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REGIONAL ROUND-UP 2023: PHILIPPINES



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Introduction



Throughout the year, we have been keeping you up to date on noteworthy developments across the region with our Regional Round-up Publications. As we enter 2024, we are pleased to share with you our *2023 year-in-review of the Regional Round-up* for our Regional Offices in the Rajah & Tann Asia network.

In each jurisdiction, we recount the key milestones in the path that has been travelled in 2023, as well as consider the terrain of the road that lies ahead in 2024. In the "**Looking Back: 2023**" section, we take stock of the past year and highlight the key legal and regulatory developments affecting each jurisdiction in 2023. In the "**Gazing Into: 2024**" section, we look ahead to some key areas of development that you should take note of in the year to come, referencing the legal and business trends shaping up potential legislative and regulatory changes in each jurisdiction.

We hope that this year-in-review edition of the Regional Round-up provide some perspective and insight into the legal landscape of the jurisdictions across the region. As always, please feel free to contact our lawyers in our Regional Offices if you have any queries or for further discussions.

Please click on the links below to access the full collection of our country-specific *2023 year-in-review of the Regional Round-up*:

- [Cambodia](#)
- [China](#)
- [Indonesia](#)
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- [Myanmar](#)
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Looking Back: 2023

*The legal developments in 2023 mainly centre around the Government's efforts to adopt mechanisms to improve existing laws/frameworks and impose standards in various fields of law. To make transactions with the Government easier, the Government is gradually embracing the use of technology, either as an initiative or an improvement to an existing framework, in the areas of **data privacy**, **intellectual property**, and **digital banking**. Similarly, for **investments**, government institutions are now mandated to establish mechanisms to facilitate doing business in the country. In the **financial sector**, the Government has proposed guidelines for the sustainable finance taxonomy and in the assessment of returns of unit investment trust funds to help stakeholders make informed decisions. Finally, a decision of the Highest*

*Court sets out the public policy exception in confirming or denying **arbitral awards** regardless of the timeliness of their filing.*

Summaries of the key developments relating to the above areas are provided below.

Data Protection – NPC Launches Online Registration Database

The National Privacy Commission ("**NPC**") launched the NPC Registration System ("**NPCRS**") which is an online portal for the registration of newly implemented data processing systems (DPS) or inaugural Data Protection Officer of Personal Information Controllers ("**PIIC**") or Personal Information Processors ("**PIP**"). The NPCRS has eased compliance with the Data Privacy Act by allowing both the Government and private organisations, considered as PIC and PIP, respectively, to register their data processing systems digitally. Click [here](#) for more information.

Intellectual Property – IPOPHL to Adopt Cloud Computing Strategies for IP Registration Services

The Intellectual Property Office of the Philippines ("**IPOPHL**") has been exploring the possibility of moving its Intellectual Property registration services from the current Intellectual Property Administration System ("**IPAS**"), IPAS 3.x, to the Cloud in 2024. In 2023, IPOPHL has been navigating the IPAS 4 test version to prepare for the transition in 2024. Established in 2012, IPAS 3.x will transition to IPAS 4.0 with the aim of improving internal processes and efficiencies in data management. Click [here](#) for more information.

Banking & Finance – BSP Mandates Full Adoption of QR Ph Codes for All QR-Code Enabled Payments

The Bangko Sentral ng Pilipinas ("**BSP**") approved the guidelines for the transition to the use of National Quick Response ("**QR**") Code Standard ("**QR Ph**") for all QR code-enabled payment services. The guidelines require BSP-supervised financial institutions acting as payment service providers ("**PSPs**") and all other PSPs to use and display their QR Ph on their internet and mobile channels



starting 1 July 2023. BSP's adoption of QR Ph provides a solitary and more consistent payment mode for electronic transactions, thereby encouraging the greater use of digital payments in the country. Click [here](#) for more information.

