



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF CUSTOMS
Manila 1099

[Handwritten Signature]
MASTER COPY

November 20, 2018

CUSTOMS MEMORANDUM CIRCULAR
NO. 249-2018

To: All DEPUTY COMMISSIONERS
All DIRECTORS and DIVISION CHIEFS
All DISTRICT/PORT COLLECTORS
And All Others Concerned

**Subject: PROMULGATING THE ELEVENTH REGULAR FOREIGN
INVESTMENT NEGATIVE LIST**

Attached is Executive Order No. 65 dated 29 October 2018 from Executive Secretary Salvador C. Medialdea, Office of the President on the above-captioned subject.

For your information and guidance.

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

[Handwritten Signature]
REY LEONARDO B. GUERRERO
Commissioner

 Bureau of Customs
REY LEONARDO B. GUERRERO
Commissioner
18-00578

NOV 22 2018



MALACAÑAN PALACE
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 65

PROMULGATING THE ELEVENTH REGULAR FOREIGN
INVESTMENT NEGATIVE LIST

WHEREAS, Republic Act (RA) No. 7042, also known as the "Foreign Investments Act of 1991," as amended, mandates the formulation of a Regular Foreign Investment Negative List, covering investment areas or activities which are open to foreign investors and/or reserved to Filipino nationals; and

WHEREAS, there is a need to formulate the Eleventh Regular Foreign Investment Negative List, replacing the Tenth Regular Foreign Investment Negative List, to reflect changes to List A and List B, pursuant to existing laws, consistent with the policy to ease restrictions on foreign participation in certain investment areas or activities;

NOW, THEREFORE, I, RODRIGO ROA DUTERTE, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution and existing laws, do hereby order:

SECTION 1. Eleventh Regular Foreign Investment Negative List. Only the investment areas and/or activities listed in the attached Eleventh Regular Foreign Investment Negative List shall be reserved for Philippine nationals, subject to the exceptions and conditions indicated therein.

SECTION 2. Amendments. Amendments to List A may be made at any time to reflect changes instituted in specific laws, while amendments to List B shall not be made more often than once every two years, pursuant to Section 8 of RA No. 7042, as amended, and its revised implementing rules and regulations.

SECTION 3. Repeal. All issuances, orders, rules and regulations or parts thereof, which are inconsistent with this Order are hereby repealed, amended or modified accordingly.

SECTION 4. Separability. If any provision of this Order is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SECTION 5. Effectivity. This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

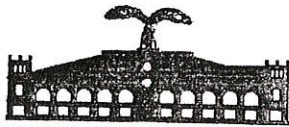
DONE in the City of Manila, this **29th** day of **October**, in the year of our Lord, Two Thousand and Eighteen.

By the President:

[Handwritten Signature]



[Handwritten Signature]
SALVADOR C. MEDIALDEA
Executive Secretary



REPUBLIC OF THE PHILIPPINES
PRRD 2016 - 008044

Office of the President
MALACAÑANG RECORDS OFFICE
CERTIFIED COPY
[Handwritten Signature]
ATTY. CONCEPCION LINTY E. FERROLINO-ENAD
DIRECTOR IV
9410-20-208

ELEVENTH REGULAR FOREIGN INVESTMENT NEGATIVE LIST

LIST A: FOREIGN OWNERSHIP IS LIMITED BY MANDATE OF THE
CONSTITUTION AND SPECIFIC LAWS

No Foreign Equity

1. Mass media, except recording (Art. XVI, Sec. 11 of the 1987 Constitution; Presidential Memorandum dated 05 May 1994) and internet business (DOJ Opinion No. 40, s. 1998)¹
2. Practice of professions² (Art. XII, Sec. 14 of the Constitution, Sec. 1 of RA No. 5181, Sec. 7[j] of RA No. 8981), including Radiologic and x-ray technology (RA No. 7431), Criminology (RA No. 6506), Law (Art. VIII, Section 5 of the Constitution; Rule 138, Sec. 2 of the Rules of Court of the Philippines), and Marine deck officers and marine engine officers (RA No. 10635), subject to the Annex on Professions attached herewith and forming an integral part of this document, indicating the professions where (a) foreigners are allowed to practice in the Philippines subject to reciprocity; and (b) where corporate practice is allowed. Foreigners may teach at higher education levels (RA No. 8292), provided the subject being taught is not a professional subject (i.e., included in a government board or bar examination).
3. Retail trade enterprises with paid-up capital of less than US\$2,500,000 (Sec. 5 of RA No. 8762)³
4. Cooperatives (Ch. III, Art. 26 of RA No. 6938, as amended by Ch. II, Art. 10 of RA No. 9520)
5. Organization and operation of private detective, watchmen or security guards agencies (Sec. 4 of RA No. 5487)
6. Small-scale mining (Sec. 3 of RA No. 7076)
7. Utilization of marine resources in archipelagic waters, territorial sea and exclusive economic zone as well as small-scale utilization of natural resources in rivers, lakes, bays and lagoons (Art. XII, Sec. 2 of the Constitution)
8. Ownership, operation and management of cockpits (Sec. 5 of PD No. 449)
9. Manufacture, repair, stockpiling and/or distribution of nuclear weapons (Art. II, Sec. 8 of the Constitution)⁴
10. Manufacture, repair, stockpiling and/or distribution of biological, chemical and radiological weapons and anti-personnel mines (various treaties to which the Philippines is a signatory and conventions supported by the Philippines)⁵
11. Manufacture of firecrackers and other pyrotechnic devices (Sec. 5 of RA No. 7183)

