

POLICY STATEMENT 17-001

# On the ₱1 Billion Threshold for Compulsory Notification of Mergers and Acquisitions



**PHILIPPINE  
COMPETITION  
COMMISSION**

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*Ensuring businesses compete and consumers benefit*

# On the ₱1 Billion Threshold for Compulsory Notification of Mergers and Acquisitions

RA 10667 (Section 17) provides that all mergers and acquisitions with transaction values exceeding one billion pesos (₱1,000,000,000.00) need to be notified to the PCC prior to consummation of the transaction.

As part of its powers, the PCC is authorized to determine thresholds (Sec. 12[b]) and promulgate other criteria for notification (Sec. 17). In this regard, the Commission initiated a preliminary review, taking into consideration whether the ₱1 billion threshold is too low such that businesses are made to bear an unreasonable regulatory cost and whether the PCC might be over-burdened by the requirement to review an inordinate number of transactions in its early stage of institution building.

Based on the review, the Commission finds that there is sound basis to maintain the ₱1 billion threshold, at least in the short term. Another review will be undertaken when sufficient information from additional transaction notifications become available.

The following are the bases for the assessment that the ₱1 billion threshold is reasonable.

## 1. A cross-country comparison of thresholds in jurisdictions with mandatory notification regimes shows that the Philippines' ₱1 billion threshold is similar to economies of comparable size (e.g., South Africa and Colombia).

Table 1. Notification Thresholds of Countries with Mandatory Notification

Country	Size-of-Transaction <sup>1</sup> (in million PHP)	Size-of-Party (in million PHP)	GDP in 2015 (in million USD)	Number of Blocked <sup>6</sup> Transactions	Percentage of Blocked Transactions	Number of Staff
<b>Philippines</b>	1,000	1,000 <sup>2</sup>	292,451	0 out of 21	-	110
<b>South Africa</b>	297	2,072 <sup>3</sup>	314,570	5 out of 395 <sup>7</sup>	1.24	197
<b>Colombia</b>	1,795	-	292,000	7 out of 493 <sup>8</sup>	1.4	58
<b>Canada</b>	3,300	15,116 <sup>3</sup>	1,550,537	No data	-	51 <sup>9</sup>
<b>United States</b>	4,000	8,000; 806 <sup>4</sup>	18,036,648	22 out of 1,801	1.22	1,131
<b>Indonesia</b>	-	9,300; 18,600 <sup>5</sup>	861,930	No data	-	358

1 Measured through assets or revenues of the acquired party.

2 Refers to assets or revenues of either party involved in the transaction.

3 Refers to combined assets or revenues of the parties involved in the transaction.

4 Refers to assets or revenues of each party involved, regardless of order.

5 Refers to combined assets and revenues of the parties involved in the transaction.

6 Refers to transactions that were not allowed to proceed. Data refer to various years, given the most recent data available. Philippine data refer to the period of June 2016 to January 2017. Colombian data are consolidated for 2003-2008.

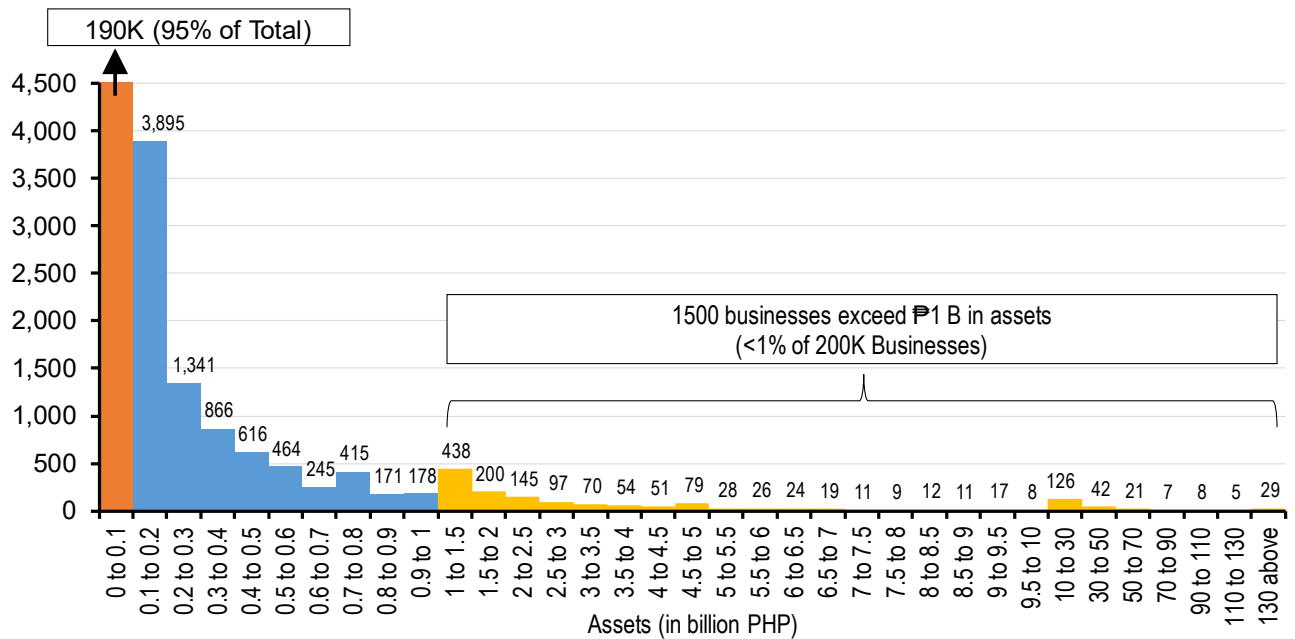
7 Another 12.4 percent were approved with conditions.

