

23 JAN 12 P5:48

SENATE
S. No. 1670

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Introduced by Senator MARK A. VILLAR

AN ACT
ESTABLISHING THE MAHARLIKA INVESTMENT FUND, PROVIDING FOR THE
MANAGEMENT, INVESTMENT, AND USE OF THE PROCEEDS OF THE FUND,
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

It is the duty of the government to ensure that our country will attain economic transformation, growth, and sustainability. This can be attained by enacting a law that will be a powerful tool for sustaining high-impact infrastructure projects, urban and rural development, agricultural support, and other initiatives that would increase income and economic activity in the Philippines. Thus, this Maharlika Investment Fund bill should be passed for the achievement of the country's economic goals.

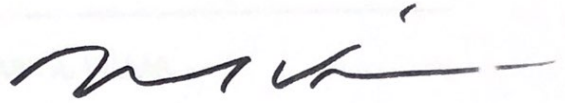
Under the proposed measure, the establishment of the Maharlika Investment Fund as well as the management, investment, and use of its proceeds shall adhere to the principles of good governance, transparency, and accountability.

The Fund will be sourced from the investible funds of the Land Bank of the Philippines, Development Bank of the Philippines, National Government (from the declared dividends of the Bangko Sentral ng Pilipinas), and other sources of funds as provided in the bill.

The Maharlika Investment Corporation shall be established to govern and manage the Fund. The Corporation shall act as a vehicle for the purpose of mobilizing and utilizing the Fund for investments in transactions that will enable the Fund to reap optimal returns on investments, while contributing to the overall goal of reinvigorating job creation and poverty reduction.

There shall also be created a Maharlika Investment Fund Joint Congressional Oversight Committee to oversee, monitor, and evaluate the implementation of the proposed measure. All documents of the Fund and the Corporation shall be open, available, and accessible to the public. Graft and corrupt practices shall not be tolerated and those who engage in such acts shall be penalized.

Given the foregoing, the approval of this bill is earnestly sought.



MARK A. VILLAR

AN ACT
ESTABLISHING THE MAHARLIKA INVESTMENT FUND, PROVIDING FOR THE
MANAGEMENT, INVESTMENT, AND USE OF THE PROCEEDS OF THE FUND,
AND ITS REGULATING FUNDS THEREFOR

Enacted by the Senate and House of Representatives of the Philippines in
Congress assembled.

Section 1. Title. - This Act shall be known as the "Maharlika Investment Fund
Act."

Sec. 2. Declaration of Policy. - It is the policy of the State to create jobs,
generate trade and exports, to foster an investment climate, enhance
competitively, attract investments, to improve living standards, and to
improve the quality of services, to ensure the growth and development of
the country, to protect the environment, to improve the welfare of Filipinos,
to ensure the growth and development of the country, to improve the
standards of living, and to ensure the growth and development of the
country.

Therefore, the State, the Senate and House of Representatives, in
investing the Fund by creating, establishing, and coordinating and strengthening the
investment activities of the country, the following goals shall be pursued:
to protect economic growth and development.

ARTICLE I

Declaration of Terms

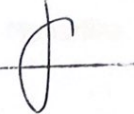
Sec. 1. Declaration of Terms. - As used in this Act:

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**AN ACT
ESTABLISHING THE MAHARLIKA INVESTMENT FUND, PROVIDING FOR THE
MANAGEMENT, INVESTMENT, AND USE OF THE PROCEEDS OF THE FUND,
AND APPROPRIATING FUNDS THEREFOR**

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

1 Section 1. *Title.* – This Act shall be known as the “*Maharlika Investment Fund*
2 *Act.*”

3 Sec. 2. *Declaration of Policy.* – It is the policy of the State to create jobs,
4 promote trade and investments foster technological transformation, strengthen
5 connectivity, expand infrastructure, achieve energy and food security. The State
6 recognizes the vital role of various investments in financial assets in promoting
7 economic growth, accelerating job creation, and improving the welfare of Filipinos.
8 The State acknowledges the need to preserve and optimize the use of government
9 financial assets, and promote intergenerational management thereof for
10 macroeconomic stability

11 Towards this end, the State shall establish an independent Maharlika
12 Investment Fund by investing national funds, and coordinating and strengthening the
13 investment activities of the country’s top-performing government financial institutions
14 to promote economic growth and social development.

ARTICLE I

Definition of Terms

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17 Sec. 3. *Definition of Terms.* – As used in this Act:

- 1 a) *Advisory Body* - refers to the body established under this Act which shall
2 provide guidance, counsel and advice to the Board of Directors of the
3 Maharlika Investment Corporation;
- 4 b) *Board of Directors (Board)*- refers to the governing body of the Maharlika
5 Investment Corporation;
- 6 c) *Founding Government Financial Institutions (Founding GFIs)* - refer to the
7 Land Bank of the Philippines (LBP) and the Development Bank of the
8 Philippines (DBP);
- 9 d) *Funding Sources* - refers to the investment required of the Founding GFIs,
10 the National Government, Philippine Amusement and Gaming Corporation
11 (PAGCOR), declared dividends of the Bangko Sentral ng Pilipinas (BSP), and
12 such other sources that may contribute to finance the Maharlika Investment
13 Fund;
- 14 e) *Independent Director* - refers to a person who is independent of
15 management and the controlling shareholder, and is free from any business
16 or other relationship which could, or could reasonably be perceived to,
17 materially interfere with his exercise of independent judgment in carrying
18 out his responsibilities as a director;
- 19 f) *Maharlika Investment Fund (MIF or Fund)* - refers to the fund created under
20 this Act;
- 21 g) *Maharlika Investment Corporation (MIC)* refers to the State investment
22 body, created under this Act which shall be responsible for the overall
23 governance and management of the MIF; and
- 24 h) "*Santiago Principles*" - refers to the 24 Generally Accepted Principles and
25 Practices (GAPP) voluntarily endorsed by the International Forum of
26 Sovereign Wealth Funds (IFSWF) members. The GAPP for Sovereign Wealth
27 Funds (SWFs) are designed as guidelines that assign best practices for the
28 operations of SWFs. They are the rules followed by SWF that promote
29 stability in the global financial system, set proper controls on investment
30 risks, and implement sound governance structure.

