Bangko Sentral capital buildup seen stalling if it funds Maharlika

THE central bank said its plan to build up capital to P200 billion could be delayed if legislation obliges it to supply seed capital to the proposed Maharlika Investment Fund (MIF).

Bangko Sentral ng Pilipinas (BSP) Deputy Governor Francisco G. Dakila, Jr. told the Senate banking committee, which is evaluating a bill setting up the sovereign wealth fund, that the bank could take 14 years to reach its target capitalization if it is designated the primary source of Maharlika capital.

The BSP's capital buildup, if the proposed Maharlika Investment Fund Act becomes law, could take "about 14 years, as opposed to about half of that (if the bank does not fund Maharlika), but that's just a rough estimate," he told the Senate.

Senator Maria Lourdes Nancy S. Binay had been asking for detailed capital buildup scenarios for the BSP should the measure not pass.

If signed into law, the measure will require the BSP to contribute 100% of its dividends to the sovereign wealth fund in the fund's first two years.

After that period, the central bank's contribution drops to 50% of its dividends, with the remaining 50% to be deposited into a special account holding the capital buildup funds.

"The impact of the provisions would be a slight delay in the completion of the BSP's capital buildup," Mr. Dakila said.

The timeline was based on previous distributions of bank earnings, with dividends in 2020 amounting to P40.5 billion, in 2021 P16.35 billion and in 2022 P17.41 billion, according to the BSP.

"On average, you will lose about P20 billion a year, so that's about P40 billion in two years," Senator Sherwin T. Gatchalian said.

"On the one hand, you're saying that you need to strengthen the regulator; on the other hand, you're not doing that, you're willing to forgo (the capital buildup)," he added. "If you come back here and ask to increase your capital, how can we trust you?"

Mr. Dakila said the BSP is required by law to remit at least 50% of its earnings to the National Government. "That dividend is government-owned."

However, Mr. Gatchalian said the law also states that "any and all declared dividends of the Bangko Sentral in favor of the National Government shall be deposited in a special account in the general fund and earmarked for the payment of the Bangko Sentral's increase in capitalization."

"We do not see these provisions as impinging on the BSP's ability to achieve its mandate," Mr. Dakila said, noting that the BSP's balance sheet was "strong" and "improved."

"I don't see any improvement," Mr. Gatchalian said. "The capitalization is still P60 billion, the target is P200 billion, so where's the improvement there?"

"We really need to review the mandates because in the charter, it's very clear that we need to increase the capitalization," he added.

Foundation for Economic Freedom (FEF) President Calixto V. Chikiamco, speaking at the hearing, said that the organization does not object to the creation of the fund, but "the BSP and GFIs (government financial institutions) should be removed as funding sources, the primary objective of (Maharlika) should be clarified..., and the level playing field should not be tilted in favor of the MIF."

The FEF noted the need for "a strong BSP in an era of economic and geopolitical uncertainty."

According to the FEF position paper, "this could put the independence and credibility of the country's sole monetary authority at risk because it preempts the use of its declared income to the MIF rather than to build up its equity base as prescribed by its amended charter."

"This would be problematic, since the BSP's ability to perform its mandate of safeguarding price and financial stability is also determined by the adequacy of its financial resources," it added. "With lower capitalization, the BSP's conduct of monetary policy could be seriously impaired."

Mr. Chikiamco also said that it was not clear under the bill if other funders like the Land Bank of the Philippines (LANDBANK) and the Development Bank of the Philippines (DBP) will have some sort of voting control within Maharlika.

He warned of moral hazard if the two big government banks are Maharlika funders, referring to the incentive to behave recklessly because the state-owned banks enjoy government backing and are strong candidates to be bailed out under most circumstances.

He also warned of systemic risk to the banking system if Maharlika books losses.

"The devaluation of the MIF will translate to losses to the DBP and LANDBANK, so it can light a fire with the rest of the banking system," he added. "The capital of DBP and LANDBANK will erode and this may... result in financial contagion."

