

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



23 JAN 30 P1:17

SENATE
S. No. 1798

RECEIVED BY: 

Introduced by SENATOR FRANCIS "TOL" N. TOLENTINO

AN ACT
INSTITUTIONALIZING ENVIRONMENTAL, SOCIAL, AND GOVERNANCE
INITIATIVES, PROVIDING INCENTIVES THEREFORE, AND FOR OTHER
PURPOSES

EXPLANATORY NOTE

It is the policy of the State to recognize the indispensable role of the private sector, to encourage private enterprise, and to provide incentives to needed investments.¹ The role of the private sector has a great impact on our economy, environment, and local communities. Hence, with the private sector's potential to make change, the State must work hand in hand with this community.

Environmental Social and Governance ("ESG") refers to the three vital factors when measuring an organization's corporate financial interests that focus mainly on sustainability and ethical impacts. The term "ESG" originated in 2004 from the United Nation (UN) Global Compact Initiative publication "Who Cares Win".²

¹ 1987 Constitution, Article II, Section 20

² IFC Advisory Services in Environmental and Social Sustainability, Who Cares Wins, 2004-08, accessible at: <https://documents1.worldbank.org/curated/en/444801491483640669/pdf/113850-BRI-IFC-Breif-whocares-PUBLIC.pdf> (2004).

The environmental aspect of the ESG focuses on the impact on the environment of a corporation's resource consumption. Among others, this would include a business' carbon footprint, water discharge, and pollution. The social criteria of the ESG, on the other hand, aims to understand the manner by which companies interact with the communities where they operate. It also looks at policies within the company, like labor, anti-discrimination, and workers' welfare. Lastly, the governance component of the ESG is focused on the internal practices and policies that lead to the corporation's decision making and legal compliance.

According to the UN Global Compact Initiative publication, in order to support the growth of sustainable capital flows, capital market stakeholders should find a way to better integrate environmental, social, and governance factors into its capital allocation and portfolio management processes.³ With the disclosure of a company's ESG, this helps the investors put their money in businesses that are in line with their values and advocacies. Impact investments are investments made with the intention to generate positive, measurable and environmental impact alongside a financial return.⁴ In a U.S. Trust Insights on Wealth and Worth 2017 Survey, more than half declared that they invest based on impact because it is the "right thing to do as a responsible citizen and as an investor"⁵.

In order to promote sustainability reporting, the Securities and Exchange Commission (SEC) issued the Sustainability Reporting Guidelines for Publicly-Listed Companies to assist the companies to achieve the universal targets of sustainability, such as the United Nations Sustainable Development Goals, as well as the national policies and programs. Through this reporting, the companies will be able to evaluate and manage their non-financial performance in the Economic, Environmental, and Social aspects.

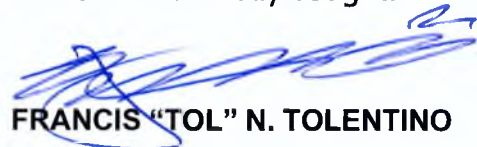
³ *Id.*

⁴ <https://thegiin.org/impact-investing/need-to-know/#what-is-impact-investing>

⁵ <http://www.pva-advisory.com/wp-content/uploads/2017/10/2017-US-Trust-Insights-on-Wealth-and-Worth.pdf>

This bill seeks to promote sustainable economic and environment development and environment protection by institutionalizing environmental, social, and governance initiatives of business enterprises in the Philippines. Under this bill, business enterprises are mandated to be more transparent on how they impact the economy, environment, and society. Furthermore, given that the information is publicly available, it would pave the way to gain investor confidence, contribute to customer loyalty, reduce operating costs, and improve both asset management and financial performance.

In view of the foregoing, the passage of this bill is earnestly sought.



FRANCIS "TOL" N. TOLENTINO



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

1 **Section 1. *Short Title.*** – This Act shall be known as the "ESG Act of 2022".

2 **Section 2. *Declaration of Policy.*** – The state recognizes the vital role of the
3 private sector in nation building and shall encourage its active participation in fostering
4 sustainable economic development and environment protection in the Philippines.
5 Towards this end, the government shall coordinate its various agencies to work hand
6 in hand for the integration, promotion, and strengthening of environmental, social,
7 and governance responsibility in all business enterprises.

8 **Section 3. *Definition of Terms.*** – As used in this law, the following terms
9 shall be understood, applied, and construed as follows:

10 (a) *Business enterprises* refer to corporations, sole proprietorships,
11 and partnerships with more than two hundred (200) employees.

1 (b) *ESG* is a term used to represent a business enterprises' corporate
2 financial interests that focus mainly on sustainable and ethical impacts.

3 (c) *Environmental impact* encompasses the effect that business
4 enterprises have on living and non-living natural systems, including land, air,
5 water and ecosystems.

6 (d) *Social impact* encompasses the impact that a business enterprise
7 has on its social environment and community.

8 (e) *Governance impact* refers to a business enterprise's ethical and
9 legal management, the transparency and accuracy of a business enterprise's
10 performance and involvement in other ESG initiatives.