1 **ARTICLE II**

2 **Maharlika Investment Fund**

3 Sec. 4. *Establishment of the Maharlika Investment Fund.* – There is hereby
4 created a MIF, an independent fund, that adheres to the principles of good
5 governance, transparency, and accountability. Initially, the Fund shall be sourced from
6 the investible funds of select GFIs, from contributions of the National Government
7 from the declared dividends of the BSP and other sources of funds as provided in this
8 Act.

9 The Fund shall be used to invest on a strategic and commercial basis in a
10 manner designed to promote fiscal stability for economic development, and strengthen
11 the top-performing GFIs through additional investment platforms that will help attain
12 the National Government’s priority plans.

13 Sec. 5. *Ownership of the Maharlika Investment Fund.* – The legal ownership of
14 the MIF shall pertain to the Fund investors in proportion to their contributions.

15 Sec. 6. *Objectives of the Maharlika Investment Fund.* – The objectives of MIF
16 are to promote economic development by making strategic and profitable investments
17 in key sectors to preserve and enhance long-term value of the Fund, obtain the optimal
18 absolute return and achievable financial gains on its investments, and to satisfy the
19 requirements of liquidity, safety/security, and yield in order to ensure profitability. In
20 pooling the investible funds from the GFIs and channeling them to diversified financial
21 assets and development projects, the MIC’s activities shall contribute to a prudent and
22 transparent management of the government resources.

23 **ARTICLE III**

24 **Maharlika Investment Corporation**

25 Sec. 7. *Establishment of the Maharlika Investment Corporation.* – There is
26 hereby created the MIC, an independent corporate body, that shall act as a vehicle
27 for the purpose of mobilizing and utilizing the MIF for investments in transactions that
28 will enable the Fund to reap optimal returns on investments (ROIs), while contributing
29 to the overall goal of reinvigorating job creation and poverty reduction by steering the
30 economy back to its high-growth path. The MIC shall govern and manage the Fund in
31 accordance with the objectives and purposes set forth in this Act, and it shall adhere
32 to internationally-accepted standards of transparency and accountability. In addition

1 to the Codes of Ethical Standards and Proper Conduct that the Board shall establish,
2 the Corporation shall abide by the fit and proper rule under the implementing rules
3 and regulations of Republic Act No. 2629 or the Investment Company Act, Ethical
4 Standards under the Securities Regulation Code, and Ethical Standards set by the
5 International Organization of Securities Commissions and other significant
6 international organizations of investment entities.

7 All transactions of the MIC shall abide by the arm's length principle and the
8 prudent person rule.

9 The provisions of Republic Act No. 8799 or Securities Regulation Code, Republic
10 Act No. 8791 or the General Banking Law, Republic Act No. 2629 or the Investment
11 Company Act, their respective implementing rules and regulations, and other relevant
12 laws, rules, regulations, and issuances by regulating authorities governing transactions
13 with and among directors, officers, stockholders and related interests shall apply to
14 the MIC.

15 *Sec. 8. Place of Business.* – The MIC shall have its principal place of business
16 in Metro Manila, but may maintain branches, agencies and correspondents in such
17 other places, within and without the Philippines, as the proper conduct of its business
18 may require.

19 *Sec. 9. Corporate Powers.* – The MIC is hereby authorized to adopt, alter, and
20 use a corporate seal which shall be judicially noticed; to enter into contracts; to lease
21 or own real and personal property, and to sell or otherwise dispose of the same; to
22 sue and be sued; and otherwise to do and perform any and all things that may be
23 necessary or proper to carry out the purposes of this Act.

24 The MIC may acquire and hold such assets and incur such liabilities in
25 connection with its operations authorized by the provisions of this Act, or as are
26 essential to the proper conduct of such operations.

27 The MIC may compromise or release, in whole or in part, any claim of or
28 settled liability to the MIC, regardless of the amount involved, under such terms and
29 conditions as may be prescribed by the Board, upon favorable recommendation of the
30 Advisory Body, to protect the interests of the MIC and the integrity of the MIF.

31 *Sec. 10. Functions of the Maharlika Investment Corporation.* – In carrying out
32 its objectives and functions, the MIC shall:

- 1 a) Establish a diversified portfolio of investments in the local and global
2 financial markets and in other assets that promote the objectives of the
3 Fund;
4 b) Manage and invest the initial and future contributions to the Fund in
5 accordance with this Act;
6 c) Accept and manage investment mandates whose investment purpose is to
7 increase income for development goals;
8 d) Develop and foster skills in finance, economics, risk mitigation, good
9 governance and other related areas, consistent with the capacity and
10 capabilities build-up of human resources in the industry; and
11 e) Implement international best practices in investing and managing assets in
12 accordance with the internationally-accepted standards and principles of
13 transparency and accountability.

