021

To: All Deputy Commissioners
The Assistant Commissioner
All Directors and Division Chiefs
All District/Port Collectors
And Others Concerned

SUBJECT: RA No. 11523 / Resilience Against Covid-19

Attached is the Memorandum dated 22 February 2021 of Director Alvin P. Diaz, Department of Finance endorsing a copy of Republic Act No. 11523 entitled:

**"AN ACT ENSURING PHILIPPINE FINANCIAL INDUSTRY
RESILIENCE AGAINST THE COVID-19 PANDEMIC".**

For your information and guidance.

For record purposes, please confirm the dissemination of this circular throughout your offices within fifteen (15) days from receipt hereof.


REY LEONARDO B. GUERRERO

Commissioner

MAR 08 2021



BOC-03-08542



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Republic of the Philippines
DEPARTMENT OF FINANCE

Roxas Boulevard Corner Pablo Ocampo, Sr. Street
Manila 1004

Internal Admin. Group
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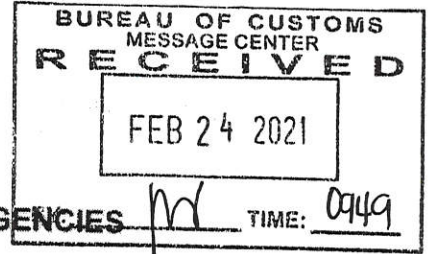
BOC-09-19197

MEMORANDUM

FOR :

HEADS OF OFFICES
This Department

HEADS OF BUREAUS/ATTACHED AGENCIES
Department of Finance



FROM :

[Signature]
ALVIN P. DIAZ
Director IV
Central Administration Office

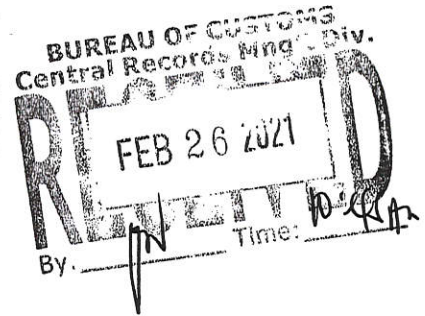
SUBJECT :

Republic Act No. 11523 entitled "AN ACT ENSURING PHILIPPINE FINANCIAL INDUSTRY RESILIENCY AGAINST THE COVID-19 PANDEMIC."

DATE :

February 22, 2021

Attached for information and guidance is a copy of Republic Act No. 11523 approved on 16 February 2021 by President Rodrigo Roa Duterte on the above-captioned subject.



S. No. 1849
H. No. 6816

Republic of the Philippines
Congress of the Philippines
Metro Manila
Eighteenth Congress
Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-seventh day of July, two thousand twenty.

[REPUBLIC ACT NO. **11523**]

AN ACT ENSURING PHILIPPINE FINANCIAL INDUSTRY
RESILIENCY AGAINST THE COVID-19 PANDEMIC

*Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:*

SECTION 1. *Title.* – This Act shall be known as
“Financial Institutions Strategic Transfer (FIST) Act”.

SEC. 2. *Declaration of Policy.* – The Coronavirus Disease 2019 (COVID-19) pandemic has greatly affected nations worldwide, including the Philippines, and the measures adopted by the government to contain the outbreak have unavoidably caused serious economic setbacks and tremendous financial pressure on markets and industries. Because of the unpredictability of the course and outcome of the health crisis, it is necessary to lay down the appropriate policies not only to marshal available resources towards the most affected and vulnerable sectors but more importantly, to strengthen the

financial sector so that economic recovery can be achieved faster, and with more lasting positive effects.

The State recognizes the role of banks and other financial institutions as mobilizers of savings and investments and in providing the needed financial system liquidity to keep the economy afloat. Thus, it is essential that banks and other financial institutions are able to maintain their financial health in order to cushion the adverse economic impact of the COVID-19 pandemic. It is hereby declared the policy of the State:

- (a) to develop and maintain a sound financial sector for the country;
- (b) to address the non-performing asset problems of the financial sector;
- (c) to encourage private sector investments in non-performing assets;
- (d) to eliminate existing barriers in the acquisition of non-performing assets;
- (e) to help in the rehabilitation of distressed businesses with the end in view of their becoming economic value-added contributors; and
- (f) to improve the liquidity of the financial system which can be harnessed to propel economic growth and maintain financial stability.

SEC. 3. Definition of Terms. - As used in this Act:

- (a) Approval Certificate means the Certificate of Permit to Sell or Offer for Sale Securities issued by the Securities and Exchange Commission (Commission) in favor of Financial Institutions Strategic Transfer Corporation (FISTC) whose FISTC Plan has been approved and rendered effective thereby authorizing the sale and distribution of Investment Unit Instruments (IUIs) pursuant to the provisions of this Act;
- (b) Approved Plan means a FISTC Plan for which a Certificate of Permit to Sell or Offer for Sale Securities has been issued by the Commission;

(c) Certificate of Eligibility (COE) refers to the certificate issued by the appropriate regulatory authority as to the eligibility of the Non-Performing Loans (NPL) or Real and Other Properties Acquired (ROPAs) for purposes of availing of the tax exemptions and privileges, pursuant to the provisions of the Act;

(d) Data Package refers to the complete set of documents, as may be prescribed by the Commission, which must be prepared and made available by the selling Financial Institutions (FIs) in respect of the sale of Non-Performing Assets (NPAs) or NPLs. The Data Package should contain, among others, scans of all pertinent documents and particulars of each property or loan account being sold and should be made electronically available to potential bidders;

(e) FIs means credit-granting institutions which shall be limited to the following:

- (1) The Bangko Sentral ng Pilipinas (BSP);
- (2) A bank, as defined under Republic Act No. 8791, also known as "The General Banking Law of 2000";
- (3) A financing company, as defined under Republic Act No. 8556, also known as "The Financing Company Act of 1998";
- (4) An investment house, as defined in Presidential Decree No. 129, also known as "The Investment Houses Law";
- (5) A lending company, as defined under Republic Act No. 9474, also known as "Lending Company Regulation Act of 2007";
- (6) Accredited microfinance nongovernment organizations (NGOs), as defined under Republic Act No. 10693, otherwise known as "Microfinance NGOs Act";
- (7) An insurance company as defined under Presidential Decree No. 612, also known as the "Insurance Code", as amended;
- (8) Government financial institutions (GFIs), which for purposes of this Act, refer, but are not limited, to the

Philippine Deposit Insurance Corporation (PDIC), Land Bank of the Philippines (LBP), and Development Bank of the Philippines (DBP);

(e) Government-owned or -controlled corporations (GOCCs), which for purposes of this Act, refer, but are not limited, to the National Home Mortgage Finance Corporation (NHMFC), Philippine Guarantee Corporation (PGC), Home Development Mutual Fund (HDMF), Social Security System (SSS), Government Service Insurance System (GSIS), Small Business Corporation (SBC), and National Housing Authority (NHA); and

(10) Other institutions licensed by the BSP to perform (i) quasi-banking functions and (ii) credit-granting activities, including but not limited to, non-stock savings and loan associations, and nonbank credit card issuers;

(f) FISTC Plan refers to the plan submitted to the Commission for its approval as prerequisite to the issuance of an IUI;

(g) IUI refers to a participation certificate, debt instrument or similar instrument issued by the FISTC and subscribed by Permitted Investors as provided in Section 11 hereof, pursuant to an Approved Plan: *Provided*, That these shall not include the instruments to be issued by the FISTC to the selling FIs as full or partial settlement of the NPAs transferred to the said FISTC: *Provided, further*, That such issuances of the FISTC shall not be considered as deposit substitutes: *Provided, finally*, That these shall not form part of the capital stock of the FISTC;

(h) NPAs consist of the non-performing loans and real and other properties acquired by FIs;

(i) NPLs refer to secured or unsecured loans, receivables, and other financial assets of similar nature, including restructured loans, whose principal and/or interest have remained unpaid for at least ninety (90) days after they have become past due or any of the events of default under the loan agreement has occurred;

(j) ROPAs refer to real and other properties, acquired by an FI in settlement of loans and receivables, including real properties, shares of stocks, and personal properties which have been acquired by way of dation in payment (*dacion en pago*) or judicial or extrajudicial foreclosure or execution of judgment or enforcement of security interest;

(k) True Sale refers to a sale wherein the selling FI transfers or sells its NPAs to a FISTC, without recourse to cash or property in exchange for the transfer or sale, and without prejudice to the FI and FISTC agreeing on sharing of profits and subject to the following results:

(1) The transferor transfers full legal and beneficial title to and relinquishes effective control over the transferred NPAs; and

(2) The transferred NPAs are legally isolated and put beyond the reach of the transferor and its creditors:

Provided, That the transferring FI shall not have direct or indirect control of the transferee FISTC: *Provided, further*, That the selling FI does not have legal or beneficial ownership of more than ten percent (10%) of the transferee FISTC.

