

CLIENT UPDATE 2016 JUNE

FOREIGN INVESTMENT

Changes to the Myanmar Investment Commission

On 7 June 2016, the Union Government of Myanmar issued Notification No.43/2016, which constituted the new Myanmar Investment Commission (“MIC”). This is a welcome move, given that the status of MIC has been uncertain following the recent change in Government. With the MIC functioning as the body which administers the Foreign Investment Law and regulating significant foreign investments outside of the Special Economic Zones, the uncertainty over the MIC is clearly unsatisfactory.

The new members of the MIC are:

- 1) H.E. U Kyaw Win (Union Minister, Ministry of Planning and Finance) – Chairman
- 2) H.E. Dr Than Myint (Union Minister, Ministry of Commerce) – Vice Chairman
- 3) H.E. U Tun Tun Oo (Attorney General) – Member
- 4) U Khin Maung Yee (Permanent Secretary, Ministry of Natural Resources and Environmental Conservation) – Member
- 5) U Toe Aung Myint (Permanent Secretary, Ministry of Commerce) – Member
- 6) U Tun Tun Naing (Permanent Secretary, Ministry of Planning and Finance) – Member
- 7) U Htay Chun (Deputy Director General (Ret.), Directorate of Investment and Company Administration) – Member
- 8) U Kyaw (Director (Ret.), General Administration Department) – Member
- 9) U Aye Lwin (Joint Secretary General, Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry) – Member
- 10) U Aung Naing Oo (Director General, Directorate of Investment and Company Administration) – Joint Secretary
- 11) Daw Mya Thuza (Deputy Director General (Ret.), Directorate of Investment and Company Administration) – Joint Secretary

What is noteworthy is the appointment of only one private sector individual in the MIC, as well as the absence of certain constituents of the previous MIC (such as the Economic Advisor to the President). However, concerns that the MIC will become too detached from the private sector could be unfounded, given the retention of U Aung Naing Oo and Daw Mya Thuza from the previous MIC. These are senior officials who are very experienced in dealing with foreign investors and have a sound understanding of the inner workings of the MIC.

In this regard, the new MIC looks to have its hands full given the backlog of investment applications (reportedly numbering around a hundred) awaiting approval by the MIC, as well as the expected surge in investment following last November’s watershed election. Capacity building however remains a priority as foreign investors still encounter a certain degree of frustration when dealing with some working-level officials. The MIC now directly reports to the President’s Office, a move which should be applauded. If the draft Myanmar Investment Law is promulgated in its current form, the MIC will become entirely independent although whether this is the case in practice remains to be seen, particularly with the number of political appointees at the helm.

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ASEAN Economic Community Portal

With the launch of the ASEAN Economic Community (“AEC”) in December 2015, businesses looking to tap the opportunities presented by the integrated markets of the AEC can now get help a click away. Rajah & Tann Asia, United Overseas Bank and RSM Chio Lim Stone Forest, have teamed up to launch “Business in ASEAN”, a portal that provides companies with a single platform that helps businesses navigate the complexities of setting up operations in ASEAN.

By tapping into the professional knowledge and resources of the three organisations through this portal, small- and medium-sized enterprises across the 10-member economic grouping can equip themselves with the tools and know-how to navigate ASEAN’s business landscape. Of particular interest to businesses is the “Ask a Question” feature of the portal which enables companies to pose questions to the three organisations which have an extensive network in the region. The portal can be accessed at <http://www.businessinasean.com/>.

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