11 (f) *Material* refers to aspects that reflect the business enterprises'
12 significant economic, environmental and social impacts; or that substantively
13 influence the assessment and decisions of stakeholders

14 (g) *Impact* refers to the effect an organization has on the economy,
15 the environment, and/or society, which in turn can indicate its contribution
16 (positive or negative) to sustainable development.

17 **Section 4. Mandatory Reporting.** - In addition to their annual or regular
18 report to the Securities and Exchange Commission (SEC), the Department of Trade
19 and Industry (DTI), or the Department of Finance (DOF), all business enterprises shall
20 submit their Sustainability Report to the said agencies reflecting their environmental,
21 social, and governance impacts as the case may be. The submitted Sustainability
22 Report shall be made available to the public upon request and can be examined at
23 reasonable hours on business days.

24 **Section 5. Disclosure Requirements.** - The Sustainability Report shall
25 include, but is not limited to, the following factors:

26 A. Environmental Impact which shall include the following:

- 27 (1) Resource Management
28 (2) Ecosystem and Biodiversity
29 (3) Environmental Compliance

30

1 B. Social Impact of their operation touching on the following:

2 (1) Employee Management

3 (2) Compliance with workplace conditions, Labor Standards, and Human
4 Rights

5 (3) Supply Chain Management

6 (4) Relationship with Community

7 (5) Customer Management

8 (6) Data Security

9 (7) Gender Discrimination and Diversity

10
11 C. Governance Impact reflecting among others the following matters -

12 (1) Regularity and Frequency of Board Meetings

13 (2) Anti-Corruption Practices

14 (3) Conflict of Interest

15 (4) Best Practices for Intellectual Property, Protection, and Processes

16 Concerned agencies may require the submission of additional information as
17 they may deem necessary.

18 **Section 6. Incentives.** - For the purposes of encouraging business
19 enterprises to incorporate environmental, social, and governance initiatives, business
20 enterprises shall enjoy the following incentives:

21 (a) All expenses incurred by any business enterprise in the exercise of their
22 environmental social responsibility shall be fully deducted from its gross
23 income.

24 (b) Special deduction of the full cost of new environmentally-friendly vehicles,
25 equipment, and machinery;

26 (c) Reduced employment tax on green in-kind benefits such as providing low-
27 emission vehicles, electricity, etc.;

28 (d) Reduced VAT on energy-saving products;

- 1 (e) Tax and duty free importation of capital equipment: Provided, That the
2 capital equipment is actually, directly and exclusively used in incorporating
3 environmental, social and governance initiatives; and
4 (f) Tax and duty free importation of pollution control equipment.

5 Incentives granted under this Act shall be in addition to the fiscal and non-fiscal
6 incentives already granted or provided under existing laws, orders, issuances and
7 regulations. Nothing in this Act shall be interpreted or construed to diminish, modify
8 or limit, in whatever manner, the incentives already granted or provided under existing
9 laws, orders, issuances and regulations.

10 **Section 7. Prohibited Acts.** - Corporations, Single Proprietorship and other
11 business enterprises covered by the provisions of this Act which shall commit any of
12 the following violations:

- 13 a) Material misrepresentation in the Sustainability Report;
14 b) Non-submission of the Sustainability Report;
15 c) Failure to submit the complete Sustainability Report; and
16 d) Failure to disclose the required or material information in the Sustainability
17 Report.

18 Shall be subject to the following fines:

- 19 i) *First offense* - One Hundred Thousand Pesos (P100,000.00) plus Five
20 Hundred Pesos (P500.00) per day of continuing violation
21 ii) *Second offense* - Two Hundred Thousand Pesos (P200,000.00) plus One
22 Thousand Pesos (P1,000.00) per day of continuing violation
23 iii) *Third offense* - Four Hundred Thousand Pesos (P400,000.00) plus Two
24 Thousand Pesos (P2,000.00) per day of continuing violation.

25
26 Directors and/or officers who willfully and knowingly commit and/or participate
27 in any of the unlawful acts herein defined shall be solidarily liable for the payment of
28 imposable fine.

1 **Section 8. *Appropriation.*** - The amount necessary to carry out the operation
2 of this Act shall be included in the annual General Appropriations Act.

3 **Section 9. *Implementing Rules and Regulations.*** – Within six (6) months
4 from the effectivity of this Act, the Department of Trade and Industry, in coordination
5 with the Securities and Exchange Commission, the Department of Labor and
6 Employment, and the Department of Environment and Natural Resources, and other
7 agencies concerned, shall promulgate such rules or guidelines as may be necessary
8 for the proper implementation of this Act.

9 **Section 10. *Separability Clause.*** – If any provision of this Act shall be held
10 unconstitutional or invalid, the other provisions not otherwise affected shall remain in
11 full force and effect.

12 **Section 11. *Repealing Clause.*** – All laws, decrees, executive orders,
13 proclamations, and other executive issuances which are inconsistent with or contrary
14 to the provisions of this Act are hereby amended or repealed accordingly.

15 **Section 12. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days
16 following its publication in the *Official Gazette* or in a newspaper of general circulation.

17 *Approved,*

18