Up to Twenty-Five Percent (25%) Foreign Equity

12. Private recruitment, whether for local or overseas employment (Art. 27 of PD No. 442)
13. Contracts for the construction of defense-related structures (Sec. 1 of Commonwealth Act No. 541)

Up to Thirty Percent (30%) Foreign Equity

14. Advertising (Art. XVI, Sec. 11 of the Constitution)

¹ DOJ Opinion No. 40 (s. 1998) uses the term "Internet Business" to refer to internet access providers that merely serve as carriers for transmitting messages, rather than being the creator of messages/information.

² Section 1(b) of Professional Regulation Commission Resolution No. 2012-668 defines "practice of a profession" as an "activity/undertaking rendered by a registered and licensed professional or a holder of a Special Temporary Permit as defined in the scope of practice of a professional regulatory law."

³ Full foreign participation is allowed for retail trade enterprises: (a) with paid-up capital of US\$2,500,000 or more provided that investments for establishing a store is not less than US\$830,000; or (b) specializing in high end or luxury products, provided that the paid-up capital per store is not less than US\$250,000 (Sec. 5 of RA No. 8762).

⁴ Domestic investments are also prohibited (Art. II, Sec. 8 of the Constitution; Conventions/Treaties to which the Philippines is a signatory).

⁵ Domestic investments are also prohibited (Art. II, Sec. 8 of the Constitution; Conventions/Treaties to which the Philippines is a signatory).

Up to Forty Percent (40%) Foreign Equity

15. Subject to applicable regulatory frameworks, contracts for the construction and repair of locally-funded public works (Sec. 1 of CA No. 541, Letter of Instruction No. 630), except:
 - a. Infrastructure/development projects covered in RA No. 7718; and
 - b. Projects which are foreign-funded or assisted and required to undergo international competitive bidding (Sec. 2[a] of RA No. 7718)⁶
16. Exploration, development and utilization of natural resources (Art. XII, Sec. 2 of the Constitution)⁷
17. Ownership of private lands (Art. XII, Sec. 7 of the Constitution; Sec. 22 of CA No. 141; Sec. 4 of RA No. 9182)
18. Operation of public utilities (Art. XII, Sec. 11 of the Constitution; Sec. 16 of CA No. 146; Sec. 2(a) of RA No. 7718),⁸ except power generation and the supply of electricity to the contestable market (Sec. 6 and Sec. 29, respectively, of RA No. 9136) and such other like businesses or services not covered by the definition of public utilities⁹
19. Educational institutions other than those established by religious groups and mission boards, for foreign diplomatic personnel and their dependents, and other foreign temporary residents (Art. XIV, Sec. 4 of the Constitution),¹⁰ or for short-term high-level skills development that do not form part of the formal education system as defined in Sec. 20 of Batas Pambansa No. 232 (1982)
20. Culture, production, milling, processing, trading except retailing, of rice and corn and acquiring, by barter, purchase or otherwise, rice and corn and the by-products thereof (Sec. 5 of PD No. 194)¹¹
21. Contracts for the supply of materials, goods and commodities to government-owned or controlled corporation, company, agency or municipal corporation (Sec. 1 of RA No. 5183)¹²
22. Operation of deep sea commercial fishing vessels (Sec. 27 of RA No. 8550, as amended by RA No. 10654)
23. Ownership of condominium units (Sec. 5 of RA No. 4726)
24. Private radio communications network (Art. XII, Sec. 11 of the Constitution, NTC Memorandum Circular No. 10-8-91)

⁶ Section 2(a) of RA No. 7718 states that "[f]or the construction stage of these infrastructure projects, the project proponent may obtain financing from foreign and/or domestic sources and/or engage the services of a foreign and/or Filipino contractor. Provided, That, in case an infrastructure or a development facility's operation requires a public utility franchise, the facility operator must be Filipino or if a corporation, it must be duly registered with the Securities and Exchange Commission and owned up to at least sixty percent (60%) by Filipinos: Provided, further, That in the case of foreign contractors, Filipino labor shall be employed or hired in the different phases of the construction where Filipino skills are available xxx"

⁷ Full foreign participation is allowed through financial or technical assistance agreements entered into with the President (Art. XII, Sec. 2 of the Constitution).