ARTICLE II
FINANCIAL INSTITUTIONS STRATEGIC TRANSFER CORPORATION

SEC. 4. *Financial Institutions Strategic Transfer Corporation.* - A FISTC is a stock corporation organized in accordance with Republic Act No. 11232, otherwise known as "The Revised Corporation Code of the Philippines": *Provided*, That a FISTC shall not be allowed to be incorporated as a one person corporation: *Provided, further*, That if the FISTC will acquire land, at least sixty percent (60%) of its outstanding capital stock shall be owned by Philippine nationals as defined under Republic Act No. 7042, as amended, otherwise known as the "Foreign Investments Act".

SEC. 5. *Powers of a FISTC.* - A FISTC shall have the following powers:

- (a) Invest in, or acquire NPAs of FIs;

- (k) Require from selling FIs a data package which should contain, among others, scans of all pertinent documents and particulars of each property or loan account being sold;
- (l) Advance funds to borrowers as may be required for an acquired asset or any debt restructuring agreement pursuant thereto, or under any court order or rehabilitation plan; and

(m) Engage the services of a third-party asset servicing company for the collection and receipt of the debt payments for debts under debt restructuring or business reorganization, management and disposition of assets of the FISTC in accordance with the rules, procedures and conditions prescribed by the Commission, or by the courts. Except in the case of ROPAs whose redemption periods have already expired, the FISTC shall notify the borrower and all persons holding prior encumbrances upon the properties, or a part thereof, or are actually holding the same adversely against the borrower, of the appointment of such third-party asset servicing company within fifteen (15) days from the date of the appointment.

SEC. 6. *Period for Filing of Applications.* - Applications for the establishment and registration of a FISTC shall be filed with the Commission within thirty-six (36) months from the effectivity of this Act.

Entities created under Republic Act No. 9182, as amended, otherwise known as "The Special Purpose Vehicle (SPV) Act of 2002", are qualified to avail of the privileges and incentives under this Act.

SEC. 7. *Capitalization of a FISTC.* - A FISTC shall have a minimum authorized capital stock of Five hundred million pesos (P500,000,000.00), with a minimum subscribed capital stock of One hundred twenty-five million pesos (P125,000,000.00), and a minimum of paid-up capital of Thirty-one million two hundred fifty thousand pesos (P31,250,000.00). Where land and foreign equity participation are concerned, the FISTC shall comply with the provisions of the Constitution and the minimum capital requirements in accordance with Republic Act No. 7042, as amended, otherwise known as "The Foreign Investments Act".

(b) Engage third parties to manage, operate, collect and dispose of NPAs acquired from an FI;

(c) Rent, lease, hire, subject to security interest, mortgage, transfer, sell, exchange, usufruct, secure, securitize, collect rents and profits, and other similar acts concerning its NPAs acquired from an FI;

(d) In case of NPLs, to restructure debt, condone debt and undertake other restructuring related activities. In restructuring debt, the FISTC may reduce the principal amount, interest earned, interest rates, and the period for calculating the interest, extend the time for debt repayment or relax the conditions for debt repayment, agree to the conversion of the borrower's debt to equity in the borrower's business, agree to a transfer of assets or claims from the borrower to repay the debt or dispose of some of the borrower's property or claims to third persons;

(e) Buy or transfer shares issued by the borrower for the purpose of business reorganization or rehabilitation of the borrower, subject to the provisions of the Revised Corporation Code of the Philippines in respect to the rights of the shareholders of the borrower company, and apply other measures or restructuring techniques with the approval of the Commission;

(f) Enter into dation in payment arrangements, foreclose judicially or extrajudicially and other forms of debt settlement involving NPLs;

(g) Spend funds to renovate, improve, complete or alter its NPAs acquired from an FI;

(h) Issue equity or participation certificates or other forms of IULs for the purpose of acquiring, managing, improving and disposing of its NPAs acquired from an FI;

(i) Borrow money and issue other instruments of indebtedness for the purpose of paying operational and administrative costs;

(j) Guarantee credit, and accept, intervene or honor the bills of borrowers;

SEC. 8. *Submission of FISTC Plan.* - Within the period prescribed by the Commission, reckoned from the establishment of a FISTC pursuant to Section 4 hereof, a FISTC Plan shall be submitted to the Commission for approval and shall include the following:

- (a) Investment policies of the FISTC;
- (b) Contribution plan including the amounts and draft of subscription documents;
- (c) Features of the IUIs, including the specific amounts issued and to be issued;
- (d) Rights of the holders of the IUIs;
- (e) Draft agreements for the appointment of trustees and agents with respect to the IUIs and the NPLs acquired from an FI;
- (f) Name of the external auditor of the FISTC;
- (g) Roles and responsibilities of the trustees, advisors, loan servicers and property managers;
- (h) Draft form of financial reports of the FISTC;
- (i) Details of distribution policies;
- (j) Methods for the increase and decrease of future fund contribution;
- (k) Methods for the alteration or modification of the approved FISTC Plan;
- (l) Methods for the liquidation and distribution of assets to the holders of IUIs;
- (m) Details of credit enhancements like guarantees or standby letters of credit or advances that may be extended to the FISTC by an entity which shall not be the selling FI, its parent, subsidiaries or affiliates; and

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(n) Such other documents or information as may be required by the Commission.

SEC. 9. *Approval, Rejection, Suspension or Revocation of FISTC Plan.* -

- (a) *Approval.* - Upon approval of the FISTC Plan, the Commission shall issue an Approval Certificate stating that the FISTC Plan has been rendered effective and the sale and distribution of IUIs covered by such plan has been authorized.
- (b) *Amendments to Approved FISTC Plan.* - If a FISTC Plan becomes on its face incomplete or inaccurate in any material respect, upon the request of concerned parties or at its own determination, the Commission shall issue an order directing the amendment of the FISTC Plan. Upon compliance with such order, the amended FISTC Plan shall become effective upon approval of the Commission or appropriate regulatory authority pursuant to Section 4 of this Act.

(c) *Rejection, Suspension or Revocation.* - The Commission may reject a submitted FISTC Plan if on its face it was not in compliance with the requirements of this Act or the rules and regulations issued to implement it. It is also authorized to suspend or revoke the effectivity of an Approved Plan after due notice and hearing by issuing an order to such effect setting forth its findings in respect thereto, if it finds that:

- (1) The FISTC has violated any of the provisions of this Act or any order of the Commission which the FISTC has notice of in connection with the offering of IUIs for which a FISTC Plan has been filed;
 - (2) The FISTC has been, or is engaged, or is about to engage in fraudulent transactions;
 - (3) The FISTC has made any false or misleading representation of material facts in any Approved Plan concerning the FISTC or its IUIs;
 - (4) The FISTC has failed to comply with any requirement that the Commission may impose as a condition for the issuance of IUI for which a FISTC Plan has been filed;
- or

(5) The FISTC Plan is, on its face, incomplete or inaccurate in any material respect, or includes any untrue statement of a material fact, or omits to state a material fact required to be stated, or one which is necessary to obviate any misappreciation of the statements therein.

SEC. 10. Issuance of IUIs. - The FISTC may be allowed to issue IUIs subject to the rules and regulations the Commission is herein mandated to promulgate.

SEC. 11. Permitted Investors. - Any qualified buyer, as defined in Section 10.1(4) of Republic Act No. 8799, otherwise known as "The Securities Regulation Code", may acquire or hold IUIs in a FISTC in the minimum amount of Ten million pesos (P10,000,000.00): *Provided*, That a FISTC shall not be authorized to acquire the IUIs of another FISTC: *Provided, further*, That the parent, subsidiaries, affiliates or stockholders, directors, officers or any related interest of the selling FI or the parent's subsidiaries, affiliates or stockholders, directors, officers or any related interest shall not acquire or hold, directly or indirectly, the IUIs of the FISTC that acquired the NPAs of the FI.