8 Another 2.8 percent were approved with conditions.

9 Refers to mergers division only.

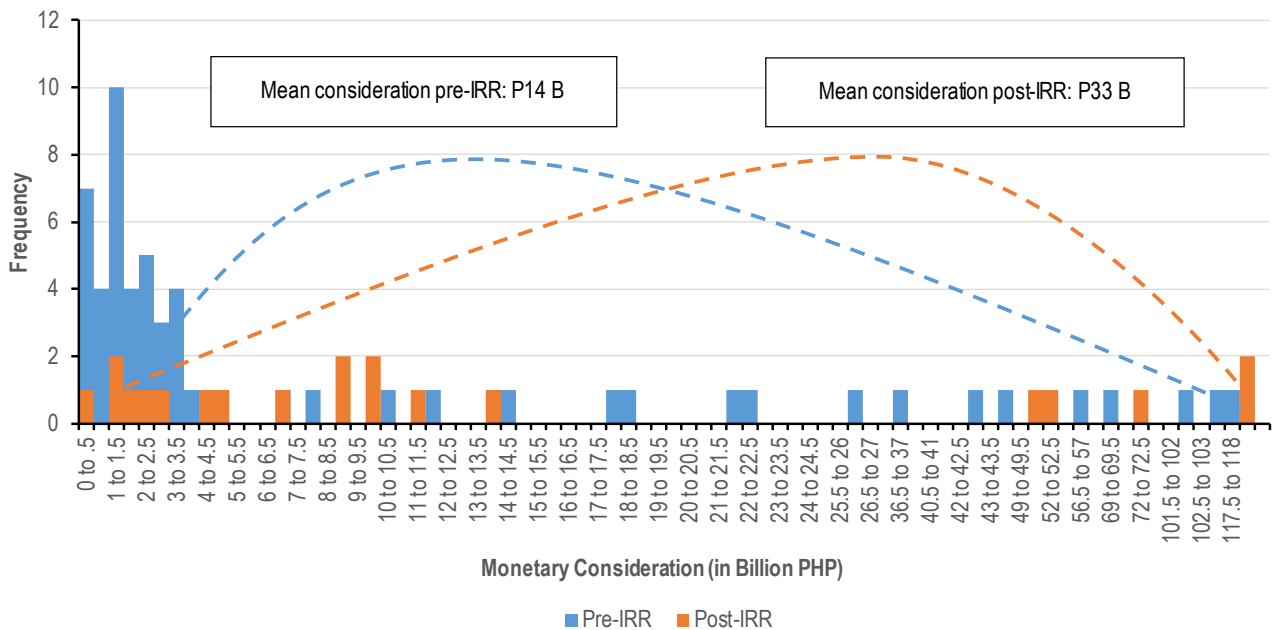
2. At a threshold of ₱1 billion, very few businesses (less than 1 percent or at most 1,500 firms) will be subject to mandatory notification if these decide to expand their business through mergers or acquisitions.

Figure 1. Frequency Asset Distribution of All Philippine Businesses



3. The Implementing Rules and Regulations of RA 10677 (“IRR”) issued in June 2016 clarified that “transaction value” refers to assets or revenues that have a nexus to the Philippine economy (i.e., assets or revenues in, into, or from the Philippines).<sup>1</sup> By adopting global good practice in determining transaction value, the IRR had the effect of limiting notified transactions to those with larger considerations. A comparison of the considerations of the notified transactions pre- and post-IRR indicates that transactions, on the average, are much larger in size (Figure 2).