The bill calls for P50 billion of the fund's initial capital to be provided by LANDBANK, or 3.8% of its P1.3 trillion in investible funds, and P25 billion by the DBP or 3.1% of its P800 billion in investible funds.

The bill will also require the Philippine Amusement and Gaming Corp. and other gaming operators contribute at least 10% of their gross gaming revenue. Other proposed sources include royalties and special assessments on natural resources, proceeds from the privatization of government assets, as well as debt to be taken on by Maharlika. — **Alyssa Nicole O. Tan**

Senate pledges adequate oversight as RCEP bill elevated to plenary

SENATORS sponsored out to the plenary the bill providing the chamber's concurrence to the Regional Comprehensive Economic Partnership (RCEP), while pledging to exercise adequate oversight when the trade agreement is implemented.

Senate President Pro Tempore Lorna Regina B. Legarda, who co-sponsored the legislation, said accession to RCEP comes with strengthened governance.

"Attached to the resolution that we have sponsored is the establishment of the oversight committee on RCEP implementation to monitor and ensure that the promised aid for the agricultural sector, including the allocation of the budget and financial and technical assistance to our farmers," she said during her privilege speech.

She said deliverables will be monitored corresponding to the funding given, and that structural reforms will be pursued if necessary if RCEP threatens to disadvantage domestic industries like agriculture.

Ms. Legarda also vowed to "ensure that our MSMEs (micro, small and medium enterprises) are supported, so they can take advantage of the opportunities in the RCEP, and to require stronger public-private cooperation and partnership."

The Senate has said that it will monitor RCEP's impact in consultation with economic managers and affected industries.

RCEP, which started taking effect on Jan. 1, 2022 in the various jurisdictions, involves Australia, China, Japan, South Korea, New Zealand and the 10 members of the ASEAN.

The Philippines has yet to join RCEP as the Senate was unable to ratify the agreement before adjourning on Feb. 3. President Rodrigo R. Duterte signed the trade agreement on Sept. 2.

Ms. Legarda called for the departments of Agriculture and Trade and Industry, among others, to give due importance to the interests of the agriculture and other affected industries.

Ms. Legarda also noted the need to ensure transparency to optimize the benefits of global and regional trading systems offered not just by RCEP, but also other multilateral and bilateral trading systems.

"Share information that will allow our sectors to grow and be informed of the vast opportunities in the domestic, regional, and global marketplace," she said. "Use data to drive production efficiency."

"All promised programs (to improve industry competitiveness) must have a due date," she said. "There is no forever and it is forbidden to wait endlessly for the promised aid to our farmers and sectors that need help."

"We cannot be competitive based on promised assistance to our ailing sectors," Ms. Legarda said. "We need concrete action to be delivered fast."

Senate President Juan Miguel F. Zubiri, also a co-sponsor of the trade deal, said at the plenary. "Full house, full support."

He has said that the Senate is working to ratify the RCEP within the first quarter. — **Alyssa Nicole O. Tan**

PHL exposed to LNG spot market volatility as Malampaya supply dwindles — Fitch

THE PHILIPPINES will need to turn to the volatile spot market for liquefied natural gas (LNG) with major power producers currently dependent on dwindling Malampaya gas yet to conclude long-term import agreements, Fitch Solutions Country Risk and Industry Research said in a report.

"None of the power producers has secured long-term LNG supply agreements, which could leave the Philippines entirely exposed to spot prices. The Philippines needs to ramp up LNG imports for long-term supply security but the levels of imports will be dependent on its ability and willingness to pay for LNG," Fitch Solutions said in a Feb. 14 report.

Fitch Solutions warned that Philippine self-sufficiency in natural gas is expected to come to an end as the Malampaya gas field, the country's only indigenous commercial source of natural gas, will soon be unable to supply easy-to-extract gas.