ARTICLE III

TRANSFER OF ASSETS TO FISTC

SEC. 12. Notice and Manner of Transfer of Assets. -

(a) No transfer of NPAs to a FISTC shall take effect unless the FI concerned shall give prior notice to the borrowers of the NPAs and all persons holding prior encumbrances upon the assets mortgaged or subject to security interest. Such notice shall be in writing and made in accordance with the 2019 Rules of Civil Procedure, as amended, at their last known address or their email address registered and on file with the FI. The borrower shall be given a period of at most thirty (30) days upon receipt of notice from the FI to restructure or renegotiate the loan under such terms and conditions as may be agreed upon by the borrower and the FI concerned.

(b) The transfer of NPAs from an FI to a FISTC shall be subject to prior Certification of Eligibility as NPA by the appropriate regulatory authority having jurisdiction over its

operations which shall issue its certification within twenty (20) working days from the date of application by the FI for eligibility: *Provided*, That nothing in this Act shall be construed to prevent the transfer of NPAs under other applicable laws: *Provided, further*, That prior Certification of Eligibility is necessary to avail of the incentives and exemption privileges provided under Sections 15, 16, and 17 of this Act.

(c) After the sale or transfer of the NPLs, the transferring FI shall inform the borrower in writing at the last known address of the fact of the sale or transfer of the NPLs. The reacquisition of the NPA by the borrower or owner from the FISTC or subsequent transferee other than by the exercise of the right of redemption as provided for in Section 20 hereof shall be in accordance with the terms and conditions as may be agreed upon by them.

SEC. 13. Nature of Transfer. - All sales or transfers of NPAs to a FISTC shall be in the nature of a true sale after proper notice in accordance with the procedure as provided for in Section 12, without need for the borrower's consent: *Provided*, That in the transfer of the NPLs, the provisions on the right of the debtor to reimburse the assignee or transferee under Article 1634 of the New Civil Code shall not apply: *Provided, further*, That disposition of assets of a GFI and a GOCC shall be covered by special rules to be incorporated in the rules and regulations of this Act: *Provided, finally*, That after the sale, the FISTC shall assume all rights and obligations of the transferring FI.

In the transfer of NPAs, the parties shall exercise the requisite due diligence and any fraud, collusion and irregularity shall be subject to penalties in Section 24 of this Act, as well as other pertinent laws, rules and regulations.

SEC. 14. Issuance of Injunctive Relief Against Transfer of Assets. - No court, other than the Court of Appeals and the Supreme Court, shall issue any temporary restraining order, preliminary injunction, preliminary mandatory injunction, status quo order, stay order, commencement order, or any other issuance of injunctive relief against the transfer of NPAs from the FI to a FISTC, and from a FISTC to a third party, or dation in payment by the borrower or by a third party in favor of an FI or in favor of a FISTC, or judicial

or extrajudicial foreclosure sales or execution sales of the FI or FISTC of collateral in settlement of NPLs.

Any restraining order, injunction, status quo order, stay order, commencement order, or any other issuance of injunctive relief issued in violation of this section is void and of no force and effect.

The provisions of Rules of Court on injunctions insofar as these are applicable and not inconsistent with the provisions of this Act shall govern the issuance and dissolution of restraining orders, injunctions, status quo orders or stay orders against said transfers.

ARTICLE IV INCENTIVES AND EXEMPTION PRIVILEGES

SEC. 15. Tax Exemptions and Fee Privileges. - Any existing law to the contrary notwithstanding, the transfer of NPAs from the FI to a FISTC, and from a FISTC to a third party or dation in payment by the borrower or by a third party in favor of an FI or in favor of a FISTC shall be exempt from the following taxes:

(a) Documentary stamp tax on the abovementioned transfer of NPAs and dation in payment as may be imposed under Title VII of the National Internal Revenue Code of 1997, as amended by Republic Act No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Act";

(b) Capital gains tax imposed on the transfer of lands and/or other assets treated as capital assets as defined under Section 39(A)(1) of the National Internal Revenue Code of 1997, as amended;

(c) Creditable withholding income taxes imposed on the transfer of land and/or buildings treated as ordinary assets pursuant to Bureau of Internal Revenue (BIR) Revenue Regulation No. 2-98, as amended;

(d) Value-added tax on the transfer of NPAs as may be imposed under Title IV of the National Internal Revenue Code of 1997, as amended, or gross receipts tax under Title V of

the same Code, whichever is applicable pursuant to regulations of the BIR.

The abovementioned transfers shall also be subject to the following, in lieu of the applicable fees:

(a) Fifty percent (50%) of the applicable registration and transfer fees on the transfer of real estate mortgage and security interest to and from the FISTC, as imposed in accordance with the existing circulars of the Land Registration Authority (LRA);

(b) Fifty percent (50%) of the filing fees for any foreclosure initiated by the FISTC in relation to any NPA acquired from an FI, as prescribed by the Rules of Court; and

(c) Fifty percent (50%) of the land registration fees prescribed under the existing circulars of the LRA.

All sales or transfers of NPAs from the FIs to a FISTC or transfers by way of dation in payment by the borrower or by a third party to the FI shall be entitled to the privileges enumerated herein for a period of not more than two (2) years from the date of effectivity of this Act.

Transfers from a FISTC to a third party of NPAs acquired by the FISTC within such two (2)-year period, or within such extended period, or transfers by way of dation in payment by a borrower or by a third party to the FISTC shall enjoy the privileges enumerated herein for a period of not more than five (5) years from the date of acquisition by the FISTC: *Provided*, That properties acquired by a FISTC from GFIs or GOCCs which are devoted to socialized or low-cost housing shall not be converted to other uses.

The tax exemptions, incentives, and fee privileges given to FIs and FISTC at the various stages of the transactions under this section shall likewise be extended to any individual: *Provided*, That:

(a) The transaction is limited to a ROPA that is either a single family residential unit or an empty lot, or to NPL secured by a real estate mortgage on a residential unit or an empty lot;

(b) There shall only be one (1) transaction consisting of one (1) residential unit or empty lot per individual;

(c) The two (2)-year transfer period, including its extension, and the five (5)-year entitlement period granted to NPA shall also apply to said single family residential unit or empty lot.

To prevent inordinate delay in the grant of incentives and exemption privileges, the Certificate of Eligibility duly issued by the appropriate regulatory agency is sufficient proof of the entity's entitlement thereto.

SEC. 16. Additional Tax Exemptions and Fee Privileges.
- To encourage the infusion of capital and financial assistance by the FISTC for the purpose of rehabilitating the borrower's business, the following additional tax exemptions and privileges shall be enjoyed:

(a) The FISTC shall be exempt from income tax on net interest income, documentary stamp tax and mortgage registration fees on new loans in excess of existing loans extended to borrowers with NPLs which have been acquired by the FISTC;

(b) In case of capital infusion by the FISTC to the borrower with NPLs, the FISTC shall also be exempt from the documentary stamp tax:

Provided, That the tax exemptions and fee privileges granted under this section shall apply for a period of not more than five (5) years from the date of acquisition of NPLs by the FISTC.

SEC. 17. Net Operating Loss Carry-Over (NOLCO) of Participating FIs. -

(a) Any loss that is incurred by an FI as a result of the transfer of an NPA within the two (2)-year period from the effectivity of this Act, shall be treated as ordinary loss: *Provided*, That the accrued interest and penalties shall not be included as loss on said loss carry-over from operations, subject to the provisions of the National Internal Revenue Code of 1997 on NOLCO. Such loss incurred by the FI from the

transfer of NPAs within the two (2)-year period from the effectivity of this Act may be carried over for a period of five (5) consecutive taxable years immediately following the year of such loss: *Provided, further*, That for purposes of corporate gain or loss, the carry-over shall be subject to pertinent laws: *Provided, finally*, That the tax savings derived by FIs from the NOLCO shall not be made available for dividend declaration but shall be retained as a form of capital build-up. The Department of Finance (DOF), upon the recommendation of the BIR, shall issue the rules and regulations to effectively implement the provisions of this section.

