EXPLANATORY NOTE

Republic Act No. 8762 or the Retail Trade Liberalization Act was passed in 2000 to promote productive investment that will bring down price for Filipino consumers, create more jobs, assist small manufacturers, and stimulate economic growth.

Under the current law, enterprises with paid-up capital of less than US$2.5 million "shall be reserved exclusively for Filipino citizens and corporations wholly owned by Filipino citizens." As such, only enterprises with a minimum capitalization of $2.5 million or more may be owned fully by foreigners. This requirement is among the highest in ASEAN, and has been deemed restrictive by foreign investors.

To relax barriers to entry of foreign investment in retail trade, this bill aims to lower the required minimum capital for foreign retail investors to US$200,000. The measure likewise reduces the required locally manufactured products carried by foreign retailers from 30 percent to 10 percent of the aggregate cost of their stock inventory.

These amendments would open up the Philippine retail industry which would result in greater variety of products, more competitive local players, inflow of new technology, and more importantly, more jobs for Filipinos.

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

VICTOR A. YAP
Representative, 2nd District of Tarlac
SECTION 1. Section 5 of Republic Act No. 8762 is hereby amended to read as follows:

"SEC. 5. Foreign Equity Participation. – Foreign-owned partnerships, associations and corporations formed and organized under the laws of the Philippines may, upon registration with the Securities and Exchange Commission (SEC) and the Department of Trade and Industry (DTI), or in case of foreign-owned single proprietorships, with the DTI, engage or invest in the retail trade business, subject to the following categories: WITH A MINIMUM PAID-UP CAPITAL OF THE EQUIVALENT IN THE PHILIPPINE PESOS OF TWO HUNDRED THOUSAND US DOLLARS (US$200,000.00)

"[Category A – Enterprises with paid-up capital of the equivalent in the Philippine Pesos of less than Two million five hundred thousand US dollars (US$2,500,000.00) shall be reserved exclusively for Filipino citizens and corporations wholly owned by Filipino citizens.]

"[Category B – Enterprises with a minimum paid-up capital of the equivalent in the Philippine Pesos of Two million five hundred thousand US dollars (US$2,500,000.00) but less than Seven million five hundred thousand US dollars (US$7,500,000.00) may be wholly owned by foreigners except for the first two (2) years after the effectivity of this Act wherein foreign participation shall be limited to not more than sixty percent (60%) of total equity.]

"[Category C – Enterprises with a paid-up capital of the equivalent in the Philippine Pesos of Seven million five hundred thousand US dollars (US$7,500,000.00) or more may be wholly owned by foreigners: Provided, however, That in no case shall the investments for establishing a store in Categories B and C be less than the equivalent in Philippine Pesos of Eight hundred thirty thousand US dollars (US$830,000.00).]

"[Category D – Enterprises specializing in high-end or luxury products with a paid-up capital of the equivalent in the Philippine Pesos of Two hundred fifty thousand US dollars (US$250,000.00) per store may be wholly owned by foreigners.]

"The foreign investors shall be required to maintain in the Philippines the full amount of [the prescribed minimum] ITS PAID-UP capital, unless the foreign investor has notified the SEC and the DTI of its intention to repatriate its capital and cease operations in the Philippines. The actual use in Philippine operations of the inwardly remitted [minimum] capital [requirement] shall be monitored by the SEC.
"Failure to maintain the [full] amount of [the prescribed minimum] PAID-UP capital REQUIRED IN THE IMMEDIATELY PRECEDING PARAGRAPH, prior to notification of the SEC and the DTI, shall subject the foreign investors to penalties or restrictions on any future trading activities/business in the Philippines.

"Foreign retail stores shall secure a certification from the Bangko Sentral ng Pilipinas (BSP) and the DTI, [which will] TO verify or confirm THE inward remittance of [the minimum required] THEIR capital investment."

Sec. 2. Section 6 of Republic Act No. 8762 is hereby deleted.

Sec. 3. Section 7 of Republic Act No. 8762 is hereby deleted.

Sec. 4. Section 8 of Republic Act No. 8762 is hereby amended to read as follows:

"Sec. 8 [Qualifications of Foreign Retailers] USE OF FOREIGN RETAILERS OF HIGH-END GOODS. – [No foreign retailer shall be allowed to engage in retail trade in the Philippines unless all the following qualifications are met.]

"[(a) A minimum of Two hundred million US dollars (US$200,000,000.00) net worth in its parent corporation for Categories B and C, and Fifty million US dollars (US$50,000,000.00) net worth in its parent corporation for Category D;]

"[(b) Five (5) retailing branches or franchises in operation anywhere around the world unless such retailer has at least one (1) store capitalized at a minimum of Twenty-five million US dollars (US$25,000,000.00);]

"[(c) Five (5)-year track record in retailing; and]

"[(d)] Only nationals from[,] or juridical entities formed or incorporated in countries which allow the entry of Filipino retailers shall be allowed to engaged in retail trade in the Philippines.

"The DTI is hereby authorized to pre-qualify all foreign retailers, subject to the provisions of this Act, before they are allowed to conduct business in the Philippines.

"The DTI shall keep a record of qualified foreign retailers who may, upon compliance with law, establish retail stores in the Philippines. [It shall ensure that the parent retail trading company of the foreign investor complies with the qualifications on capitalization and track record prescribed in this section.]

"The Inter-Agency Committee on Tariff and Related Matters of the National Economic and Development Authority (NEDA) Board shall formulate and regularly update a list of foreign retailers of high-end or luxury goods and render an annual report on the same to Congress."

Sec. 5. Section 9 of Republic Act No. 8762 is hereby amended to read as follows:

"SEC. 9. Promotion of Locally Manufactured Products. – [For ten (10) years after the effectivity of this Act, at] AT least [thirty] TEN percent [(30%)] (10%) of the aggregate cost of the stock inventory of foreign retailers [falling under Categories B and C and ten percent (10%) for Category D] shall be made in the Philippines."

SEC. 6. Separability Clause. – If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in force and effect.
SEC. 7. Repealing Clause. — Republic Act No. 8762, and all laws, decrees, orders, rules and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 8. Effectivity. — This act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,