⁸ The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines (Article XII, Section 11 of the Constitution).

⁹ A "public utility" is a business or service engaged in regularly supplying the public with some commodity or service of consequence such as electricity, gas, water, transportation, telephone or telegraph service (Supreme Court ruling in *JG Summit Holdings v. Court of Appeals, et al.*, September 24, 2003).

¹⁰ Control and administration of educational institutions shall be vested in citizens of the Philippines (Art. XIV, Sec. 4[2] of the Constitution).

¹¹ Full foreign participation is allowed provided that within the 30-year period from start of operation, the foreign investor shall divest a minimum of sixty percent (60%) of their equity to Filipino citizens (Sec. 5 of PD No. 194; NFA Council Resolution No. 193, s. 1998).

¹² A contract may be awarded to any contractor or bidder who is a citizen, corporation or association of a foreign country the laws or regulations of which grant similar rights or privileges to citizens of the Philippines (Sec. 1 of RA No. 5183).

**LIST B: FOREIGN OWNERSHIP IS LIMITED FOR REASONS OF SECURITY,
DEFENSE, RISK TO HEALTH AND MORALS AND PROTECTION OF
SMALL AND MEDIUM SCALE ENTERPRISES**

Up to Forty Percent (40 %) Foreign Equity

1. Manufacture, repair, storage, and/or distribution of products and/or ingredients requiring Philippine National Police (PNP) clearance:
 - a. Firearms (handguns to shotguns), parts of firearms and ammunition therefor, instruments or implements used or intended to be used in the manufacture of firearms;
 - b. Gunpowder;
 - c. Dynamite;
 - d. Blasting supplies;
 - e. Ingredients used in making explosives:
 - i. Chlorates of potassium and sodium;
 - ii. Nitrates of ammonium, potassium, sodium barium, copper (11), lead (11), calcium and cuprite;
 - iii. Nitric acid;
 - iv. Nitrocellulose;
 - v. Perchlorates of ammonium, potassium and sodium;
 - vi. Dinitrocellulose;
 - vii. Glycerol;
 - viii. Amorphous phosphorus;
 - ix. Hydrogen peroxide;
 - x. Strontium nitrate powder;
 - xi. Toluene; and
 - f. Telescopic sights, sniper scope and other similar devices.

However, the manufacture or repair of these items may be authorized by the Chief of the PNP to non-Philippine nationals; Provided that a substantial percentage of output, as determined by the said agency, is exported. Provided further that the extent of foreign equity ownership allowed shall be specified in the said authority/clearance (RA No. 7042 as amended by RA No. 8179).

2. Manufacture, repair, storage and/or distribution of products requiring Department of National Defense (DND) clearance:
 - a. Guns and ammunition for warfare;
 - b. Military ordnance and parts thereof (e.g., torpedoes, depth charges, bombs, grenades, missiles);
 - c. Gunnery, bombing and fire control systems and components;
 - d. Guided missiles/missile systems and components;
 - e. Tactical aircraft (fixed and rotary-winged), parts and components thereof;
 - f. Space vehicles and component systems;
 - g. Combat vessels (air, land and naval) and auxiliaries;
 - h. Weapons repair and maintenance equipment;
 - i. Military communications equipment;
 - j. Night vision equipment;
 - k. Stimulated coherent radiation devices, components and accessories;
 - l. Armament training devices; and
 - m. Others as may be determined by the Secretary of the DND.

However, the manufacture or repair of these items may be authorized by the Secretary of National Defense to non-Philippine nationals; Provided that a substantial percentage of output, as determined by the said agency, is exported. Provided further that the extent of foreign equity ownership allowed shall be specified in the said authority/clearance (RA No.

7042 as amended by RA No. 8179).