14 Sec. 11. *Capitalization and Funding.* – The initial capitalization shall be sourced
15 as follows:

- 16 I. LBP - Fifty billion pesos (P50 billion); and
17 II. DBP - Twenty-five billion pesos (P25 billion)

18 Each Founding GFI may increase its investment above the required equity
19 contribution.

20 The Founding GFIs shall be entitled to prudential and other regulatory reliefs,
21 as may be determined by the BSP, to promote the financial soundness of these
22 financial institutions while contributing to the overall objective of the MIF.

23 Investments of contributors may be in the form of marketable or convertible
24 securities, and other forms, as may be determined by the Board: *Provided,* That
25 security or debt instruments issued by the MIC to GFIs shall be guaranteed by the
26 National Government: *Provided, further,* That all other instruments of MIC shall be
27 subject to laws, rules, and regulations on the contracting of debt and issuance of
28 guarantees by GFIs. Other GFIs and government-owned or -controlled corporations
29 (GOCCs) may be authorized to contribute to the MIF, subject to their respective
30 investment and risk management strategies. Additional funding may likewise be
31 sourced from investments of private financial institutions and corporations, as may be
32 determined by the Board.

1 The manner of attribution of equity, such as units of participation, due to
2 subsequent contributions to the fund shall be determined in the implementing rules
3 and regulations of this Act.

4 Subsequent annual contributions to the fund shall be provided as follows:

- 5 i. For the first and second fiscal year upon effectivity of this Act, the BSP shall
6 remit one hundred percent (100%) of its declared dividends, as computed
7 under R.A. No. 7653, as amended by R.A. No. 11211, to the Fund. In the
8 succeeding fiscal years, the BSP shall remit fifty percent (50%) of its
9 declared dividends to the Fund and the remaining fifty percent (50%) to the
10 National Government to fund the increase in the capitalization of BSP in
11 accordance with Section 2 of R.A. No. 7653, as amended by R.A. No. 11211,
12 until the increase in the capitalization of BSP has been fully paid. Thereafter,
13 the BSP shall remit one hundred percent (100%) of its declared dividends
14 to the Fund.
- 15 ii. PAGCOR and other government-owned gaming operators shall contribute
16 at least ten percent (10%) of gross gaming revenue streams created after
17 the effectivity of this Act;
- 18 iii. Other sources such as royalties and/or special assessments on natural
19 resources based on the fiscal regime to be implemented by the national
20 government, proceeds from privatization of government assets, and
21 borrowings by the MIF.

22 The foregoing annual contributions shall be subject to the automatic review of
23 the Secretary of Finance every five (5) years, taking into consideration the adequacy
24 of the Fund in relation to the objectives of this Act, the fiscal condition of the National
25 Government, the condition of the investing GFIs, GOCCs, and other government
26 entities in relation to their exposure to the Fund and the overall economic
27 environment.

28 Under no circumstance shall the GOCCs providing for the social security of
29 government employees, private sectors, workers and employees, and other sectors
30 and subsectors, such as but not limited to the Government Service Insurance System,
31 Social Security System, and Home Development Mutual Fund, be requested or

1 required to contribute to the MIF. To protect the retirement and other social security
2 benefits of their members, no part of the funds of said GOCCs shall accrue to the MIF.

3 Sec. 12. *Administrative and Operational Expenses of the Maharlika Investment*
4 *Corporation.* – The Board of the MIC is authorized to disburse from the Fund such
5 amounts as may be necessary for administrative and operating expenses, the total of
6 which shall not exceed two percent (2%) of funds managed: *Provided,* That the Board
7 of Directors shall set annual targets to reduce operating and administrative expenses
8 as a share of funds managed: *Provided, further,* That the Secretary of Finance may
9 reduce the allowed expense ratio.

10 For the initial operations of the MIC, the Board of Directors is authorized to
11 disburse for its administrative and operating expenses at a total amount not exceeding
12 two percent (2%) of its initial capitalization.

13 **ARTICLE IV**
14 **Investments**

15 Sec. 13. *Allowable Investments.* – Subject to strict compliance with Investment
16 and Risk Management Guidelines, the Board of Directors of the MIC shall authorize
17 the following investments:

- 18 a) Cash, foreign currencies, metals, and other tradable commodities;
- 19 b) Fixed income instruments issued by sovereigns, quasi-sovereigns and
20 supranationals;
- 21 c) Domestic and foreign corporate bonds;
- 22 d) Listed or unlisted equities, whether common, preferred, or hybrids;
- 23 e) Islamic investments, such as Sukuk bonds;
- 24 f) Joint Ventures or Co-Investments;
- 25 g) Mutual and Exchange-traded Funds invested in underlying assets;
- 26 h) Commercial real estate and infrastructure projects;
- 27 i) Loans and guarantees to, or participation into joint ventures or consortiums
28 with Filipino and foreign investors, whether in the majority or minority
29 position in commercial, industrial, mining, agricultural, housing, energy, and
30 other enterprises, which may be necessary or contributory to the economic
31 development of the country, or important to the public interest; and
- 32 j) Other investments as may be approved by the Board of Directors.

1 Investments in real estate, infrastructure and other development projects,
2 whether alone or in partnership with other corporate entities shall be limited to
3 National Economic Development Authority Board - approved major capital projects to
4 ensure that these are in line with the socio-economic development program of the
5 government.

6 Subject to the rules and regulations to be promulgated by the MIC Board of
7 Directors, the advice of the Advisory Body shall be sought by the same Board of
8 Directors in case of transactions, such as investments and spending that will affect:
9 (1) the Balance of Payments; and (2) monetary aggregates, like those which impact
10 domestic liquidity and reserve money.

