More Industries are Eligible to Investment Promotion in Thailand

On 13th January 2021, the Thailand Board of Investment ("**BOI**") issued a series of announcements, retroactively effective from 4th November 2020, to encourage more investments in the targeted industries in Thailand. Their key provisions are summarized below:-

1. Five new investment activities are eligible to investment promotion. They are (1) hospital for elderly; (2) nursing center for elderly or dependent person; (3) international procurement office for procurement of raw materials, parts and components; (4) contract research organization; and (5) clinical research center (Announcement No. Sor. 1/2564).

2. Businesses which are currently operating, with or without a BOI promotion certificate, projects related to energy saving, renewable energy, reduction of environmental impacts, change of machinery, R&D and engineering design for sustainability, with investment capital (excluding land costs and working capital) of not less than THB1 million (or not less than THB500,000 if they are SMEs) are now eligible to the exemption of import duties for machinery import, and the corporate income tax exemption at 50% or 100% of the investment capital (excluding land costs and working capital used for enhancement) for a period of 3 years (Announcement No. 1/2564).

3. Investors who invest in supporting industries essential to the value chain can apply for additional privileges within 31st December 2022 if they use modern machineries and/or robotics systems for manufacture of products or provision of services (Announcement No. 2/2564).

4. Projects for manufacturing of (1) Battery Electric Vehicle (**BEV**), Plug-In Hybrid Electric Vehicle (**PHEV**) and Hybrid Electric Vehicle (**HEV**); (2) battery electric motorcycle; (3) battery electric tricycle; (4) battery electric bus and battery electric truck are now eligible for obtaining the BOI investment promotion (Announcement No. 3/2564).

Currently, the Office of Thai Trade Competition Commission (OTCC), a unit within the Department of Internal Trade at the Ministry of Commerce (MOC), is in charge of enforcing the Trade Competition Act (the "**Act**"). The independency of the OTCC is one of the major reasons that cause unenforceability of the Act. Under the Bill, an OTCC will be established independently from the MOC as one of government sectors but not a government agency or a state enterprise. The new OTCC will have its legal status as juristic person, having its own budget and workforce.

The Bill will introduce stricter provisions and higher penalties for violations.

The most controversial provision in the Bill is Section 51 which governs mergers and acquisitions. Section 51 as approved by the NLA in its final reading sets forth that mergers and acquisitions that fall within the criteria set out by the OTCC must be reported to the OTCC within seven days post-completion of the transaction and mergers and acquisitions which may cause a substantive reduction in competition prior to the merger cannot be done unless approved by the OTCC. This Section will not be applicable to SMEs or business enterprises which do not meet the criteria set out by the OTCC.

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