3. Manufacture and distribution of dangerous drugs (RA No. 7042 as amended by RA No. 8179)
4. Sauna and steam bathhouses, massage clinics and other like activities regulated by law because of risks posed to public health and morals, except wellness centers (RA No. 7042 as amended by RA No. 8179)
5. All forms of gambling (RA No. 7042 as amended by RA No. 8179) except those covered by investment agreements with PAGCOR (PD No. 1869, as amended by RA No. 9487)
6. Domestic market enterprises with paid-in equity capital of less than the equivalent of US\$200,000 (RA No. 7042, as amended by RA No. 8179)
7. Domestic market enterprises which involve advanced technology or employ at least fifty (50) direct employees with paid-in equity capital of less than the equivalent of US\$100,000 (RA No. 7042, as amended by RA No. 8179)

ANNEX ON PROFESSIONS

A. **Foreigners are allowed to practice the following professions in the Philippines provided that their home country allows Filipinos to be admitted to the practice of these professions:**

- Accountancy (Sec. 34, RA No. 9298)
- Aeronautical engineering (Section 14, PD No. 1570)
- Agricultural and biosystems engineering (Sections 15 and 31, RA No. 10915)
- Agriculture (Section 27, PRC Resolution No. 2000-663)
- Architecture (Sections 13 and 27, RA No. 9266)
- Chemical engineering (Section 30, RA No. 9297)
- Chemistry (Sections 16, 18 and 34, RA No. 10657)
- Civil engineering (Section 25, RA No. 544, as amended)
- Customs brokers (Section 25, RA No. 9280)
- Dentistry (Secs. 14 and 31, RA No. 9484)
- Electrical engineering (Section 38, RA No. 7920)
- Electronics engineering (Sections 13 and 33, RA No. 9292)
- Electronics technician (Sections 13 and 33, RA No. 9292)
- Environmental planning (Sections 18 and 28, RA No. 10587)
- Fisheries (Section 27, PRC Resolution No. 2000-664)
- Forestry (Sections 14 and 27, RA No. 10690)
- Geodetic engineering (Section 26, RA No. 8560)
- Geology (Sections 17 and 33, RA No. 10166)
- Guidance and counseling (Sections 13 and 29, RA No. 9258)
- Interior design (Sections 15 and 29 RA No. 10350)
- Landscape architecture (Sections 13 and 29, RA No. 9053)
- Librarianship (Sections 15 and 28, RA No. 9246)
- Master plumbing (Section 21, RA No. 1378)
- Mechanical engineering (Section 39, RA No. 8495)
- Medical technology (Section 27, RA No. 5527, as amended)
- Medicine* (Section 9, RA No. 2382, as amended)
- Metallurgical engineering (Sections 17 and 34, RA No. 10688)
- Midwifery (Section 22, RA No. 7392)
- Mining engineering (Sections 15, 16 and 28, RA No. 4274)
- Naval architecture (Sections 13 and 31, RA No. 10698)
- Nursing (Sections 13 and 20, RA No. 9173)
- Nutrition and dietetics (Sections 15 and 31, RA No. 10862)
- Optometry (Section 34, RA No. 8050)
- Pharmacy (Sections 14 and 21, RA No. 10918)
- Physical and occupational therapy (Sections 15 and 21, RA No. 5680)
- Psychology (Sections 12, 13 and 24, RA No. 10029)

* For purposes of the Revised Foreign Investment Negative List, ergotherapy, speech therapy, homeopathy and acupuncture are not considered part of the medical profession and are therefore open to foreigners.

- Real estate service (real estate consultant, real estate appraiser, real estate assessor, real estate broker and real estate salesperson) (Section 24, RA No. 9646)
- Respiratory therapy (Sections 13 and 34, RA No. 10024)
- Sanitary engineering (Section 32 RA No. 1364)
- Social work (Section 18, RA No. 4373, as amended)
- Teaching at elementary and secondary levels (Sections 15 and 24, RA No. 7836, as amended)
- Veterinary medicine (Sections 15 and 31, RA No. 9268)
- Other professions as may be provided by law or by treaty where the Philippines is a party

B. Corporate practice is allowed in the following professions, subject to the requirements and conditions under the pertinent professional regulatory law:

- Aeronautical engineering (Section 28, PD No. 1570)
- Agricultural and biosystems engineering (Section 29, RA No. 10915)
- Architecture (Section 37, RA No. 9266)
- Chemistry (Section 35, RA No. 10657)
- Electronics engineering (Section 28, RA No. 9292)
- Environmental planning (Section 25, RA No. 10587)
- Forestry (Section 25, RA No. 10690)
- Guidance and counseling (Section 27, RA No. 9258)
- Interior design (Section 26, RA No. 10350)
- Landscape architecture (Section 26, RA No. 9053)
- Naval architecture (Section 30 [g], RA No. 10698)
- Psychology (Section 33, RA No. 10029)
- Real estate service (real estate consultant, real estate appraiser, real estate assessor, real estate broker and real estate salesperson) (Section 32, RA No. 9646)
- Sanitary engineering (Section 30, RA No. 1364)
- Social work (Section 1[c], RA No. 4373, as amended)