(b) The regulatory authority concerned shall promulgate the necessary rules and regulations governing the treatment of any loss of the FIs in the books of accounts as a result of the transfer of the NPAs.

(c) In the case of GFIs and GOCs enumerated in Section 3(e) hereof, the DOF, in consultation with the Commission on Audit (COA), shall promulgate the necessary rules and regulations governing the treatment of any loss in their books of accounts as a result of the transfer of their NPAs.

SEC. 18. Abuse of Tax Exemptions and Privileges. - Any person, natural or juridical, who benefits from the tax exemptions and privileges herein granted, when such person is not entitled thereto, shall be subject to the penalties provided in Section 24 hereof. In addition, the offender shall refund to the government double the amount of the tax exemptions and privileges availed of under this Act, plus interest of twelve percent (12%) per year from the date prescribed for its payment, until full payment thereof.

ARTICLE V

ENFORCEMENT AND PROTECTION PROVISIONS

SEC. 19. Financial Consumer Protection Mechanism. - The FISTC shall set up an appropriate financial consumer protection mechanism taking into consideration the provisions of existing laws, rules and regulations for the protection of borrowers: *Provided, however*, That the rights of borrowers under existing laws shall not be impaired nor diminished.

Financial consumer protection mechanism shall include standards of conduct on disclosure and transparency, conflicts of interest, protection of client information, fair treatment in terms of affordability and suitability of product or service, prevention of over-indebtedness, cooling-off period, and objectivity, effective recourse and exhaustion of all remedies, among others.

SEC. 20. Redemption Periods. – The provision on redemption under Section 47 of “The General Banking Law of 2000”, Act No. 3135, and the Rules of Court shall govern: *Provided*, That in case of conflict between provisions of these laws, Section 47 of “The General Banking Law of 2000” shall prevail: *Provided, further*, That the provisions of Article 1634 of the New Civil Code, shall not apply.

ARTICLE VI

ACCOUNTING AND REPORTING PROVISIONS

SEC. 21. Books of Accounts and Records. – The FISTC shall set and keep accurate accounts and internal financial controls, and shall appoint an external auditor that is acceptable to the Commission. The Commission, the BSP, and the BIR may look into the books of accounts and records of the FISTC at reasonable hours on business days after due notice.

SEC. 22. Reports and Monitoring. – The Commission, the regulatory authorities, and the BIR shall prescribe the submission of reports from the FISTC and the FIs for the proper implementation of this Act. To guide in their market monitoring activities, a database of the sales and transfers consummated in accordance with Section 12 shall be submitted by FISTCs and FIs to the Commission, BIR, Philippine Competition Commission, and other relevant agencies, on a monthly basis: *Provided*, That the beneficiaries of the tax exemptions and fee privileges under this Act shall submit the data necessary for the DOF and the National Economic and Development Authority (NEDA) to review and analyze the impact of the incentives availment.

ARTICLE VII FINAL PROVISIONS

SEC. 23. Primary Implementing Agency. – The Commission shall be the primary implementing agency of this Act. It shall have the authority to enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including GOCCs and GFIs which may include the use and transfer of its personnel, facilities and resources.

SEC. 24. Penalties and Administrative Sanctions. – Any person who violates any of the provisions of this Act, or any person who, in a notice, certification or plan filed under this Act, makes any untruthful statement of a material fact or omits to state any material fact required to be stated therein, shall, upon conviction, suffer a fine of not less than One hundred thousand pesos (P100,000.00) nor more than Two million pesos (P2,000,000.00) or imprisonment of not less than six (6) years nor more than twelve (12) years, or both, at the discretion of the court, without prejudice to the penalties provided under Section 18 hereof, Section 37 of Republic Act No. 7653, as amended, otherwise known as “The New Central Bank Act”, and other applicable laws. If the offender is an alien, he/she shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. If the offender is a public official or employee, he/she shall, in addition to the penalties prescribed herein, suffer absolute or temporary disqualification from government or public office, as the case may be.

If the offender is a juridical person, the Commission may impose the administrative sanctions stated below upon the corporation and/or its officers.

If, after due notice and hearing, the Commission finds that: (a) there is a violation of this Act, its rules, or its orders; or (b) any FISTC or other person has, in a FISTC Plan or in other reports, applications, accounts, records or documents required by law to be filed with the Commission, made any untrue statement of a material fact, or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Commission shall,

in its discretion, impose any or all of the following sanctions as may be appropriate in light of the facts and circumstances:

- (1) Suspension, or revocation of any approved FISTC Plan for the offering of IUIs;
- (2) Fine of no less than Ten thousand pesos (P10,000.00) nor more than One million pesos (P1,000,000.00) plus not more than Two thousand pesos (P2,000.00) for each day of continuing violation, or in such amounts as may be prescribed by the Commission; and
- (3) Other penalties within the power of the Commission to impose.

With respect to FIs, the administrative sanctions in the preceding paragraph shall be enforced, without prejudice to the administrative sanctions that may be imposed by the BSP and the Commission which are prescribed under the laws governing the FIs under their respective jurisdictions, and without further prejudice to the penalties as may be imposed by the courts.

SEC. 25. Applicability Clause. - The provisions of this Act shall be applicable to assets that have become non-performing as of December 31, 2022.

SEC. 26. Conscience Clause. - Nothing in this Act shall be construed to condone or exempt from any liability any person responsible for acts or omissions constituting unsound business practices or mismanagement.

SEC. 27. Oversight Committee. - There is hereby created a Joint Congressional Oversight Committee (JCOC) to oversee, monitor, and evaluate the implementation of this Act. The JCOC shall be composed of five (5) members each from the House of Representatives and from the Senate. The JCOC shall be co-chaired by the Chairpersons of the House Committee on Banks and Financial Intermediaries and the Senate Committee on Banks, Financial Institutions and Currencies. The Speaker and the Senate President shall designate the other four (4) members of the JCOC of the House and the Senate from among the members of the House Committee on Banks and Financial Intermediaries and the Senate Committee on Banks,

Financial Institutions, and Currencies, at least one (1) member of which shall be from the minority.

SEC. 28. Use of Registration Fees. - To carry out the purposes of this Act, the Commission shall retain and use all fees paid to it relative to the establishment of a FISTC in addition to its annual budget and to what is provided for under Section 75, on partial use of income of Republic Act No. 8799 or the "Securities Regulation Code".

SEC. 29. Implementing Rules and Regulations. - Within thirty (30) days from the effectivity of this Act, the Commission, jointly with the BSP, the DOF, BIR and the LRA, shall promulgate the necessary rules and regulations for the effective and faithful implementation of this Act: *Provided*, That within thirty (30) days from the effectivity of this Act, the DOF, upon recommendation of the BIR, shall promulgate the revenue regulations implementing the fiscal incentives under this Act. All the issuances pursuant to this Act must strictly comply with Republic Act No. 11032 or the "Ease of Doing Business and Efficient Government Service Delivery Act of 2018".

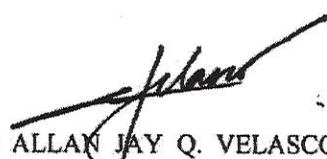

The non-promulgation of the implementing rules and regulations shall not prevent the implementation of this Act upon its effectivity.

SEC. 30. Separability Clause. - If any provision of this Act is held unconstitutional or invalid, all other provisions not affected thereby shall remain valid.

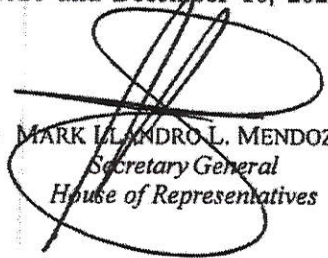
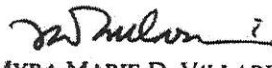
SEC. 31. Repealing Clause. - Republic Act No. 9182, as amended by Republic Act No. 9343, otherwise known as "The Special Purpose Vehicle (SPV) Act of 2002", is hereby repealed. All laws, decrees, executive orders, rules and regulations or parts thereof, which are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SEC. 32. *Effectivity.* - This Act shall take effect immediately upon its publication in the *Official Gazette* and in a newspaper of general circulation.


