PHL seeks $400-million digital transformation loan from WB

THE PHILIPPINES is seeking a $400-million loan from the World Bank (WB) to support digital transformation initiatives.

"The proposed operation in the amount of $400 million is the first of a programmatic series of two development policy loans (DPLs) that aims to assist the government of the Philippines to foster an enabling environment for digital transformation, to boost inclusive and resilient economic growth," according to a document uploaded on the World Bank website.

The World Bank is expected to approve the Philippines' first digital transformation development policy financing on Dec. 8.

The project aims to improve digital government service delivery, and foster pro-competition infrastructure policies; expand financial inclusion for individuals and firms through digital finance; and boost business growth in digital services.

"Digitalization has a large potential to increase productivity by reducing firms' operational costs and allowing them to reap economies of scale," the World Bank said.

"Digital platforms and services offer great potential for helping build resilience and preparedness against future crises and for mitigating and adapting to climate change. Digital finance is (also) a key enabler of financial inclusion and women's empowerment," it added.

In January, the bank approved a $600-million loan to strengthen the financial sector's stability and resilience.

As of 2021, the World Bank's loans and grants represented 24% of official development assistance (ODA), making it the Philippines' third-largest source of ODA.

This year, the National Government expects to obtain around $19.1 billion worth of ODA, with around $9.2 billion worth of loans coming from multilateral development partners. — **Luisa Maria Jacinta C. Jocson**

DoJ says 2007 SC ruling not applicable to procurement issues

THE Department of Justice (DoJ) said a 2007 Supreme Court (SC) ruling on "extraordinary inflation" cannot be applied to price escalation clauses in government procurement contracts.

"The pronouncement of the Supreme Court on the requisites of extraordinary inflation (or deflation) in order to affect an obligation is specific to the factual circumstance in the Equitable (PCI Bank) case and may not be interpreted to extend to a different set of facts, such as the determination of price escalation claim under the law," Justice Secretary Jesus Crispin C. Remulla said in a legal opinion addressed to National Economic and Development Authority (NEDA) Undersecretary Joseph J. Capuno. "The 2007 ruling has factual circumstances specific only to the case."

Mr. Capuno had sought guidance on whether a certification of extraordinary inflation from the Bangko Sentral ng Pilipinas (BSP) was an absolute requirement for price escalation requests by contractors on government projects.

Price escalation is an increase in the contract price due to basis of "extraordinary circumstances" as determined by NEDA, according to the Government Procurement Policy Board (GPPB).

The DoJ recommended that NEDA consult the (BSP) and the GPPB on price escalation requests.

"This time-honed policy of consulting is dictated not only by practical considerations but by a sincere respect for the expertise on, and familiarity with, the policies relating to the subject, and the rightful exercise of jurisdiction by a co-equal and coordinate government offices," Mr. Remulla said.

He said that a court may adhere to previous jurisprudence and apply it to future cases where the factors are "substantially the same."

The Justice secretary said that at the time of the 2007 decision, there was an absence of guidelines or policy to determine instances of extraordinary inflation.

"To rule on the query would inevitably involve the correctness of the ruling or interpretation of the Supreme Court which is beyond our authority to review."

Under the High Court ruling, extraordinary inflation exists when there is an unusual decrease in the purchasing power of a currency that could not be "reasonably foreseen."

The Government Procurement Act allows price escalation only under "extraordinary circumstances" and with the approval of the GPPB. — **John Victor D. Ordoñez**

Removal of rooftop solar restrictions expected to reduce PHL dependence on imported fuel

NUNO MARQUES-UNSPLASH

THE 100-kilowatt (kW) restriction on solar rooftops should be removed to encourage the installation of more such facilities by homes and businesses to reduce the Philippines' dependence on imported fuel, Senator Sherwin T. Gatchalian said.

"Rooftops are the new real estate. They cannot install more than 100 kilowatts, for a factory that is small… we need unlock that potential by removing the 100-kW cap. To harness potential of rooftops no matter what the size is, we have to remove that," Mr. Gatchalian, vice-chairman of the Senate's energy committee, told reporters on an energy forum last week.

The net metering scheme that makes solar installation attractive is open only to users with up to 100 kW. Net metering allows solar panel owners to feed their excess energy back onto the grid, with their contributions netted out of their power bills.