Service Contract (SC) 38, which covers the Malampaya gas field, is set to expire next year, though a 15-year renewal has been sought by the concession holders.

The Malampaya gas field, which began commercial operations in 2002, supplies power plants in Batangas accounting for 20% of Luzon's total electricity requirements, the Department of Energy (DoE) said. Depletion of the easily-extracted gas is expected by 2027, possibly forcing the SC 38 operators to resort to more costly methods for tapping the remaining gas.

Fitch Solutions said that the Malampaya depletion may result in permanent loss of domestic gas supplies, leaving the Philippines with a significant natural gas deficit.

"Unless gas can be produced from domestic sources, the Philippines will need to rely exclusively on imported LNG going forward," it added.

To date, the DoE has approved seven LNG receiving terminal projects.

Last month, Samat LNG Corp. was given notice to proceed with the construction of its small-scale LNG receiving terminal and regasification facility in Mariveles, Bataan. It is expected to start operations in 2024.

The other LNG projects are by Linseed Field Power Corp.; First Gen Corp.; Luzon LNG Terminal, Inc.; Energy World Gas Operations Philippines, Inc.; Shell Energy Philippines, Inc.; and Vires Energy Corp.

Linseed, an arm of Atlantic Gulf & Pacific Co., said that it has completed the conversion of a vessel into a floating storage unit for gas. The company is expected to start taking delivery of gas by March.

First Gen Corp., through its subsidiary FGEN LNG Corp. has announced that its LNG terminal will also be completed by the first quarter.

"The Philippines needs to ramp up LNG imports for long-term supply security but the level of imports will be dependent on its ability and willingness to pay for LNG. Any upside risk to LNG prices could derail the LNG import outlook given the power sector's inherent sensitivity to fuel price increases in combination with the government's policy to keep electricity prices affordable for consumers," Fitch Solutions said.

Fitch Solutions warned that the government's push to expand the share of renewable energy in the power mix could pose risks to natural gas consumption by the power sector.

The Philippine Energy Plan targets an increase in the share of renewables to 35% by 2030 and 50% by 2040.

"The outlook for gas consumption remains bullish in both reference and clean energy scenario (CES), but there are downside risks to gas consumption if the government chooses to pursue renewables under the CES scenario rather than natural gas," the report said.

The report said imports of about 9 million tons per annum will be needed to power about 12 gas-fired power plants when Malampaya stops production.

Currently, five existing power plants with combined capacity of 3,453 megawatts are supplied by Malampaya.

The DoE has approved another seven gas-fired power plants with a combined capacity of 7.1 gigawatts.

Prime Infrastructure Capital, Inc. (Prime Infra), which holds a 45% share of the Malampaya concession, downplayed talk of the gas field's depletion.

Last week, Prime Infra President and Chief Executive Officer Guillaume Lucci said "depletion" refers only to declining pressure in the Malampaya gas field, with the option open to use other methods for extracting the remaining gas.

Prime Infra holds its 45% stake via subsidiary Prime Energy Resources Development BV (Prime Energy). The other consortium members are UC38 LLC and PNOC Exploration Corp., with 45% and 10% stakes, respectively. — **Ashley Erika O. Jose**

OPINION

Forging ahead with RPS assessments

TAXWISE OR OTHERWISE

CRYSTABELLE CRUZ LUCAS

Automation with the use of proper tools has key advantages, such as efficient utilization of resources with minimal human intervention, elimination of manual repetitive tasks, and increased productivity and profits. Adopting automated systems often results in positive yields in the long run. In fact, the Philippine government is also heading towards automation and digital transformation, with billions of pesos from the national budget allotted for this purpose. Evidently, digitalization is pushing forward, and automation is happening more quickly.

More specifically, the Bureau of Internal Revenue (BIR) has embrace transformation by enhancing its systems and processes to better achieve its purpose — to collect taxes through the enforcement of tax law. In January, the BIR issued Revenue Memorandum Circular No. 7-2023 clarifies the Return Processing System (RPS) Assessment.