Approved,

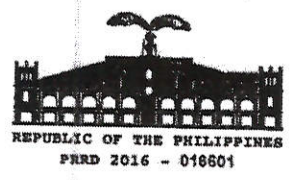
	
LORD ALLAN JAY Q. VELASCO <i>Speaker of the House of Representatives</i>	VICENTE C. SOTTO III <i>President of the Senate</i>

This Act which is a consolidation of Senate Bill No. 1849 and House Bill No. 6816 was passed by the Senate of the Philippines and the House of Representatives on December 15, 2020 and December 16, 2020, respectively.

	
MARK ILDEFONSO L. MENDOZA <i>Secretary General House of Representatives</i>	MYRA MARIE D. VILLARICA <i>Secretary of the Senate</i>


Approved: FEB 16 2021


RODRIGO ROA DUTERTE
President of the Philippines



Office of the President
MALACANANG REGION

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ATTY. CONCEPCION M. C. FERRELL-DUNAN
DIRECTOR IV

HA 2/16/2021

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Internal Memorandum
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Office of the President
of the Philippines
Malacañang

DEPARTMENT OF FINANCE
Republic of the Philippines
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MALACAÑANG RECORDS OFFICE

Manila, February 16, 2021

SECRETARY CARLOS G. DOMINGUEZ III
Department of Finance
Manila

To SA JGEC/ASAC IGS/
42AA

Sir :

I have the honor to transmit for your information and guidance, a certified copy of Republic Act No. 11523 which was approved on February 16, 2021 entitled "AN ACT ENSURING PHILIPPINE FINANCIAL INDUSTRY RESILIENCY AGAINST THE COVID-19 PANDEMIC."

Thank you.

Very truly yours,

[Signature]

ATTY. CONCEPCION ZENY E. FERROLINO-ENAD
Director IV

DEPT. OF FINANCE
RECEIVED
17 FEB 2021
OFFICE OF THE SECRETARY

[Signature]

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S. No. 1849
H. No. 6816

Republic of the Philippines
Congress of the Philippines
Metro Manila

Eighteenth Congress

Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-seventh
day of July, two thousand twenty.

[REPUBLIC ACT No. **11523**]

AN ACT ENSURING PHILIPPINE FINANCIAL INDUSTRY
RESILIENCY AGAINST THE COVID-19 PANDEMIC

*Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:*

SECTION 1. *Title.* — This Act shall be known as
"Financial Institutions Strategic Transfer (FIST) Act".

SEC. 2. *Declaration of Policy.* — The Coronavirus Disease
2019 (COVID-19) pandemic has greatly affected nations
worldwide, including the Philippines, and the measures adopted
by the government to contain the outbreak have unavoidably
caused serious economic setbacks and tremendous financial
pressure on markets and industries. Because of the
unpredictability of the course and outcome of the health crisis,
it is necessary to lay down the appropriate policies not only
to marshal available resources towards the most affected and
vulnerable sectors but more importantly, to strengthen the

financial sector so that economic recovery can be achieved faster, and with more lasting positive effects.

The State recognizes the role of banks and other financial institutions as mobilizers of savings and investments and in providing the needed financial system liquidity to keep the economy afloat. Thus, it is essential that banks and other financial institutions are able to maintain their financial health in order to cushion the adverse economic impact of the COVID-19 pandemic. It is hereby declared the policy of the State:

- (a) to develop and maintain a sound financial sector for the country;
- (b) to address the non-performing asset problems of the financial sector;
- (c) to encourage private sector investments in non-performing assets;
- (d) to eliminate existing barriers in the acquisition of non-performing assets;
- (e) to help in the rehabilitation of distressed businesses with the end in view of their becoming economic value-added contributors; and
- (f) to improve the liquidity of the financial system which can be harnessed to propel economic growth and maintain financial stability.

SEC. 3. *Definition of Terms.* - As used in this Act:

- (a) Approval Certificate means the Certificate of Permit to Sell or Offer for Sale Securities issued by the Securities and Exchange Commission (Commission) in favor of Financial Institutions Strategic Transfer Corporation (FISTC) whose FISTC Plan has been approved and rendered effective thereby authorizing the sale and distribution of Investment Unit Instruments (IUIs) pursuant to the provisions of this Act;
- (b) Approved Plan means a FISTC Plan for which a Certificate of Permit to Sell or Offer for Sale Securities has been issued by the Commission;

(c) Certificate of Eligibility (COE) refers to the certificate issued by the appropriate regulatory authority as to the eligibility of the Non-Performing Loans (NPL) or Real and Other Properties Acquired (ROPAs) for purposes of availing of the tax exemptions and privileges, pursuant to the provisions of the Act;

(d) Data Package refers to the complete set of documents, as may be prescribed by the Commission, which must be prepared and made available by the selling Financial Institutions (FIs) in respect of the sale of Non-Performing Assets (NPAs) or NPLs. The Data Package should contain, among others, scans of all pertinent documents and particulars of each property or loan account being sold and should be made electronically available to potential bidders;

(e) FIs means credit-granting institutions which shall be limited to the following:

- (1) The Bangko Sentral ng Pilipinas (BSP);
- (2) A bank, as defined under Republic Act No. 8791, also known as "The General Banking Law of 2000";
- (3) A financing company, as defined under Republic Act No. 8556, also known as "The Financing Company Act of 1998";
- (4) An investment house, as defined in Presidential Decree No. 129, also known as "The Investment Houses Law";
- (5) A lending company, as defined under Republic Act No. 9474, also known as "Lending Company Regulation Act of 2007";
- (6) Accredited microfinance nongovernment organizations (NGOs), as defined under Republic Act No. 10693, otherwise known as "Microfinance NGOs Act";
- (7) An insurance company as defined under Presidential Decree No. 612, also known as the "Insurance Code", as amended;
- (8) Government financial institutions (GFIs), which for purposes of this Act, refer, but are not limited, to the

Philippine Deposit Insurance Corporation (PDIC), Land Bank of the Philippines (LBP), and Development Bank of the Philippines (DBP);

(e) Government-owned or -controlled corporations (GOCCs), which for purposes of this Act, refer, but are not limited, to the National Home Mortgage Finance Corporation (NHMFC), Philippine Guarantee Corporation (PGC), Home Development Mutual Fund (HDMF), Social Security System (SSS), Government Service Insurance System (GSIS), Small Business Corporation (SBC), and National Housing Authority (NHA); and

(10) Other institutions licensed by the BSP to perform (i) quasi-banking functions and (ii) credit-granting activities, including but not limited to, non-stock savings and loan associations, and nonbank credit card issuers;

(f) FISTC Plan refers to the plan submitted to the Commission for its approval as prerequisite to the issuance of an IUI;

(g) IUI refers to a participation certificate, debt instrument or similar instrument issued by the FISTC and subscribed by Permitted Investors as provided in Section 11 hereof, pursuant to an Approved Plan: *Provided*, That these shall not include the instruments to be issued by the FISTC to the selling FIs as full or partial settlement of the NPAs transferred to the said FISTC: *Provided, further*, That such issuances of the FISTC shall not be considered as deposit substitutes: *Provided, finally*, That these shall not form part of the capital stock of the FISTC;

(h) NPAs consist of the non-performing loans and real and other properties acquired by FIs;

(i) NPLs refer to secured or unsecured loans, receivables, and other financial assets of similar nature, including restructured loans, whose principal and/or interest have remained unpaid for at least ninety (90) days after they have become past due or any of the events of default under the loan agreement has occurred;

(j) ROPAs refer to real and other properties, acquired by an FI in settlement of loans and receivables, including real properties, shares of stocks, and personal properties which have been acquired by way of dation in payment (*dacion en pago*) or judicial or extrajudicial foreclosure or execution of judgment or enforcement of security interest;

(k) True Sale refers to a sale wherein the selling FI transfers or sells its NPAs to a FISTC, without recourse to cash or property in exchange for the transfer or sale, and without prejudice to the FI and FISTC agreeing on sharing of profits and subject to the following results:

(1) The transferor transfers full legal and beneficial title to and relinquishes effective control over the transferred NPAs; and

(2) The transferred NPAs are legally isolated and put beyond the reach of the transferor and its creditors:

Provided, That the transferring FI shall not have direct or indirect control of the transferee FISTC: *Provided, further*, That the selling FI does not have legal or beneficial ownership of more than ten percent (10%) of the transferee FISTC.