11 In no case shall the MIC acquire a controlling stake in its investee entities. In
12 investee entities where the MIC acquires a position, the MIC may participate in
13 corporate governance and policymaking at the level of the Board of Directors or
14 Trustees of the investee entity, but shall not be directly or actively involved in its day-
15 to-day management and operations.

16 Sec. 14. *Prohibited Investments.* – In no case shall the MIC, in whatever
17 manner or devise, invest in the following:

- 18 (a) Activities and investments related to, and entities with a record of commission
19 of human rights violations, including but not limited to indigenous peoples,
20 farmers, fisher folk, and labor;
21 (b) Activities and investments related to, and corporations involved in the
22 production of cluster munitions, nuclear arms, intercontinental ballistic
23 missiles, and similar technologies and equipment;
24 (c) Activities and investments resulting in, corporations with a record of serious
25 degradation of the environment; and
26 (d) Similar activities, investments and corporations.

27 Sec. 15. *Investment Policy.* – The Board of Directors shall formulate written
28 policies in relation to the following matters:

- 29 (a) Directions on the acceptable balance between risk and return of the overall
30 portfolio;
31 (b) Investment policies, mandates, strategies, and guidelines on financing
32 infrastructure projects and other investments;

- 1 (c) Risk management for the investments;
2 (d) Standards for assessing the investment performance;
3 (e) Matters relating to international best practices for institutional investments;
4 (f) Matters specific to rules and regulations where investments are domiciled;
5 (g) Procedural framework and cooperation among investors, including fund
6 commitments, co-investments, voting requirements, exit mechanisms, and
7 other matters pertaining to the pooling of funds and the management
8 thereof;
9 (h) Matters relating to the procedure for assessing, deploying, and liquidating
10 investments; and
11 (i) All other matters needed to be discussed to guarantee compliance with the
12 objectives of the MIF.

13 In the formulation of its investment policies, the Board of Directors shall be
14 guided by the principle that priority must be given to investing in government
15 infrastructure and other developmental projects which would yield the highest return
16 on investment coupled with the developmental impact of lower cost of living and lower
17 cost of basic commodities. The Board of Directors shall ensure that policies formulated
18 are consistent with the objectives of the Fund, and the same shall be subject to periodic
19 review: *Provided*, That, should a particular sub-fund remain unprofitable for a period of
20 three (3) years, said sub-fund shall be closed.

21 *Sec. 16. Limitations and Safeguards on the Maharlika Investment Fund.* - The
22 management of the MIF shall be subject to a set of investment policies, guidelines,
23 and risk management limits and procedures, as approved by the Board of Directors,
24 upon due consideration of the recommendations of the Advisory Body. Investment
25 and risk management strategies of the MIC shall be in line with the policies and
26 objectives hereunder stated to ensure the long-term viability of the Fund.

27 *Sec. 17. Fees and Charges on the Establishment of the Maharlika Investment*
28 *Fund.* - Third party fees and all charges incurred in connection with the establishment
29 and effective management of the MIF, such as custody fees, transaction fees, clearing
30 fees, and management fees payable to external fund managers, shall be charged
31 against the MIF, in accordance with the applicable policies on fund disbursements.

1 Sec. 18. *Withdrawals*. – Subject to the exit mechanism guidelines to be set by
2 the Board of Directors and concurred to by the Advisory Body, withdrawals from the
3 Fund shall be made only after at least five (5) years of investment activities. The notice
4 period for any withdrawal is one (1) year or shortened as determined by the Board
5 of Directors. The capital of the MIC shall not be withdrawn if its effect would be to
6 diminish the MIF to an amount less than the real value of the MIF at its inception.

7 **ARTICLE V**

8 **Governance**

9 Sec. 19. *Board of Directors*. – There shall be 15 members of the Board of
10 Directors composed as follows:

- 11 (a) The Secretary of Finance shall sit as the chairperson;
- 12 (b) Chief Executive Officer of the MIC;
- 13 (c) President of LBP;
- 14 (d) President of the DBP;
- 15 (e) Six (6) regular members, representing the contributors to the fund, with the
16 seats distributed in proportion to their corresponding investments; and
- 17 (f) Five (5) Independent Directors from the private sector, the academe,
18 business sector, and investment sector.

19 The Independent Directors shall be chosen by the Advisory Body. The Advisory
20 Body shall ensure that the selected members of the Board of Directors are with proven
21 probity, competence, expertise and experience in finance, economics, investments,
22 business management, or law, and are highly capable to contribute to the attainment
23 of the objectives and purposes of the MIF.

24 The regular members of the Board of Directors shall be citizens of the
25 Philippines, at least 35 years of age, and must be of good moral standing and
26 reputation, of recognized probity and independence, and have substantial experience
27 and expertise in any of the following: (i) corporate governance and administration, (ii)
28 investment in financial assets, or (iii) management of investments in the global and
29 local markets.

30 The specific guidelines in this Section, including the rules on appointment,
31 election and termination of membership in the Board of Directors, shall be provided
32 in the implementing rules and regulations of this Act.