Corporate Commercial – Green Lanes for Strategic Investments Established to Facilitate Doing Business in the Philippines

Executive Order No. 18 ("EO No. 18"), signed on 23 February 2023, mandates government agencies institutions to establish Green Lanes and One-Stop-Action-Center for Strategic Investments ("OSAC-SI"). OSAC-SI serves as the single point of entry for all projects that qualify as strategic investments, and endorses these projects to the appropriate Green Lane. Strategic investments are those aligned with the Philippine Development Plan or any similar national development plan and are classified as (i) Highly Desirable Projects, (ii) Foreign Direct Investments, or (iii) Projects or Activities under the Strategic Investment Priority Plan. Click [here](#) for more information.

Sustainable Financing – Financial Sector Forum Releases Proposed Philippine Sustainable Finance Taxonomy Guidelines for Public Consultation

The Financial Sector Forum released its Proposed Philippine Sustainable Finance Taxonomy Guidelines ("Proposed SFTG") for public consultation on 18 September 2023 as a response to the Philippine Sustainable Finance Roadmap which seeks to incorporate Environmental, Social and Governance ("ESG") factors into the corporate plans and daily operations of financial institutions, regulators, and other stakeholders. The Proposed SFTG is an initiative of the Government which aims to establish a common understanding as to what constitutes "sustainable" economic activity and to classify an economic activity as environmentally or socially sustainable. It shall serve as a guide for stakeholders to make an informed decision when investing, financing, purchasing, or monitoring, among others, an asset, product, project, activity, company, or portfolio. Click [here](#) for more information.

Banking & Finance – BSP Issues New Guidelines for UITF Benchmarks

The Bangko Sentral ng Pilipinas issued Circular No. 1178 ("Circular") on 9 August 2023. The Circular provides guidelines on the use of benchmarks in assessing the returns of Unit Investment Trust Funds ("UITF") to enable UITF participants to gauge the performance of their funds vis-à-vis a comparable market indices or portfolios. The Circular sets the characteristics of a valid benchmark for a UTIF. Two of these characteristics are: (i) the benchmark is a total return benchmark; and (ii) it reflects returns that are net of taxes. If the subject benchmark does not have either or both of these characteristics, the trustee is mandated by the Circular to disclose the same in a Key Information and Investment Disclosure Statement ("KIIDS"). The KIIDS must contain the key features of the UITF, its performance against a benchmark, as well as its prospective and outstanding investments. Click [here](#) for more information.

Arbitration – Supreme Court Discusses the Period to Confirm a Domestic Arbitral Award and the Public Policy Exception to the Enforcement of Arbitral Awards

The Supreme Court, in its *en banc* decision in *Maynilad Water Services, Inc. v. National Water and Resources Board, et. al* dated December 7, 2021 (but which was only published on 22 May 2023), held that an arbitral award, even if timely filed, may be denied confirmation if it violates public policy. The Special Alternative Dispute Resolution ("SADR") Rules provide that petitions for confirmation of arbitral awards may be filed at any time after the lapse of 30 days from receipt by the petitioner of the arbitral award. However, under the SADR Rules, the recognition or enforcement of an arbitral award may be denied if it would be contrary to public policy, i.e. against the "State's fundamental tenets of justice and morality, or would blatantly be injurious to the public, or the interests of the society". Click [here](#) for more information.

Gazing Into: 2024

*Legal developments across the country have flourished in 2023 as seen in government agencies tightening their guidelines in enforcing laws in the **labour sector** and the **finance sector**. New developments are taking place in the area of **corporate sustainability**, with a new set of guidelines ready to be implemented in 2024. Developments are also sought to be introduced in the **agriculture sector** as bills make their way to the legislative arm of the Government. Finally, the Judiciary revisits the decisions by the Highest Court to define a legal framework conducive to the development of a free, vibrant, and competitive market. This is a significant effort in the fairly new legislation in the area of **competition law**.*



Summaries of some of the 2023 developments leading to the trends highlighted above are provided below.