ARTICLE II
FINANCIAL INSTITUTIONS STRATEGIC TRANSFER CORPORATION

SEC. 4. *Financial Institutions Strategic Transfer Corporation.* - A FISTC is a stock corporation organized in accordance with Republic Act No. 11232, otherwise known as "The Revised Corporation Code of the Philippines": *Provided*, That a FISTC shall not be allowed to be incorporated as a one person corporation: *Provided, further*, That if the FISTC will acquire land, at least sixty percent (60%) of its outstanding capital stock shall be owned by Philippine nationals as defined under Republic Act No. 7042, as amended, otherwise known as the "Foreign Investments Act".

SEC. 5. *Powers of a FISTC.* - A FISTC shall have the following powers:

(a) Invest in, or acquire NPAs of FIs;

(b) Engage third parties to manage, operate, collect and dispose of NPAs acquired from an FI;

(c) Rent, lease, hire, subject to security interest, mortgage, transfer, sell, exchange, usufruct, secure, securitize, collect rents and profits, and other similar acts concerning its NPAs acquired from an FI;

(d) In case of NPLs, to restructure debt, condone debt and undertake other restructuring related activities. In restructuring debt, the FISTC may reduce the principal amount, interest earned, interest rates, and the period for calculating the interest, extend the time for debt repayment or relax the conditions for debt repayment, agree to the conversion of the borrower's debt to equity in the borrower's business, agree to a transfer of assets or claims from the borrower to repay the debt or dispose of some of the borrower's property or claims to third persons;

(e) Buy or transfer shares issued by the borrower for the purpose of business reorganization or rehabilitation of the borrower, subject to the provisions of the Revised Corporation Code of the Philippines in respect to the rights of the shareholders of the borrower company, and apply other measures or restructuring techniques with the approval of the Commission;

(f) Enter into dation in payment arrangements, foreclose judicially or extrajudicially and other forms of debt settlement involving NPLs;

(g) Spend funds to renovate, improve, complete or alter its NPAs acquired from an FI;

(h) Issue equity or participation certificates or other forms of IUIs for the purpose of acquiring, managing, improving and disposing of its NPAs acquired from an FI;

(i) Borrow money and issue other instruments of indebtedness for the purpose of paying operational and administrative costs;

(j) Guarantee credit, and accept, intervene or honor the bills of borrowers;

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(k) Require from selling FIs a data package which should contain, among others, scans of all pertinent documents and particulars of each property or loan account being sold;

(l) Advance funds to borrowers as may be required for an acquired asset or any debt restructuring agreement pursuant thereto, or under any court order or rehabilitation plan; and

(m) Engage the services of a third-party asset servicing company for the collection and receipt of the debt payments for debts under debt restructuring or business reorganization, management and disposition of assets of the FISTC in accordance with the rules, procedures and conditions prescribed by the Commission, or by the courts. Except in the case of ROPAs whose redemption periods have already expired, the FISTC shall notify the borrower and all persons holding prior encumbrances upon the properties, or a part thereof, or are actually holding the same adversely against the borrower, of the appointment of such third-party asset servicing company within fifteen (15) days from the date of the appointment.

SEC. 6. Period for Filing of Applications. - Applications for the establishment and registration of a FISTC shall be filed with the Commission within thirty-six (36) months from the effectivity of this Act.

Entities created under Republic Act No. 9182, as amended, otherwise known as "The Special Purpose Vehicle (SPV) Act of 2002", are qualified to avail of the privileges and incentives under this Act.

SEC. 7. Capitalization of a FISTC. - A FISTC shall have a minimum authorized capital stock of Five hundred million pesos (P500,000,000.00), with a minimum subscribed capital stock of One hundred twenty-five million pesos (P125,000,000.00), and a minimum of paid-up capital of Thirty-one million two hundred fifty thousand pesos (P31,250,000.00). Where land and foreign equity participation are concerned, the FISTC shall comply with the provisions of the Constitution and the minimum capital requirements in accordance with Republic Act No. 7042, as amended, otherwise known as "The Foreign Investments Act".

SEC. 8. *Submission of FISTC Plan.* - Within the period prescribed by the Commission, reckoned from the establishment of a FISTC pursuant to Section 4 hereof, a FISTC Plan shall be submitted to the Commission for approval and shall include the following:

- (a) Investment policies of the FISTC;
- (b) Contribution plan including the amounts and draft of subscription documents;
- (c) Features of the IUIs, including the specific amounts issued and to be issued;
- (d) Rights of the holders of the IUIs;
- (e) Draft agreements for the appointment of trustees and agents with respect to the IUIs and the NPLs acquired from an FI;
- (f) Name of the external auditor of the FISTC;
- (g) Roles and responsibilities of the trustees, advisors, loan servicers and property managers;
- (h) Draft form of financial reports of the FISTC;
- (i) Details of distribution policies;
- (j) Methods for the increase and decrease of future fund contribution;
- (k) Methods for the alteration or modification of the approved FISTC Plan;
- (l) Methods for the liquidation and distribution of assets to the holders of IUIs;
- (m) Details of credit enhancements like guarantees or standby letters of credit; or advances that may be extended to the FISTC by an entity which shall not be the selling FI, its parent, subsidiaries or affiliates; and

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(n) Such other documents or information as may be required by the Commission.

SEC. 9. *Approval, Rejection, Suspension or Revocation of FISTC Plan.* -

- (a) *Approval* - Upon approval of the FISTC Plan, the Commission shall issue an Approval Certificate stating that the FISTC Plan has been rendered effective and the sale and distribution of IUIs covered by such plan has been authorized.
- (b) *Amendments to Approved FISTC Plan* - If a FISTC Plan becomes on its face incomplete or inaccurate in any material respect, upon the request of concerned parties or at its own determination, the Commission shall issue an order directing the amendment of the FISTC Plan. Upon compliance with such order, the amended FISTC Plan shall become effective upon approval of the Commission or appropriate regulatory authority pursuant to Section 4 of this Act.
- (c) *Rejection, Suspension or Revocation* - The Commission may reject a submitted FISTC Plan if on its face it was not in compliance with the requirements of this Act or the rules and regulations issued to implement it. It is also authorized to suspend or revoke the effectivity of an Approved Plan after due notice and hearing by issuing an order to such effect setting forth its findings in respect thereto, if it finds that:
 - (1) The FISTC has violated any of the provisions of this Act or any order of the Commission which the FISTC has notice of in connection with the offering of IUIs for which a FISTC Plan has been filed;
 - (2) The FISTC has been, or is engaged, or is about to engage in fraudulent transactions;
 - (3) The FISTC has made any false or misleading representation of material facts in any Approved Plan concerning the FISTC or its IUIs;
 - (4) The FISTC has failed to comply with any requirement that the Commission may impose as a condition for the issuance of IUI for which a FISTC Plan has been filed;

or

(6) The FISTC Plan is, on its face, incomplete or inaccurate in any material respect, or includes any untrue statement of a material fact, or omits to state a material fact required to be stated, or one which is necessary to obviate any misappreciation of the statements therein.

SEC. 10. Issuance of IUIs. - The FISTC may be allowed to issue IUIs subject to the rules and regulations the Commission is herein mandated to promulgate.

SEC. 11. Permitted Investors. - Any qualified buyer, as defined in Section 10.1(1) of Republic Act No. 8799, otherwise known as "The Securities Regulation Code", may acquire or hold IUIs in a FISTC in the minimum amount of Ten million pesos (P10,000,000.00): *Provided*, That a FISTC shall not be authorized to acquire the IUIs of another FISTC: *Provided, further*, That the parent, subsidiaries, affiliates or stockholders, directors, officers or any related interest of the selling FI or the parent's subsidiaries, affiliates or stockholders, directors, officers or any related interest shall not acquire or hold, directly or indirectly, the IUIs of the FISTC that acquired the NPA's of the FI.

ARTICLE III

TRANSFER OF ASSETS TO FISTC

SEC. 12. Notice and Manner of Transfer of Assets. -

(a) No transfer of NPLs to a FISTC shall take effect unless the FI concerned shall give prior notice to the borrowers of the NPLs and all persons holding prior encumbrances upon the assets mortgaged or subject to security interest. Such notice shall be in writing and made in accordance with the 2019 Rules of Civil Procedure, as amended, at their last known address or their email address registered and on file with the FI. The borrower shall be given a period of at most thirty (30) days upon receipt of notice from the FI to restructure or renegotiate the loan under such terms and conditions as may be agreed upon by the borrower and the FI concerned.