1 Sec. 20. *Powers and Functions of the Board of Directors.* – The primary
2 function of the Board of Directors is to govern and manage the MIC, its assets, and
3 investments in accordance with this Act. As the specific functions of the Board of
4 Directors shall include the following:

- 5 (a) To direct the management and operations, and administration of the MIC;
- 6 (b) To approve and implement the Investment and Risk Management
7 Guidelines and such other investment policies, guidelines, and parameters
8 to effectively carry out the purposes of this Act;
- 9 (c) To set minimum criteria and targets for investments;
- 10 (d) To oversee the investment processes which may include asset allocation,
11 portfolio construction, monitoring, and risk management;
- 12 (e) To approve the issuance of debt and debt-like instruments;
- 13 (f) To develop strategies (short-, medium-, and long-term) appropriate for
14 investments;
- 15 (g) To regularly meet and consult with the Advisory Body;
- 16 (h) To engage and/or appoint an International Advisory Consultant/Council
17 whose main responsibility is to advise the Board of Directors on its
18 development strategy and investment business, equip executives and
19 management with insights on geopolitical and macro-economic issues,
20 international financial market conditions, and global investment trends;
- 21 (i) To engage external fund managers and investment advisors, as may be
22 necessary, to manage the MIF;
- 23 (j) To exclusively determine the organizational structure, staffing pattern, and
24 number of personnel of the MIC, define their duties and responsibilities, and
25 fix their compensation and other emoluments, including bonuses and the
26 performance bonus authorized under Section 28 of this Act, notwithstanding
27 any provisions of law, rules and regulations, issuances, to the contrary;
- 28 (k) To exclusively prescribe a system for performance standards and evaluation
29 for officials and employees of MIC;
- 30 (l) To exclusively set the criteria and procedures for termination of employment
31 of officials and employees for:

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- i. Gross violation of the provisions in this Act or investment policies and guidelines set by the Board of Directors;
 - ii. Commission of acts inimical to the MIF or the Republic of the Philippines, such as any loss suffered by the Fund caused by negligence, willful misconduct, fraud, or actions in breach of any Investment Agreement; and/or
 - iii. Failure to meet performance standards set by the Board of Directors.
- (m) To appoint key and critical officials and employees as may be necessary to assist the Board of Directors in carrying out its functions;
- (n) To submit semestral reports on investment performance to the Advisory Body and to the President of the Republic of the Philippines;
- (o) To review and certify the MIC/MIF financial statements;
- (p) Act as Trustee of the MIF and such other assets as may be assigned to it and direct how its assets are managed;
- (q) To constitute an audit committee which shall recommend to the Board of Directors and to shareholders during the annual shareholders' meeting the engagement of an external auditor and oversee the internal and external audits mandated under this Act; and
- (r) To perform other functions, duties and responsibilities necessary, related and incidental to the performance of the above-mentioned powers and functions.

22 *Sec. 21. Duties and Qualifications of the Chief Executive Officer.* – The Chief
23 Executive Officer (CEO) shall direct and supervise the operations and internal
24 administration of the MIC, and shall be charged with the risk management, financial
25 performance, human resources, accounting and legal affairs of the corporation. Such
26 powers and duties include:

- 27 (i) Prepare the agenda for the meetings of the Board of Directors and to submit
28 for the consideration of the Board of Directors the policies and measures
29 which are necessary to carry out the purposes and provisions of this Act;
- 30 (ii) Execute and administer the policies and measures approved by the Board
31 of Directors;

- 1 (iii) Develop the MIC's business prospects by studying economic trends and
2 revenue opportunities; projects acquisition and expansion prospects; and
3 oversee financial performance and risk profiles while ensuring that all of
4 regulatory obligations are met;
- 5 (iv) Appoint and fix the remunerations and other emoluments of rank and file
6 employees and other personnel not holding key and critical positions in
7 accordance with the position and compensation plans approved by the
8 Board, as well as to impose disciplinary measures upon personnel of the
9 MIC: *Provided*, That the removal of personnel shall be with the approval of
10 the Board; and
- 11 (v) Exercise such other powers as may be vested by the Board.

12 The CEO, in the discharge of its functions, may delegate certain of his
13 administrative responsibilities to other officers of the MIC.

14 The CEO shall work closely with the executive management and the Board and
15 must have (i) exceptional experience and expertise in corporate management,
16 financial planning strategy, strategic planning and vision, market and business
17 development, budget development; (ii) has at least ten (10) years management
18 experience, including extensive commercial lending/credit administration experience;
19 (iii) in-depth understanding of the industry including risk management, compliance,
20 and regulatory requirements; and (iv) strategic knowledge of cash flow and capital
21 planning management.

22 *Sec. 22. Duties and Qualifications of the Chief Investment and Operating*
23 *Officer.* – The Chief Investment and Operating Officer (CIOO) is responsible for regular
24 administration duties of all investment files, communicating investment strategy and
25 policies, managing and developing a team of financial analysts and investment
26 professionals, supervising risk management across portfolios and that sound
27 investment policies are followed.

28 The CIOO must have a degree in finance or a relevant experience in the field
29 and has proven expertise in managing a team of financial analysts and investment
30 professionals.

31 *Sec. 23. Quorum and Meetings of the Board.* – The Board of Directors shall
32 meet at least once every month from the effectivity of this Act. It may hold special

1 meetings to consider urgent matters upon call of the Chairperson or upon initiative of
2 at least two (2) members of the Board of Directors.

3 In order to constitute a quorum in board meetings, a majority of the total
4 membership of the Board of Directors, or at least eight (8) members, shall be present.
5 The approval by a majority of all members of the Board of Directors, or at least eight
6 (8) members, shall be required to constitute a decision of the Board of Directors.

7 The Board of Directors shall maintain and preserve a complete record of the
8 proceedings and deliberations of the Board of Directors, including the tapes and
9 transcripts of the stenographic notes, either in the original form or in microfilm. The
10 meetings of the Board of Directors may be conducted through modern technologies
11 such as teleconferencing and videoconferencing.