Employment – DOLE Strengthens its Exercise of Visitorial and Enforcement Powers

The Department of Labor and Employment ("**DOLE**") issued Department Order No. 238, Series of 2023 ("**Order**") with the aim to further strengthen the visitorial and enforcement power of the Secretary of Labor under Article 128 of the Labor Code of the Philippines and under Republic Act No. 11058 (otherwise known as "An Act Strengthening Compliance with Occupational Safety and Health Standards and Providing Penalties for Violation Thereof"). The Order introduces three approaches in the administration and enforcement of labour standards, and requires employers to maintain employee records and to present proof of compliance with labour standards and mandatory workplace policies during inspection. It also empowers DOLE to endorse findings of non-compliance to the Social Security System, the Home Developmental Fund, and the Philippine Health Insurance Corporation for their appropriate action.

Money-Laundering – AMLC Amends Guidelines for DNFBPs to Now Require Lawyers to Report Suspicious Transactions

The Anti-Money Laundering Council ("**AMLC**") recently issued AMLC Regulatory Issuance ("**ARI**") No. 02-2023 which amends certain provisions of ARI No. 03-2021, otherwise known as the "2021 Anti-Money Laundering/Counter-Terrorism Financing Guidelines for Designated Non-Financial Businesses and Professions". The amendment requires lawyers, classified as Designated Non-Financial Businesses and Professions ("**DNFBPs**"), to report not only covered transactions under the Anti-Money Laundering Act ("**AMLA**") but also suspicious transactions, whether completed or merely attempted. Suspicious, are transactions, regardless of amount where any of the suspicious circumstances as defined in the AMLA exists.

Sustainable Financing – Revised Sustainability Reporting Guidelines for Publicly Listed Companies

The Securities and Exchange Commission ("**SEC**") is set to release the Revised Sustainability Reporting Guidelines for Publicly Listed Companies in 2024. The revised guidelines aim to update the current rules on sustainability reporting, which took effect in 2019, to recognise and integrate the latest developments in global sustainability reporting frameworks, notably International Financial Reporting Standards ("**IFRS**") S1 (General Requirements for Disclosure of Sustainability-related Financial Information) and IFRS S2 (Climate-related Disclosures), both of which are fully aligned with the recommendations of the SEC's Task Force on Climate-related Financial Disclosures.

pharmaceutical industry, anticompetitive practices through licensing in ASEAN markets, the rise of artificial intelligence and IP on digital platforms, promotion of market access in biotechnology, and the relevance of competition to technology transfer.

Real Estate – House of Representatives Approves Proposed Amendment to Real Estate Investment Trust Act of 2009 on Third Reading

The Philippine House of Representatives recently approved an amendment to the Real Estate Investment Trust ("**REIT**") Act of 2009. Under the amendment, proceeds realised from the sale of REIT shares or other securities must be reinvested in the Philippines within one year from the sale through a reinvestment plan. Such reinvestment into the Philippine economy will encourage the growth of more infrastructure projects within the country. The amendment is now pending Senate action.

Competition & Anti-trust – Philippine Chief Justice Gesmundo Tackles Recent Contribution of the Supreme Court to the Philippine Competition Act at the 10th ASEAN Competition Conference

At the 10th ASEAN Competition Conference ("**ACC**") held in Manila on 29 November 2023, Supreme Court Chief Justice Gesmundo in his keynote address stressed that, with its recent decisions, the Supreme Court has defined a legal framework conducive to the development of a free, vibrant, and competitive market. This includes the issuance of rules governing inspection orders for Philippine Competition Commission ("**PCC**") administration, and decisions that clarified and defined the powers of PCC and provisions of the Philippine Competition Act. The 10th ACC discussed topics such as intellectual property ("**IP**") regulation in the

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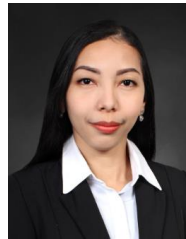


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