RPS is the BIR's information system that processes taxpayer returns. The system is designed to detect: (i) a tax return filed late, where no corresponding penalties were paid, (ii) a tax return filed with declared tax due, where no corresponding payment was detected, or (iii) a tax return filed with tax due, with only partial payment detected. The system will generate an "RPS Assessment" once it has identified any of the above circumstances. Based on the RPS findings, the Large Taxpayers Document Processing and Quality Assurance Division will issue an RPS Assessment notice to inform the concerned taxpayers of their taxes still due for payment. Failure to settle the outstanding amount within the prescribed timeline indicated in the notice will result in the enforcement of collection remedies for delinquent tax liabilities.

Remember that tax returns contain a written statement that they are made under penalty of perjury. Hence, if the taxpayer willfully files a return with this declaration, it is expected that the information contained therein has been made in good faith and is verified by the taxpayer to be true and correct pursuant to the Tax Code. Thus, the moment the taxpayer fails to pay the declared tax payable in the return within the prescribed due date, the BIR considers it a "delinquent account" arising from a self-assessed tax liability from tax returns filed by the taxpayer himself.

The Tax Code expressly specifies the remedies for the collection of delinquent taxes. The BIR may collect through distraint of personal property and by levy upon real property including interest and rights therein, or through civil and/or criminal action per discretion of the authorities in charge of the collection of such taxes. In 2019, the BIR clarified that a Preliminary Collection Letter (PCL) and a Final Notice Before Seizure will no longer be sent to delinquent taxpayers. Upon validation by the collection enforcement office, a warrant of distraint, levy, and/or garnishment is to be immediately issued. Once received, the warrant is deemed sufficient authority to the person owning the debts or having in his possession or control any credits belonging to the taxpayer, to turn them over to the government. Having said this, the delinquent taxpayer's assets will be put on hold and will be reserved as settlement for the assessed amount.

The RPS Assessment is not synonymous with an assessment notice arising from a tax audit where the taxpayer has the chance to dispute the assessment. Considering that the contents of the RPS Assessment are based on the taxpayer's own declaration in the filed tax return, and that no books of account and accounting records are to be examined or subjected to audit, the issuance of a Letter of Authority is not required. Hence, upon receipt of the RPS Assessment, the assessed delinquent taxes should be settled immediately. Otherwise, the taxpayer may face a perjury case punishable by imprisonment under the law.

Previously, RPS Assessments were only used as bases for preparing PCLs to be sent to delinquent taxpayers. Following this clarificatory issuance from the BIR, RPS Assessments will be used to protect the interest of the government and to immediately collect what is due to the government. Hence, as part of the BIR's civil or administrative remedies under the Tax Code, the RPS Assessment notice is now considered a Collection Letter used to administer collection of delinquent accounts.

It may be advisable for taxpayers to secure from the BIR a list of open cases to identify and verify the tax returns that it has allegedly failed to file since it may be inferred that an unfiled return is tantamount to unpaid taxes. Now that the filing of the annual income tax return draws near, taxpayers should file their returns early and secure a copy of the tax return receipt confirmation for filers using the e-BIR forms package or the filing reference number for filers using the Electronic Filing and Payment System, and importantly, to settle the tax payable on time and secure a payment confirmation from the bank to avoid being tagged as a delinquent account in the RPS. Note that this also applies to all kinds of taxes where tax returns have been willfully filed by the taxpayer.

The BIR has been continuously intensifying its tax collection efforts and cleaning up its accounts receivable and delinquent accounts. Now, the Bureau is taking advantage of automation for monitoring tax compliance and collecting taxes rightfully due to the government. Taxpayers, on the other hand, should not waver in their own efforts and consider tax in their digital transformation journey to enhance their compliance.

The views or opinions expressed in this article are solely those of the author and do not necessarily represent those of Isla Lipana & Co. The content is for general information purposes only, and should not be used as a substitute for specific advice.

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