(b) The transfer of NPAs from an FI to a FISTC shall be subject to prior Certification of Eligibility as NPA by the appropriate regulatory authority having jurisdiction over its

operations which shall issue its certification within twenty (20) working days from the date of application by the FI for eligibility: *Provided*, That nothing in this Act shall be construed to prevent the transfer of NPAs under other applicable laws: *Provided, further*, That prior Certification of Eligibility is necessary to avail of the incentives and exemption privileges provided under Sections 15, 16, and 17 of this Act.

(c) After the sale or transfer of the NPLs, the transferring FI shall inform the borrower in writing at the last known address of the fact of the sale or transfer of the NPLs. The reacquisition of the NPA by the borrower or owner from the FISTC or subsequent transferee other than by the exercise of the right of redemption as provided for in Section 20 hereof shall be in accordance with the terms and conditions as may be agreed upon by them.

SEC. 13. Nature of Transfer. - All sales or transfers of NPAs to a FISTC shall be in the nature of a true sale after proper notice in accordance with the procedure as provided for in Section 12, without need for the borrower's consent: *Provided*, That in the transfer of the NPLs, the provisions on the right of the debtor to reimburse the assignee or transferee under Article 1634 of the New Civil Code shall not apply: *Provided, further*, That disposition of assets of a GFI and a GOCC shall be covered by special rules to be incorporated in the rules and regulations of this Act: *Provided, finally*, That after the sale, the FISTC shall assume all rights and obligations of the transferring FI.

In the transfer of NPAs, the parties shall exercise the requisite due diligence and any fraud, collusion and irregularity shall be subject to penalties in Section 24 of this Act, as well as other pertinent laws, rules and regulations.

SEC. 14. Issuance of Injunctive Relief Against Transfer of Assets. - No court, other than the Court of Appeals and the Supreme Court, shall issue any temporary restraining order, preliminary injunction, preliminary mandatory injunction, status quo order, stay order, commencement order, or any other issuance of injunctive relief against the transfer of NPAs from the FI to a FISTC, and from a FISTC to a third party, or dation in payment by the borrower or by a third party in favor of an FI or in favor of a FISTC, or judicial

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or extrajudicial foreclosure sales or execution sales of the FI or FISTC of collateral in settlement of NPLs.

Any restraining order, injunction, status quo order, stay order, commencement order, or any other issuance of injunctive relief issued in violation of this section is void and of no force and effect.

The provisions of Rules of Court on injunctions insofar as these are applicable and not inconsistent with the provisions of this Act shall govern the issuance and dissolution of restraining orders, injunctions, status quo orders or stay orders against said transfers.

ARTICLE IV INCENTIVES AND EXEMPTION PRIVILEGES

SEC. 15. *Tax Exemptions and Fee Privileges.* - Any existing law to the contrary notwithstanding, the transfer of NPAs from the FI to a FISTC, and from a FISTC to a third party or dation in payment by the borrower or by a third party in favor of an FI or in favor of a FISTC shall be exempt from the following taxes:

- (a) Documentary stamp tax on the abovementioned transfer of NPAs and dation in payment as may be imposed under Title VII of the National Internal Revenue Code of 1997, as amended by Republic Act No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Act";
- (b) Capital gains tax imposed on the transfer of lands and/or other assets treated as capital assets as defined under Section 39(A)(1) of the National Internal Revenue Code of 1997, as amended;
- (c) Creditable withholding income taxes imposed on the transfer of land and/or buildings treated as ordinary assets pursuant to Bureau of Internal Revenue (BIR) Revenue Regulation No. 2-38, as amended;
- (d) Value-added tax on the transfer of NPAs as may be imposed under Title IV of the National Internal Revenue Code of 1997, as amended, or gross receipts tax under Title V of

the same Code, whichever is applicable pursuant to regulations of the BIR.

The abovementioned transfers shall also be subject to the following, in lieu of the applicable fees:

- (a) Fifty percent (50%) of the applicable registration and transfer fees on the transfer of real estate mortgage and security interest to and from the FISTC, as imposed in accordance with the existing circulars of the Land Registration Authority (LRA);
- (b) Fifty percent (50%) of the filing fees for any foreclosure initiated by the FISTC in relation to any NPA acquired from an FI, as prescribed by the Rules of Court; and
- (c) Fifty percent (50%) of the land registration fees prescribed under the existing circulars of the LRA.

All sales or transfers of NPAs from the FIs to a FISTC or transfers by way of dation in payment by the borrower or by a third party to the FI shall be entitled to the privileges enumerated herein for a period of not more than two (2) years from the date of effectivity of this Act.

Transfers from a FISTC to a third party of NPAs acquired by the FISTC within such two (2)-year period, or within such extended period, or transfers by way of dation in payment by a borrower or by a third party to the FISTC shall enjoy the privileges enumerated herein for a period of not more than five (5) years from the date of acquisition by the FISTC. *Provided,* That properties acquired by a FISTC from GFIs or GOCCs which are devoted to socialized or low-cost housing shall not be converted to other uses.

The tax exemptions, incentives, and fee privileges given to FIs and FISTC at the various stages of the transactions under this section shall likewise be extended to any individual. *Provided,* That:

- (a) The transaction is limited to a ROPA that is either a single family residential unit or an empty lot, or to NPL secured by a real estate mortgage on a residential unit or an empty lot;

(b) There shall only be one (1) transaction consisting of one (1) residential unit or empty lot per individual;

(c) The two (2)-year transfer period, including its extension, and the five (5)-year entitlement period granted to NPA shall also apply to said single family residential unit or empty lot.

To prevent inordinate delay in the grant of incentives and exemption privileges, the Certificate of Eligibility duly issued by the appropriate regulatory agency is sufficient proof of the entity's entitlement thereto.

SEC. 16. Additional Tax Exemptions and Fee Privileges.
- To encourage the infusion of capital and financial assistance by the FISTC for the purpose of rehabilitating the borrower's business, the following additional tax exemptions and privileges shall be enjoyed:

(a) The FISTC shall be exempt from income tax on net interest income, documentary stamp tax and mortgage registration fees on new loans in excess of existing loans extended to borrowers with NPLs which have been acquired by the FISTC;

(b) In case of capital infusion by the FISTC to the borrower with NPLs, the FISTC shall also be exempt from the documentary stamp tax:

Provided, That the tax exemptions and fee privileges granted under this section shall apply for a period of not more than five (5) years from the date of acquisition of NPLs by the FISTC.

SEC. 17. Net Operating Loss Carry-Over (NOLCO) of Participating FIs. -

(a) Any loss that is incurred by an FI as a result of the transfer of an NPA within the two (2)-year period from the effectivity of this Act, shall be treated as ordinary loss: *Provided*, That the accrued interest and penalties shall not be included as loss on said loss carry-over from operations, subject to the provisions of the National Internal Revenue Code of 1997 on NOLCO. Such loss incurred by the FI from the

transfer of NPAs within the two (2)-year period from the effectivity of this Act may be carried over for a period of five (5) consecutive taxable years immediately following the year of such loss: *Provided, further*, That for purposes of corporate gain or loss, the carry-over shall be subject to pertinent laws: *Provided, finally*, That the tax savings derived by FIs from the NOLCO shall not be made available for dividend declaration but shall be retained as a form of capital build-up. The Department of Finance (DOF), upon the recommendation of the BIR, shall issue the rules and regulations to effectively implement the provisions of this section.

(b) The regulatory authority concerned shall promulgate the necessary rules and regulations governing the treatment of any loss of the FIs in the books of accounts as a result of the transfer of the NPAs.

(c) In the case of GFIs and GOCCs enumerated in Section 3(e) hereof, the DOF, in consultation with the Commission on Audit (COA), shall promulgate the necessary rules and regulations governing the treatment of any loss in their books of accounts as a result of the transfer of their NPAs.

