

FOREIGN BANKS ALLOWED TO OPERATE IN MYANMAR

Kowit Somwaiya, LawPlus Myanmar Ltd.

kowit.somwaiya@lawplusltd.com

After more than 50 years of banning, foreign banks have now been licensed to operate in Myanmar. The Foreign Bank Licensing Committee (“**FBLC**”) under the Central Bank of Myanmar (“**CBM**”) granted the final foreign bank licenses to three banks to commence operations from April 2015. The Bank of Tokyo Mitsubishi UFJ Ltd., Sumitomo Mitsui Banking Corporation and Oversea-Chinese Banking Corporation Ltd. became the first foreign banks to operate in Myanmar since the nationalization of private banks in 1963. Subsequently the United Overseas Bank Limited, Bangkok Bank PCL and the Industrial and Commercial Bank of China (ICBC) were granted foreign bank licenses in May 2015.

Australia and New Zealand Banking Group Limited (ANZ), Malayan Banking Berhad (Maybank) and Mizuho Bank may be granted their foreign bank licenses within the coming months, according to the FBLC.

Reform of the Banking Sector

The reform of the Myanmar banking law started with the approval of the Foreign Exchange Management Law on 10 August 2012. It was followed by the enactment of the Central Bank of Myanmar Law (“**CBML**”) on 11 July 2013 and other banking regulations. The CBML has established the CBM as the licensing authority and regulator of all banks in Myanmar. The draft of the Banks and Financial Institutions Law which will set rules under which the banking sector will operate in line with international standards is currently under discussion.

Prior to the grant of the foreign bank licenses this year, the banking sector was composed of four state-owned banks and 20 private local banks. They did not have sufficient resources to provide efficient banking services. Foreign banks could only establish a representative office in Myanmar and were prohibited from engaging in any substantial financial services activities.

In June 2014, the CBM allowed foreign banks having a representative office in Myanmar to apply for licenses for limited banking services. On 1 October 2014, the CBM granted provisional licenses to nine applicant banks to open one branch each subject to a minimum capital requirement of US\$75 million and compliance with the other terms and conditions within one year.

Scope of Foreign Bank License

The exact scope of the foreign bank license may vary from bank to bank at the discretion of the CBM and according to the terms of the initial proposal of each applicant bank. But generally the scope of the license is restrictive. The branch office of each foreign bank is allowed to provide loans in foreign currencies to foreign companies but is prohibited from engaging in retail banking in the local market or lending to local companies. It should be noted that the term “foreign companies” under the Myanmar Companies Act 1914 includes

the joint venture company registered in Myanmar in which a non-Myanmar shareholder holds at least one share.

The licensed branches of foreign banks are required to contribute to the development of the domestic banking sector by participating in the interbank market in the form of lending to domestic banks and cooperating with local banks in providing banking services to local companies.

What is Next?

As of June 2015, almost all major investments are sourced off-shore and the absence of proper collaterals in Myanmar is one of the major challenges for lending to investment projects in Myanmar. The operation of foreign banks in Myanmar is expected to boost the financing of major existing and new projects. Foreign banks operating in Myanmar is likely to help modernizing the Myanmar banking system. They are expected to provide training to local employees and work in cooperation with local banks. It remains to be seen whether or not the CBM will expand the scope of banking activities under the foreign bank license and allow some foreign shareholding in local banks.

Kowit Somwaiya is the Managing Partner and Director of LawPlus Ltd. and LawPlus Myanmar Ltd. He can be contacted at kowit.somwaiya@lawplusltd.com.

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LawPlus Myanmar Ltd.

Room 517 Yangon International Hotel
No. 330 Corner of Ahlone and Pyay Roads
Dagon Township, Yangon, Myanmar
Tel: +95 (0)92 6111 7006, +95 (0)92 6098 9752
www.lawplusltd.com

LawPlus Ltd.

Unit 1401, 14th Fl., Abdulrahim Place
990 Rama IV Road,
Bangkok 10500, Thailand
Tel: +66 (0)2 636 0662 Fax: +66 (0)2 636 0663
www.lawplusltd.com

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