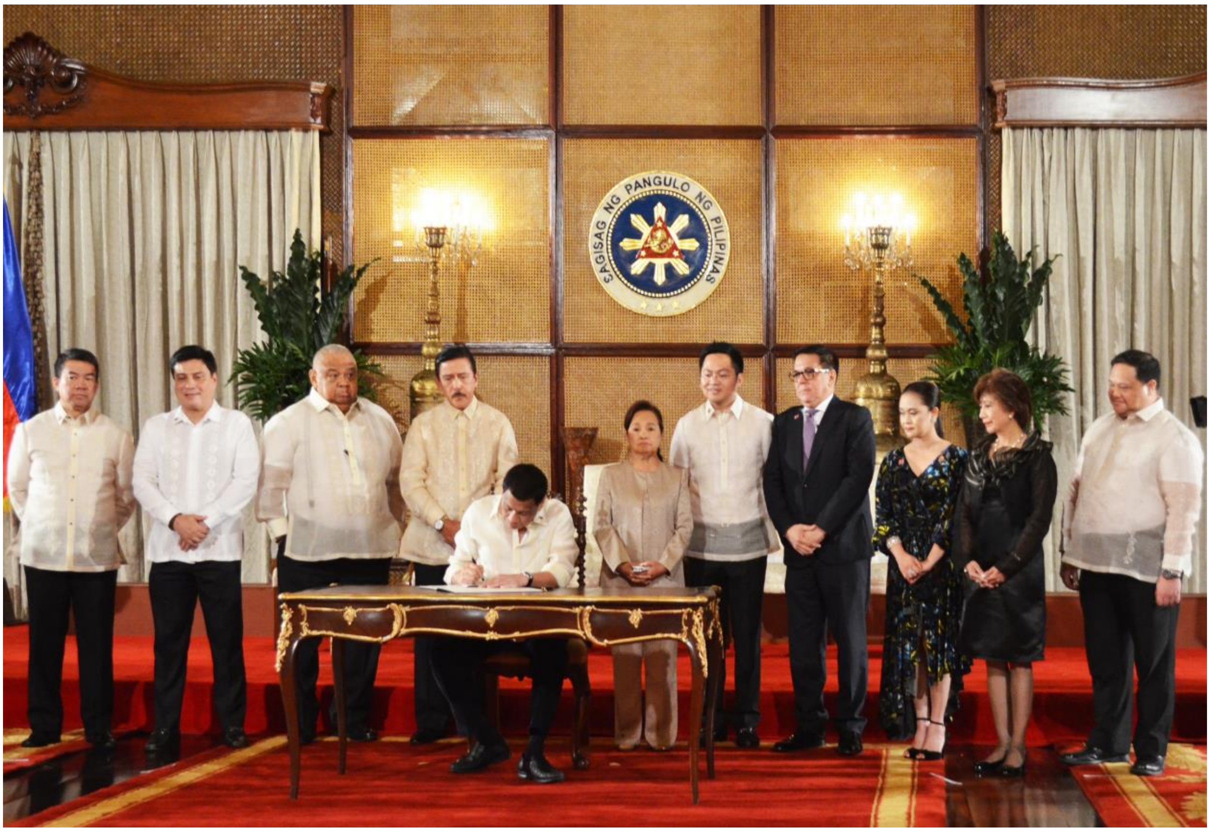
21 February 2019

REVISED CORPORATION CODE SIGNED INTO LAW



President Rodrigo R. Duterte signed The Revised Corporation Code of the Philippines into law at the Rizal Hall in Malacañan Palace on February 20, as witnessed by (from left to right) Senator Aquilino L. Pimentel III, Senator Juan Miguel F. Zubiri, Executive Secretary Salvador C. Medialdea, Senate President Vicente C. Sotto III, House Speaker Gloria Macapagal-Arroyo, Cabinet Secretary Karlo Alexei B. Nograles, Iloilo Fourth District Representative Ferjenel G. Biron and Laguna First District Representative Arlene B. Arcillas, SEC Commissioner Antonieta F. Ibe and SEC Commissioner Ephyro Luis B. Amatong.

Office of the Commission Secretary
S-309, 3F PICC Secretariat Building
Philippine International Convention Center (PICC) Complex
Pasay City
888-8141 ; 818-5478

President Rodrigo R. Duterte has signed into law The Revised Corporation Code of the Philippines, aimed at improving ease of doing business in the country, affording more protection to corporations and stockholders and promoting good corporate governance.