12 *Sec. 24. Compensation of the Chairperson and Members of the Board of*
13 *Directors.* – The Chairperson and the Members of the Board of Directors shall be
14 entitled to honoraria and/or other reasonable allowances, and/or per diem for each
15 meeting actually attended, and shall be reimbursed for actual and reasonable
16 expenses incurred in the performance of their duties and functions. The rate of the
17 per diem shall be fixed by the Board of Directors. The maximum per diem per Regular
18 or Special Board meeting actually attended provided to members of the Board of
19 Directors shall be based on the size of the corporation but not to exceed the maximum
20 annual amounts as received by members of the Monetary Board of the BSP.

21 The salary of the Independent Directors of the Board of Directors from the
22 private sector shall be fixed based on the rules set under Section 28 of this Act.

23 *Sec. 25. Risk Management Unit.* – In accordance with the manner provided in
24 the by-laws of the MIC, the Board of Directors shall organize a Risk Management Unit
25 composed of five (5) members as follows: one (1) professional with proven
26 competence and experience in finance, economics, investment, business
27 management, or law, and must exhibit independence and objectivity; and four (4)
28 members consisting of two (2) senior executives of the MIC, one (1) independent
29 director, and one (1) auditor.

30 The Risk Management Unit shall ensure that the MIC is taking the appropriate
31 measure to achieve a prudent balance between risk and reward in both ongoing and
32 new business activities, taking careful consideration of risk identification, risk

1 measurement and assessment, risk mitigation, risk reporting and monitoring, and risk
2 governance towards a risk-informed approach to the capitalizations of the MIC.

3 Sec. 26. *Advisory Body.* – An Advisory Body is hereby created which shall be
4 composed of the Secretary of the Department of Budget and Management, the
5 Secretary of National Economic Development Authority, and two (2) members from
6 the private sector: the President of the Philippine Stock Exchange and the President
7 of the Bankers Association of the Philippines.

8 Sec. 27. *Powers and Functions of the Advisory Body.* – The Advisory Body shall
9 exercise the following powers and functions:

10 (a) Advise and assist the Board of Directors in the formulation of the general
11 policies related to investment and risk management, and other matters as
12 may be necessary to carry out the provisions and purposes of this Act;

13 (b) Advise and provide guidance on issues pertaining or related to the plans
14 and projects of the MIF; and

15 (c) Perform other functions, duties and responsibilities, as it may deem
16 necessary.

17 The Advisory Body shall not take part in the management or control of the
18 MIF.

19 **ARTICLE VI**

20 **Rewards, Incentives and Termination**

21 Sec. 28. *Rewards and Incentives.* – The officials, employees and staff of the
22 MIC shall be entitled to honoraria, performance bonus, or any similar performance-
23 based compensation as may be determined by the Board of Directors and as approved
24 by the President of the Philippines, taking into consideration, among others, the
25 performance of the Fund, the performance of the individual employee or officer, and
26 industry standards and practices. The criteria for the grant of rewards and incentives
27 shall be determined in the implementing rules and regulations, including the formula
28 for the computation of any amount that will be granted to the Board of Directors,
29 officials, employees, and staff of the MIC. Considering the nature of the Fund's
30 intended investments, the criteria and formula shall consider long-term performance
31 of the Fund, acquisition and retention of talent, and the rates of comparators.

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Sec. 29. Effect of Separation. – Notwithstanding the separation of an official or employee from MIC, the provision of Section 28 shall apply to the performance bonus that said officer or employee is entitled to receive on account of actual performance by the separated official or employee during the period covered by the performance bonus.

ARTICLE VII

Exemptions and Privileges

Sec. 30. Exemptions from the GOCC Governance Act of 2011. – The President of the Republic of the Philippines recognizes the strict requirements set for the GFIs forming the MIC in that they have higher standards of knowledge and expertise in the fields of finance, economics, risk, and governance, and that there is a need for flexibility to operate, function, employ and retain employees to ensure the successful implementation of the goals of the MIC. In this regard, MIC shall be exempted from the coverage and all of the provisions of Republic Act No. 10149 or the "GOCC Governance Act of 2011" except Sections 15 in accordance with Section 19 (e) of this Act, 19, 25, and 26 on the fiduciary duties of the board and officers, full disclosure, and special audit.

Sec. 31. Tax Exemptions. – Any existing law to the contrary notwithstanding, the following transactions and assets of the MIC and MIF shall be exempt from local and national taxes, direct and indirect, that may be imposed under the Local Government Code of 1991, and the National Internal Revenue Code of 1997, as amended, pursuant to the regulations to be issued by the Department of Finance, upon recommendation of the Bureau of Internal Revenue:

(a) All funds, assets, and properties;

(b) All revenues, income, or investment earnings, as well as accruals thereto;

and

(c) Purchase of supplies, equipment, papers, or documents.

Importation of supplies and equipment by the MIC and MIF shall be exempt from customs duties, in accordance with the provisions of Republic Act No. 10863, otherwise known as the "Customs Modernization and Tariff Act".

Provided, That the exemptions granted herein shall be utilized actually, directly, exclusively, and solely for the transactions of the MIC and MIF as distinct legal entities,

1 and not for the purposes of its executives, employees, third parties, and other distinct
2 taxable entities.