"What we want is to use the rooftops to generate power so that we reduce our dependence on imported fuel, that is the concept there. Again, we need to make sure there are no disruptions in the grid," he said.

Mr. Gatchalian said removing the 100-kW limit will encourage more customers to invest in renewable energy.

The Energy Regulatory Commission (ERC) estimates that at the end of 2021, there were 7,583 participants in the net metering scheme — 6,120 in Luzon, 1,168 in the Visayas, and 295 in Mindanao.

The ERC said that the aggressive implementation of the net metering program can help protect customers from rising electricity costs. — **Ashley Erika O. Jose**

Tariff Commission begins review on Turkish wheat flour anti-dumping duties

THE Tariff Commission (TC) said it has launched a second review on anti-dumping duties charged on wheat flour imports from Turkey, which are due to expire this year.

The TC said it will conduct a preliminary conference on March 28 on the recommendation of the Department of Agriculture, following a request by the Philippine Association of Flour Millers, Inc. (PAFMIL).

The anti-dumping duty on Turkish wheat flour imports is set to expire in late 2023.

"All interested parties, including parties on record in the first expiry review investigation on the anti-dumping duty imposed against importations of wheat flour from the Republic of Turkiye are required to appear at the preliminary conference on March 28 at 10 a.m.," the TC said in a notice posted on its website dated March 20.

"Pursuant to Section 711 of Republic Act No. 10863 or the Customs Modernization and Tariff Act, which adopted the provisions of RA No. 8752 or the Anti-Dumping Act, notice is hereby given that the TC has initiated on March 20 its second expiry review on the anti-dumping duty imposed against importations of wheat flour from the Republic of Turkiye…," it added.

In September 2020, the TC approved the three-year extension of the anti-dumping duty on Turkish wheat flour imports ranging from 2.87% to 29.57% until 2023, having ruled that the termination would result in the "continuation or recurrence of dumping."

The three-year extension was approved following the expiry of the anti-dumping duty on Turkish wheat flour imports imposed between 2015 and 2020, which ranged from 2.87% to 16.19%, after the TC determined that there was an imminent threat of injury to the domestic industry.

In a separate TC hearing last week, the PAFMIL also urged the TC to consider the retention of the zero percent most favored nation (MFN) duty on milling wheat imports and the retention of 7% MFN duty for wheat flour imports for the upcoming 2024 to 2028 tariff schedule.

The group's executive director, Ric M. Pinca, said that the MFN duty for wheat flour should be maintained since the domestic industry has enough capacity to meet wheat flour demand. — **Revin Mikhael D. Ochave**

IMMO WEGMANN-UNSPLASH

OPINION

Effective internal controls: A vital enabler for private companies

SUITS THE C-SUITE

KRISTOPHER S. CATALAN *and* DWAYNE G. IGNACIO

Change is inevitable, and we know this now more than ever. The technological disruptions that were hastened by the exigencies of the pandemic have now become widely accepted and mainstream, with such changes continuing to grow more rapidly each day.

The pace of change in organizations has also accelerated. As a response to risk events such as cybersecurity breaches and fraud, especially during the pandemic, organizations had to quickly reinforce controls to protect their assets and manage compliance, reputational and legal risks. Regulatory activities have increased over the last several years in response to these events, and recently, as a result of corporate failures from previous decades, have become a race to adopt a compliance-focused mindset.

With the pandemic slowing down, some companies are now re-aligning risk management with changes in business models and emerging risks in the face of disruption and technological advancements. This is challenging for private companies, especially for small- and medium-sized enterprises (SMEs), which are recovering lost growth and managing transitions to more resilient business and operating models while simultaneously meeting new demands from internal and external stakeholders.

Private companies have an opportunity to clarify or reinforce the roles and responsibilities within their internal control environment, stressing that management is responsible for internal controls. Enhancing internal controls by formalizing *ad hoc* practices, creating units or departments that will complement the monitoring functions of existing business units (such as the compliance department or risk management unit) or strengthening internal audit are some ways to respond to the emerging risks.

Controls need to respond to the challenges of ever-changing business and regulatory landscapes. Private companies cannot just focus on growth today; they need to level up to ensure they protect their future.