The measure, which amended the almost four-decade-old Batas Pambansa Blg. 68, forms part of the present administration's legislative priorities. It aligns with the 10-point economic agenda of the President, specifically on increasing the economy's competitiveness and improving the ease of doing business in the country.

"We thank President Duterte, the Senate and the House of Representatives as well as our partner agencies and organizations for pushing for and supporting the amendments necessary to make our legal framework in tune with the fast-evolving business landscape," SEC Chairperson Emilio B. Aquino said.

"We look forward to a more competitive corporate sector, as the Revised Corporation Code adopts international best practices and standards, tailored to address the needs and realities of the Philippine corporate setting, and introduces new concepts and mechanisms to help the Philippines keep up with the changing times."

Perpetual corporate term

Among the notable amendments to the Corporation Code is the grant of a perpetual corporate term for existing and future corporations unless provided otherwise in their articles of incorporation.

Allowing corporations to exist beyond the 50-year term provided under the old Code will eliminate the possibility of legitimate and productive businesses prematurely closing down only because they failed to renew their registration. It will also foster a sense of longevity that can translate to long-term and sustainable projects and investments.

As part of the shift to a perpetual corporate term, the Revised Corporation Code mandated the SEC to allow corporations with expired registration papers to apply for the revival of their corporate existence together with all the rights and privileges under their certificates of incorporation.

One-person corporation

The Revised Corporation Code also allows for the formation of one-person corporation, a corporation with a single stockholder and without a minimum authorized capital stock required.

Forming a one-person corporation instead of a corporation with several stockholders and a board of directors allows for more flexibility in pursuing business because the

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lone stockholder can make decisions without having to seek board consensus. It also affords greater protection to the stockholder by limiting liability to the corporate entity.

In contrast, the old Code required at least five stockholders in the formation of corporations.

Emergency board

Another salient feature of the Revised Corporation Code is the provision for an emergency board when a vacancy in a corporation's board of directors prevents the remaining directors from constituting a quorum and consequently from making emergency actions required to prevent grave, substantial and irreparable loss or damage.

In such situations, the vacancy may be temporarily filled from among the officers of the corporation by a unanimous vote of the remaining directors or trustees. The corporation must then notify the Commission within three days from the creation of the emergency board.

The action by the designated director or trustee shall be limited to the emergency action necessary, and his or her term shall cease within a reasonable time from the termination of the emergency or upon the election of the replacement director or trustee.

Alternative dispute resolution

The Revised Corporation Code also allows corporations to adopt alternative dispute resolution mechanisms for intra-corporate issues except those involving criminal offenses and interests of third parties.

An arbitration agreement may be provided in the articles of incorporation or bylaws of a corporation. To be enforceable, the arbitration agreement should indicate the number of arbitrators and the procedure for their appointment. The power to appoint the arbitrators forming the arbitral tribunal shall be granted to a designated independent third party.

Should the third party fail to appoint the arbitrators in the manner and within the period specified in the arbitration agreement, the parties may request the Commission to appoint the arbitrators. In any case, arbitrators must be accredited or must belong to organizations accredited for the purpose of arbitration.

Electronic filing and monitoring system

As part of efforts to improve ease of doing business in the country, the Revised Corporation Code mandated the Commission to develop and implement an electronic filing and monitoring system.

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The SEC is mandated to promulgate rules to facilitate and expedite, among others, corporate name reservation and registration, incorporation, submission of reports, notices, documents required under the Code, and sharing of pertinent information with other government agencies.

So far, the Commission has implemented a fully automated and online company registration system for the pre-processing of corporations and partnerships, licensing of foreign corporations, amendments of the articles of incorporation and other corporate applications requiring its approval.

Participation via remote communication, in absentia

To ensure optimal stockholder participation, meanwhile, the Revised Corporation Code will allow the use of remote communication such as such as videoconferencing and teleconferencing during stockholder meetings. Stockholders may also participate and vote in absentia.

The Commission shall issue the rules and regulations governing participation and voting through remote communication or in absentia, taking into account the company's scale, number of shareholders or members, structure, and other factors consistent with the protection and promotion of shareholders' or members' meetings.

Directors or trustees may also participate and vote in regular and special meetings through remote communication. However, they cannot join or cast their votes by proxy at board meetings.

"Collectively, the amendments are aimed at encouraging entrepreneurship and the formation of new businesses, improving the ease of doing business in the country, promoting good corporate governance, increasing protection afforded to corporations and stockholders, and deterring corporate abuses and fraud," Mr. Aquino noted.

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