3 Sec. 32. *Exemptions from the Government Procurement Reform Act.* –
4 Notwithstanding any law or rules, regulations or other issuances to the contrary, the
5 procurement or engagement of the professional or technical services needed in the
6 selection of investments authorized under Section 10 of this Act such as fund
7 management, investment and analysis and advisory underwriting, securities
8 brokerage and dealership, capital market and equity research analysis, and other
9 similar services necessary in the selection of allowable investments under Section 13
10 of this Act shall be exempted from the provisions of Republic Act No. 9184 or the
11 Government Procurement Reform Act and its implementing rules and regulations.

12 The competitive selection process and guidelines for the foregoing procurement
13 or engagement of the professional and technical services shall be approved by the
14 MIC board.

15 Sec. 33. *Exemption from the Salary Standardization Act.* – The officers and
16 employees of the MIC shall be exempt from the provisions of Republic Act No. 6758,
17 otherwise known as the "Salary Standardization Act", and succeeding laws on salary
18 standardization.

19 Notwithstanding any law or rules, regulations, or other issuances to the
20 contrary, the compensation of the officers and key personnel of the MIC shall be set
21 based on an objective classification consistent with international standards for
22 compensating investment management professionals managing global assets, taking
23 into consideration the importance and responsibilities attached to the respective
24 positions.

25 Sec. 34. *Designation and Secondment.* – For the first five (5) years of its
26 operations, the MIC Board, upon the recommendation of the CEO, shall authorize GFI
27 non-executive personnel to the MIC, as may be necessary, subject to existing
28 guidelines on secondment of the Civil Service Commission.

29 The designation of the respective GFIs' personnel to the MIC involves the
30 imposition of additional and/or higher duties to be performed by said personnel for
31 the MIC which is temporary and can be terminated anytime at the pleasure of the

1 appointing officer/authority. Designated personnel shall continue to receive their
2 salaries, benefits, and emoluments from their respective offices or agencies.

3 The secondment of the GFIs' personnel to the MIC involves the movement of
4 said personnel from their mother agencies and offices to the MIC, which is temporary
5 in nature, which may or may not require the issuance of an appointment, and which
6 may or may not involve increase in compensation and benefits. Seconded personnel
7 shall receive, in lieu of their respective compensation from their respective agencies
8 or offices, the salaries, emoluments and all other benefits which their positions are
9 entitled to receive from the MIC.

10 **ARTICLE VIII**

11 **Distribution of Net Profits**

12 Sec. 35. *Distribution of the Net Profits of the Maharlika Investment Fund*
13 *Corporation.* – In lieu of taxes and dividend remittance to the National Government,
14 at least twenty five percent (25%) of the net profits of the MIC shall be directly
15 distributed in the form of poverty and subsistence subsidies to families falling below
16 the poverty threshold as determined by the Philippine Statistics Authority (PSA),
17 beginning with the 18.1% of the population, or 19.99 million Filipinos living below the
18 poverty threshold of about P12,030 per month for a family of five (5), per the 2021
19 Family Income and Expenditure Survey of the PSA: *Provided,* That the remainder of
20 the net profits shall be remitted to the National Government, to be earmarked for
21 social welfare programs and projects, excluding infrastructure projects: *Provided,*
22 *further,* That the share of the net profits remitted to the National Government shall
23 not exceed the proportion of investments to the total fund attributable to the National
24 Government.

25 Sec. 36. *Computation of Profits and Losses of the MIC.* – The profits and losses
26 of the MIC shall be recognized in its books. The recognition of profits and losses of
27 the MIC shall be attributable to the GFIs and investors which shall be subject to their
28 respective accounting and auditing procedures.

29 **ARTICLE IX**

30 **Financial Reporting Framework and Audit of Records**

31 Sec. 37. *Financial Reporting Framework.* – The financial statements and reports
32 shall be prepared, upon the advice of the Advisory Body, in accordance with pertinent

provisions of this Act and its implementing rules and regulations, and International Financial Reporting Standards and principles.

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Sec. 38. *Engagement of an Internal Auditor.* – The Board shall appoint an internal auditor, who shall provide written interim financial and management reports as requested by the Advisory Body. The internal auditor shall be independent from the management of the MIC and shall be under the direct control and supervision of the Board of Directors. The CEO shall ensure that the internal auditor, including the staff, shall have access to all documents and information pertinent to the audit.

Sec. 39. *Engagement of an External Auditor.* – The Board of Directors shall engage, for each accounting period or as soon as practicable after the commencement of the relevant accounting period, an internationally recognized auditing firm to be the External Auditor of the Fund and to audit its financial statements.

The External Auditor shall:

- (a) Be engaged annually;
- (b) Be eligible for re-engagement; and
- (c) Hold office on such terms and conditions as are determined by the Board of Directors.

Sec. 40. *Audit by the Commission on Audit.* – The books and accounts of the MIC shall be subject to the examination and audit of the Commission on Audit (COA) pursuant to Article IX of the 1987 Philippine Constitution. All financial transactions shall be governed by the applicable government laws, rules, and regulations. The COA shall prescribe the guidelines of the audit of the MIC and the Fund under its management in accordance with international best practices. In defining the scope of its audit, the COA shall coordinate with the External Auditor as provided under Section 37 of this Act.

Sec. 41. *Disposal of Assets.* – Notwithstanding any law, rules, regulations, or other issuances to the contrary, the disposal by MIC, pursuant to its mandate and functions, of shares, securities, and other interests and investments, shall not be covered by existing laws and regulations on disposal of government assets. The aforementioned financial assets shall be considered as forming part of MIC's inventory of assets held in the regular course of its business activities.

