

MHM YANGON

Newsletter

Announcement on Overtime Work by the Myanmar Investment Commission ("MIC")

On 3 October 2019, the MIC issued an announcement (the "Announcement") summarising its understanding of the regulations applicable to overtime work by employees under Myanmar's labour laws. The Announcement applies to businesses which have a permit or endorsement from the MIC under the Myanmar Investment Law. An overview of the Announcement is provided below.

(1) Requirements for overtime work

Date	Requirements
Monday to Saturday (excluding public holidays)	Written consent of the employee
Sundays and public holidays	Written consent of the employee and written acknowledgement of the Workplace Coordination Committee

(2) Upper limit for overtime work

Date of service	Upper limit of overtime work
Monday to Friday	3 hours per day
Saturday	5 hours per day
Sunday	Up to 1 Sunday every 4 weeks

The legal basis for the Announcement is unclear. In addition, there are reports that the MIC did not consult with the Ministry of Labour, Immigration and Population (the "Ministry"), which is responsible for administering Myanmar's labour laws, prior to issuing the Announcement. It has been reported that the Ministry may issue a clarification of this Announcement. Companies operating in Myanmar should pay close attention to developments in this area, with a view to assessing their compliance implications.

Directive of the Office of the President on the Land and Property Bank

The Office of the President of Myanmar has issued Directive No. 2/2019 (the "Directive") dated 30 August 2019, proposing to establish a "Land and Property Bank" listing properties available for use by investors in Myanmar. Senior Myanmar government officials have often described the concept of a Land and Property Bank in investment seminars and other events marketing Myanmar to potential investors, and we now

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have a clearer idea of what the government has been considering.

According to this Directive, Myanmar government ministries are required to report to the Ministry of the Office of the Union Government the land and buildings that they own in Myanmar. Based on this information, the Ministry of Investment and Foreign Economic Relations will create a database called the Land and Property Bank. Investors who wish to use land or buildings may apply through the ministry or agency that owns the relevant property, or through the Ministry of Investment and Foreign Economic Relations. Certain projects, such as PPP projects, may be required to be registered in the Project Bank administered by the Ministry of Planning and Finance, and subjected to certain procedural requirements, such as a Swiss Challenge tender process.

Securing land can be an obstacle to investing in Myanmar. It is hoped that the Land and Property Bank will resolve this, and improve the ability of investors to access land in Myanmar. On the other hand, the regulations applicable to large-scale PPP projects are becoming more complex, for example, through the introduction of a Swiss Challenge tender process.

Relaxation of restrictions on banking businesses, such as permitting foreign banks to offer banking services through subsidiary companies in Myanmar

The Central Bank of Myanmar (The "CBM") issued a statement dated 7 November 2019 announcing an important deregulation of the banking sector. There are four main takeaways from this statement.

1. The CBM has announced that it will grant further licences to foreign banks to enter the Myanmar market through opening a branch office. To date, thirteen (13) foreign banks have obtained licences to open branch offices in Myanmar.
2. In addition, the CBM has announced that it will permit foreign banks to operate in Myanmar through a subsidiary, which has not been permitted to date. Such a subsidiary may open up to ten (10) branch offices, allowing foreign banks to offer a broader scope of service than previously allowed.
3. Foreign banks which have already obtained licences to operate a branch office in Myanmar will be permitted to establish a subsidiary.
4. Finally, previously, foreign investors were permitted to invest only up to thirty five (35) per cent in Myanmar banks. However, the CBM has now announced that it may, on a case-by-case basis, permit foreign investment of more than thirty five (35) per cent in domestic banks.

This important announcement of the CBM marks the latest deregulation of Myanmar's financial sector, following the opening of the insurance sector to foreign investment earlier this year. It is anticipated that this latest move will lead to an increase in foreign investment in the Myanmar banking sector.

➤ **MHM Yangon publishes chapter on private M&A transactions in Myanmar**

MHM Yangon contributed the Myanmar chapter of the third edition of the *Getting the Deal Through* volume on Private M&A, published in October 2019. This chapter provides our insights based on our on the ground experience handling M&A transactions in Myanmar.

We trust this publication will be helpful to your business in Myanmar.

You can access the publication at the following link:

<https://gettingthedealthrough.com/area/101/jurisdiction/132/private-m-a-myanmar/>

This publication is intended to highlight an overview of key issues for ease of understanding, and not for the provision of legal advice. If you have any questions about this publication, please contact your regular contact person(s) at Mori Hamada & Matsumoto or any of the Key Contacts listed in the far-right column.