SEC. 18. Abuse of Tax Exemptions and Privileges. - Any person, natural or juridical, who benefits from the tax exemptions and privileges herein granted, when such person is not entitled thereto, shall be subject to the penalties provided in Section 24 hereof. In addition, the offender shall refund to the government double the amount of the tax exemptions and privileges availed of under this Act, plus interest of twelve percent (12%) per year from the date prescribed for its payment, until full payment thereof.

ARTICLE V

ENFORCEMENT AND PROTECTION PROVISIONS

SEC. 19. Financial Consumer Protection Mechanism. - The FISTC shall set up an appropriate financial consumer protection mechanism taking into consideration the provisions of existing laws, rules and regulations for the protection of borrowers: *Provided, however*, That the rights of borrowers under existing laws shall not be impaired nor diminished.

Financial consumer protection mechanism shall include standards of conduct on disclosure and transparency, conflicts of interest, protection of client information, fair treatment in terms of affordability and suitability of product or service, prevention of over-indebtedness, cooling-off period, and objectivity, effective recourse and exhaustion of all remedies, among others.

SEC. 20. Redemption Periods. – The provision on redemption under Section 47 of "The General Banking Law of 2000", Act No. 3135, and the Rules of Court shall govern. *Provided*, That in case of conflict between provisions of these laws, Section 47 of "The General Banking Law of 2000" shall prevail. *Provided, further*, That the provisions of Article 1634 of the New Civil Code, shall not apply.

ARTICLE VI

ACCOUNTING AND REPORTING PROVISIONS

SEC. 21. Books of Accounts and Records. – The FISTC shall set and keep accurate accounts and internal financial controls, and shall appoint an external auditor that is acceptable to the Commission. The Commission, the BSP, and the BIR may look into the books of accounts and records of the FISTC at reasonable hours on business days after due notice.

SEC. 22. Reports and Monitoring. – The Commission, the regulatory authorities, and the BIR shall prescribe the submission of reports from the FISTC and the FIs for the proper implementation of this Act. To guide in their market monitoring activities, a database of the sales and transfers consummated in accordance with Section 12 shall be submitted by FISTCs and FIs to the Commission, BIR, Philippine Competition Commission, and other relevant agencies, on a monthly basis: *Provided*, That the beneficiaries of the tax exemptions and fee privileges under this Act shall submit the data necessary for the DOF and the National Economic and Development Authority (NEDA) to review and analyze the impact of the incentives available.

ARTICLE VII FINAL PROVISIONS

SEC. 23. Primary Implementing Agency. – The Commission shall be the primary implementing agency of this Act. It shall have the authority to enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including GOCCs and GFIs which may include the use and transfer of its personnel, facilities and resources.

SEC. 24. Penalties and Administrative Sanctions. – Any person who violates any of the provisions of this Act, or any person who, in a notice, certification or plan filed under this Act, makes any untruthful statement of a material fact or omits to state any material fact required to be stated therein, shall, upon conviction, suffer a fine of not less than One hundred thousand pesos (P100,000.00) nor more than Two million pesos (P2,000,000.00) or imprisonment of not less than six (6) years nor more than twelve (12) years, or both, at the discretion of the court, without prejudice to the penalties provided under Section 18 hereof, Section 37 of Republic Act No. 7663, as amended, otherwise known as "The New Central Bank Act", and other applicable laws. If the offender is an alien, he/she shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. If the offender is a public official or employee, he/she shall, in addition to the penalties prescribed herein, suffer absolute or temporary disqualification from government or public office, as the case may be.

If the offender is a juridical person, the Commission may impose the administrative sanctions stated below upon the corporation and/or its officers:

If, after due notice and hearing, the Commission finds that: (a) there is a violation of this Act, its rules, or its orders; or (b) any FISTC or other person has, in a FISTC Plan or in other reports, applications, accounts, records or documents required by law to be filed with the Commission, made any untrue statement of a material fact, or omitted to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Commission shall,

in its discretion, impose any or all of the following sanctions as may be appropriate in light of the facts and circumstances:

- (1) Suspension, or revocation of any approved FISTC Plan for the offering of IUIs;
- (2) Fine of no less than Ten thousand pesos (P10,000.00) nor more than One million pesos (P1,000,000.00) plus not more than Two thousand pesos (P2,000.00) for each day of continuing violation, or in such amounts as may be prescribed by the Commission; and
- (3) Other penalties within the power of the Commission to impose.

With respect to FIs, the administrative sanctions in the preceding paragraph shall be enforced, without prejudice to the administrative sanctions that may be imposed by the BSP and the Commission which are prescribed under the laws governing the FIs under their respective jurisdictions, and without further prejudice to the penalties as may be imposed by the courts.

SEC. 25. Applicability Clause. – The provisions of this Act shall be applicable to assets that have become non-performing as of December 31, 2022.

SEC. 26. Conscience Clause. – Nothing in this Act shall be construed to condone or exempt from any liability any person responsible for acts or omissions constituting unsound business practices or mismanagement.

SEC. 27. Oversight Committee. – There is hereby created a Joint Congressional Oversight Committee (JCOC) to oversee, monitor, and evaluate the implementation of this Act. The JCOC shall be composed of five (5) members each from the House of Representatives and from the Senate. The JCOC shall be co-chaired by the Chairpersons of the House Committee on Banks and Financial Intermediaries and the Senate Committee on Banks, Financial Institutions and Currencies. The Speaker and the Senate President shall designate the other four (4) members of the JCOC of the House and the Senate from among the members of the House Committee on Banks and Financial Intermediaries and the Senate Committee on Banks,

Financial Institutions, and Currencies, at least one (1) member of which shall be from the minority.

SEC. 28. Use of Registration Fees. – To carry out the purposes of this Act, the Commission shall retain and use all fees paid to it relative to the establishment of a FISTC in addition to its annual budget and to what is provided for under Section 75, on partial use of income of Republic Act No. 8799 or the "Securities Regulation Code".

SEC. 29. Implementing Rules and Regulations. – Within thirty (30) days from the effectivity of this Act, the Commission, jointly with the BSP, the DOF, BIR and the LRA, shall promulgate the necessary rules and regulations for the effective and faithful implementation of this Act. *Provided*, That within thirty (30) days from the effectivity of this Act, the DOF, upon recommendation of the BIR, shall promulgate the revenue regulations implementing the fiscal incentives under this Act. All the issuances pursuant to this Act must strictly comply with Republic Act No. 11032 or the "Ease of Doing Business and Efficient Government Service Delivery Act of 2018".


The non-promulgation of the implementing rules and regulations shall not prevent the implementation of this Act upon its effectivity.

SEC. 30. Separability Clause. – If any provision of this Act is held unconstitutional or invalid, all other provisions not affected thereby shall remain valid.

SEC. 31. Repealing Clause. – Republic Act No. 9182, as amended by Republic Act No. 9348, otherwise known as "The Special Purpose Vehicle (SPV) Act of 2002", is hereby repealed. All laws, decrees, executive orders, rules and regulations or parts thereof, which are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

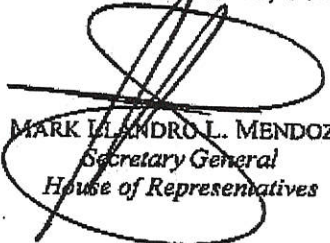
SEC. 32. *Effectivity.* - This Act shall take effect immediately upon its publication in the *Official Gazette* and in a newspaper of general circulation.


Approved,


LORD ALLAN JAY Q. VELASCO
Speaker of the House of Representatives


VICENTE C. SOTTO III
President of the Senate

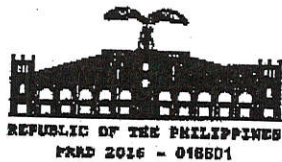
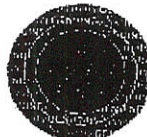
This Act which is a consolidation of Senate Bill No. 1849 and House Bill No. 6816 was passed by the Senate of the Philippines and the House of Representatives on December 15, 2020 and December 16, 2020, respectively.

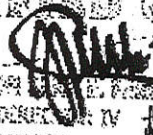

MARK ILENDRO L. MENDOZA
Secretary General House of Representatives


MYRA MARIE D. VILLARICA
Secretary of the Senate

Approved: FEB 16 2021


RODRIGO ROA DUTERTE
President of the Philippines



Office of the President
CERTIFIED COPY

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