ARTICLE X
Reports and Records

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Sec. 42. *Oversight Committee.* – There shall be created a Maharlika Investment Fund Joint Congressional Oversight Committee (MIF-JCOC) to oversee, monitor, and evaluate the implementation of this Act. The MIF-JCOC shall be composed of five (5) members each from the House of Representatives and the Senate. The MIF-JCOC shall be co-chaired by the Chairpersons of the House Committee on Banks and Financial Intermediaries and the Senate Committee on Banks, Financial Institution and Currencies.

The Speaker and Senate President shall designate the other four (4) members of the MIF-JCOC of the House and the Senate from among the members on the House Committee on Banks and Financial Intermediaries and the Senate Committee on Banks, Financial Institution and Currencies, at least one member of which shall be from the minority.

Sec. 43. *Right to Freedom of Information of the Public.* – All documents of the MIF and the MIC, shall be open, available, accessible to the public, including but not limited to:

- (a) All investments thereof, whether planned or under negotiation by the MIC and on the portfolio of the MIF;
- (b) The statements of assets and liabilities (SALNs) of the members and officials of the Board of Directors, Risk Management Unit, and Advisory Board;
- (c) The SALNs of those who appointed and designated the said members and officials;
- (d) Audit documents from the internal auditor, external auditor, and the COA; and
- (e) Similar documents and information.

Sec. 44. *Provision for Access Rights and Retention Period of Records.* – The records on the MIC pertaining to its investment activities shall be secured and maintained pursuant to the rules of the National Archives of the Philippines. The disclosure rules under Republic Act No. 8799 or the Securities Regulation Code, Republic Act No. 11232, or the Revised Corporation Code, and other relevant laws,

rules, and regulations shall apply to the MIC. The MIC shall be covered by Executive Order No. 2, s. 2016.

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Sec. 45. *Reports of Government Financial Institutions to stakeholders.* – Government financial institutions with investments in the MIC shall include the performance of their investments, a risk assessment of their exposure and strategies to manage such risks, and other relevant information in their annual reports.

Sec. 46. *Compliance with Santiago Principles.* – The audits required under this article shall include an assessment of the implementation of the Santiago Principles and recommendations to improve compliance with such principles.

ARTICLE XI

Offenses and Penalties

Sec. 47. *Violation of Disqualification Provision; Penalties.* – When, despite the knowledge of the existence of a ground for disqualifications as provided in Section 19 and Section 22 of this Act, a director or officer willfully holds office, or willfully conceals such disqualification, such director, trustee or officer shall be punished with a fine ranging from ten thousand pesos (P10,000.00) to two hundred thousand pesos (P200,000.00) at the discretion of the court, and shall be permanently disqualified from being a director or officer of the Board of Directors. When the violation of this provision is injurious or detrimental to the public, the penalty shall be a fine ranging from twenty thousand pesos (P20,000.00) to four hundred thousand pesos (P400,000.00).

Sec. 48. *Internal Auditor Collusion; Penalties.* – An independent internal auditor who, in collusion with the corporation's directors or representatives, certifies the corporation's financial statements despite its incompleteness or inaccuracy, its failure to give a fair and accurate presentation of the corporation's condition, or despite containing false or misleading statements, shall be punished with a fine ranging from eighty thousand pesos (P80,000.00) to five hundred thousand pesos (P500,000.00). When the statement or report certified is fraudulent, or had the effect of causing injury to the general public, the auditor or responsible officer may be punished with a fine ranging from one hundred thousand pesos (P100,000.00) to six hundred thousand pesos (P600,000.00).

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Sec. 49. *Acting as Intermediaries for Graft and Corrupt Practices; Penalties.* – A corporation used for fraud, or for committing or concealing graft and corrupt practices as defined under pertinent statutes, shall be liable for a fine ranging from one hundred thousand pesos (P100,000.00) to five million pesos (P5,000,000.00).

When there is a finding that any of its directors, officers, employees, agents, or representatives are engaged in graft and corrupt practices, the Board of Director's failure to install: (a) safeguards for the transparent and lawful delivery of services; and (b) policies, code of ethics, and procedures against graft and corruption shall be *prima facie* evidence of corporate liability under this section.

Sec. 50. *Engaging Intermediaries for Graft and Corrupt Practices; Penalties.* – A corporation that appoints an intermediary who engages in graft and corrupt practices for the corporation's benefit or interest shall be punished with a fine ranging from one hundred thousand pesos (P100,000.00) to one million pesos (P1,000,000.00).

Sec. 51. *Tolerating Graft and Corrupt Practices; Penalties.* – A director, or officer who knowingly fails to sanction, report, or file the appropriate action with proper agencies, allows or tolerates graft and corrupt practices or fraudulent acts committed by a board's directors, officers, or employees shall be punished with a fine ranging from five hundred thousand pesos (P500,000.00) to one million pesos (P1,000,000.00).

Sec. 52. *Retaliation Against Whistleblowers.* – A whistleblower refers to any person who provides truthful information relating to the commission or possible commission of any offense or violation under this code. Any person who, knowingly and with intent to retaliate, commits acts detrimental to a whistleblower such as interfering with the lawful employment or livelihood of the whistleblower, shall, at the discretion of the court, be punished with a fine ranging from one hundred thousand pesos (P100,000.00) to one million pesos (P1,000,000.00).

Sec. 53. *Other Violations of the Act; Separate Liability.* – Violations of any of the other provisions of this Act or its amendments not otherwise specifically penalized therein shall be imprisonment of not less than six (6) years, but not more than twenty (20) years, and by a fine of not less than million pesos to three million pesos