

Draft of Myanmar Companies Law

Myanmar is drafting Myanmar Companies Law (“**MCL**”) to replace its century-old Myanmar Companies Act 1914 (“**MCA**”). The Directorate of Investment and Companies Administration (“**DICA**”) drafted the MCL with assistance from the Asian Development Bank (“**ADB**”). The draft is now being reviewed by the Attorney General Office. It is expected to be submitted to the Parliament this year.

1. Foreign Company

Under the MCA, if a foreigner holds one share or more in a company registered in Myanmar, such company is a “foreigner”. But under the MCL, a company is a foreigner only if a foreign individual or a foreign company or both of them owns or controls directly or indirectly an ownership interest in excess of the prescribed ownership limit. The draft MCL has not yet specified such ownership limit.

2. Small Company

A small company will be exempted from filing obligations and some other corporate matters specified in the MCL, e.g. filing of the financial statement, holding an annual general meeting of the shareholders. The small company is defined as:

- (i) a company itself and its subsidiaries have no more than 30 employees; and
- (ii) a company itself and its subsidiaries had the annual consolidated revenues in the given past financial year less than MMK50 million or in any other amount to be prescribed under the MCL.

3. Constitutional Documents

The company must prepare and file its Constitution in the Myanmar language or the English language. The company is not required to have a Memorandum of Association (“**MOA**”) and an Articles of Association (“**AOA**”).

The MOA, the AOA and all other company registration documents of the existing companies registered under the MCA will be valid as the Constitution of such companies after the MCL becomes effective.

4. Objectives

A company established under the MCL will not be required to specify its business operation objectives. The objectives specified under the MOA of the current companies registered under the MCA will continue to apply until the end of the transitional period. Such objectives

will be deemed to have been removed after the end of the transitional period unless a notice confirming that a special resolution of the company has been passed to maintain its objectives is filed with the Companies Registrar.

5. Permit to Trade

The Permit to Trade will not be required for registration of a company under the MCL. A company registered under the MCL will be granted a Certificate of Incorporation for operating its business. No Permit to Trade will be issued.

6. Shareholders and Directors

Under the MCA, a company must have at least two shareholders and two directors. Under the MCL, a company can have one shareholder and one director. The director must be an ordinary resident of Myanmar.

A company that has only one director is not required to have a board of directors' meeting. But such director must pass each resolution in writing and signs it.



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