CREATING A WELL-DEFINED GOVERNANCE STRUCTURE

Clear reporting lines and a strong governance structure play important roles in any organization's internal control environment. A well-defined governance structure provides an end-to-end view of stakeholder involvement by clearly assigning process ownership and accountabilities, identifying the roles and those responsible for responding to risks, and ensuring that controls are working. It also describes how performance ratings of the control owners are linked to the effectiveness of the controls for which they are responsible.

Since maintaining a strong internal control environment normally involves people who work in various functions within the organization, the governance structure of a private company should be designed such that it enables effective coordination and communication across various business units. Having a well-defined governance structure in place also facilitates the timely reporting and analysis of any observations and findings on the effectiveness of controls. This in turn helps ensure that any weaknesses and deficiencies are identified, appropriate risk and impact assessments are performed, and remedial action is taken and implemented.

PERIODIC REASSESSMENT

When governance structures and internal controls are not regularly reassessed, private companies may struggle to keep up with the pace of disruption and change. With today's dynamic operating environments, controls that worked in the past may no longer be as effective today.

As complexity and disruption continue to rise in business, performing periodic reassessments enables private companies to evaluate whether the owners and management still have the appropriate level of oversight over business processes. It also helps private companies assess whether their current structure still fosters a culture of risk awareness and whether internal controls still work as effectively as intended. By periodically reassessing internal controls and their governance framework, private companies can also identify opportunities for improvement and optimization. This includes automating certain processes and controls as well as updating the controls mix in response to changes in the business.

AGILE RESPONSE

Private companies should stay on top of the changes in business, regulatory, tax and financial reporting requirements, and weigh any possible resulting risks to the organization. It is important that private companies have a process to identify these changes early and communicate them to those responsible for related processes and controls.

By being proactive, private companies can timely assess the impact of changing regulatory requirements on various functions across the organization, such as governance, technology, people, policy, processes and controls. This also helps facilitate an appropriate interpretation of the changes and their application to the business, enabling management to evaluate whether the current internal control environment remains adequately equipped to respond to the changes.

Private companies can stay abreast of these changes by regularly monitoring updates from organizations such as the Philippine Financial and Sustainability Reporting Standards Council (FSRSC) for accounting standard updates, the Securities and Exchange Commission (SEC), the Bureau of Internal Revenue (BIR) and other regulators for new developments and updated regulations. Private companies need to empower their C-suites, such as chief financial officers, chief risk officers or chief legal officers, to proactively discuss changes with the board and craft related action plans. When evaluating the impact that the changes have on the organization, private companies should also closely coordinate and work with their external advisors, experts and even external auditors to ensure that a holistic view of the impact is being considered.

TALENT RETENTION AND UPSKILLING

The success of sustaining an effective control environment also depends on the resources involved. Given the pace of change, private companies may need a workforce with a broad range of skills and competence. It is therefore important for private companies to consider whether current skillsets in the organization are sufficient in addressing its changing requirements. Given their growth strategies and the anticipated changes in their business, private companies should also consider whether these are the same skillsets they will need in the future to maintain an effective control environment.

Any gaps in skills should be evaluated for their impact on the organization. Similarly, the organization should identify solutions that can address gaps, such as expanding the sources of talent and upskilling the current workforce through partnerships with training and learning providers.

For private companies that are implementing new processes or migrating manual processes to technology-enabled solutions, it is important that, as part of the transition, the organization also evaluates whether the resources selected to monitor the scope and mix of internal controls continue to possess the necessary skills and competence.

BUILDING CONFIDENCE IN INTERNAL CONTROLS

The ability to respond to the challenges of today and the future by identifying and managing risks early is a vital enabler of success for any business regardless of its stage of growth. Since businesses with strong and effective internal control environments are in a better position to timely identify and mitigate risk, it is increasingly important for private companies to build confidence in their internal control environment if they are to succeed in navigating business and industry disruptions. Having effective internal controls, especially on financial reporting, builds confidence in the information that management uses. Suffice it to say, timely and reliable financial information are crucial in making impactful business decisions.

Investing now to manage the risks of the present and beyond is as crucial as spending to grow a business. In the long run, a strong and effective governance and internal control framework that is responsive to the changing business and regulatory environments will enable private companies to continually build and strengthen the right foundation to support their growth ambitions, comply with regulations, sustain long-term profitability and protect company value.

This article is for general information only and is not a substitute for professional advice where the facts and circumstances warrant. The views and opinion expressed above are those of the authors and do not necessarily represent the views of SGV & Co.

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