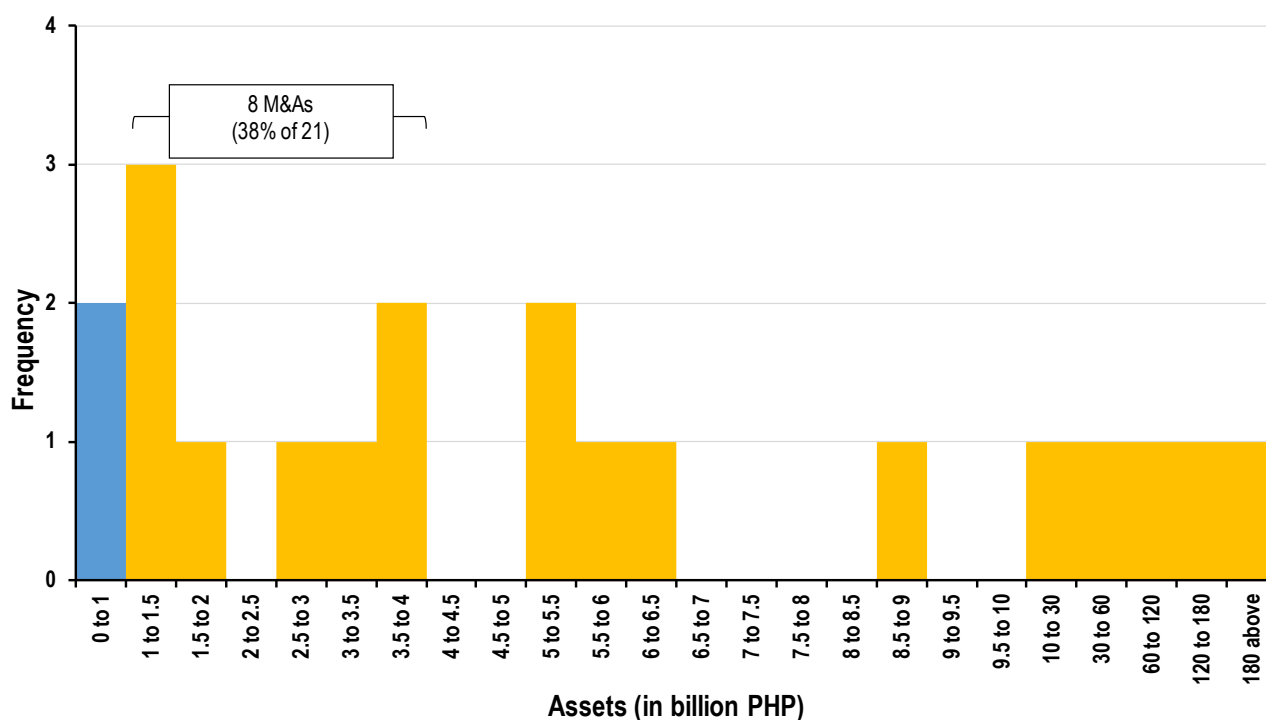
Figure 2. Distribution of Notified Mergers and Acquisitions by Monetary Consideration



<sup>1</sup> Prior to the issuance of the IRR, transactions were notified following rules specified in PCC’s Memorandum Circulars (MCs) 16-001 and 16-002. There were 59 transactions notified under MCs 16-001 and 16-002 where transaction values were based on consideration.

4. Data from 21 transactions notified under the IRR show that it is premature to increase the threshold at this point. Most of these transactions were for firms with asset values within a small range from ₱1 billion (up to ₱4 billion), which suggests the reasonableness of maintaining the threshold while information is limited.

Figure 3. Distribution of Notified M&As by Asset Size (Post-IRR)



5. The determination of thresholds for notification should be guided by the global good practice of assessing the potential harm of mergers and acquisitions on relevant product and geographic markets. With respect to geographic markets, the ₱1 billion threshold may be considered relatively small in terms of a national market; however, it may be considered large in terms of small geographic markets which are common in an archipelago. Therefore, maintaining the current threshold allows PCC to protect consumer welfare in both markets.

The PCC will continue to monitor developments in the markets and consider additional information from forthcoming notifications. The PCC’s subsequent review of the threshold could reflect, in addition to the foregoing, inflation, GDP growth, and changes in technology, consistent with practice in other jurisdictions. Ultimately, in determining the threshold, the PCC’s decision will be based on factors that will likely lead to the substantial prevention, restriction or lessening of competition in the relevant market for goods and services.

\*All the data in the table and graphs in this Policy Statement are from the Discussion Paper 17-001 of the PCC.