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REGIONAL ROUND-UP 2022: MYANMAR



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CONTENTS

Introduction	3
Looking Back: 2022	4
Gazing Into: 2023	6
Key Contacts	8
Regional Contacts	9

Introduction



Throughout 2022, we have been keeping you up to date on noteworthy developments across the region with our Regional Round-up Publications. As we start 2023, we are pleased to share with you our *2022 year-in-review of the Regional Round-up* for our Offices in the Rajah & Tann Asia network.

In each jurisdiction, we recount the key milestones along the path in 2022, as well as consider the terrain of the road that lies ahead in 2023. In the "**Looking Back: 2022**" section, we highlight the key legal and regulatory developments affecting each jurisdiction in 2022. In the "**Gazing Into: 2023**" section, we look ahead to some key areas of development that you should take note of in the year to come, referencing the legal and business trends shaping the potential legislative and regulatory changes in each jurisdiction.

We hope that this year-in-review edition of the Regional Round-up provide valuable insight on the legal landscape of the jurisdictions across the region. As always, please feel free to contact our lawyers if you have any queries or for further discussions.

Please click on the links below to access the full collection of our country-specific *2022 year-in-review of the Regional Round-up*.

- [Cambodia](#)
- China
- [Indonesia](#)
- [Laos](#)
- [Malaysia](#)
- [Myanmar](#)
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Looking Back: 2022

*After two years of the military coup, the State Administration Council (SAC) has made several **changes in policy** in the **administrative and business sectors**.*



Summaries of the key developments relating to these changes are provided below.

Technology / Cybersecurity – Draft Cybersecurity Law

On 13 January 2022, the Ministry of Transport and Communications ("MOTC") circulated the Draft Cybersecurity Law ("Draft CS Law") which seeks to regulate privacy and data protection as well as introduce measures for cyber security against cyber-attacks and terrorism. The Draft CS Law has similarities to the previous draft circulated to mobile operators and licensed telecoms service providers for feedback on 9 February 2021. However, some salient differences include the additional clarity over the concept of "digital service providers" (with the key implication being that, providers of digital platform services, such as Facebook, TikTok, etc. would need to register with the authorities in Myanmar), and the requirement to obtain the MOTC's prior approval for the use of virtual private network (VPN). Click [here](#) for more information.

Banking & Finance – Ongoing Developments of Foreign Currency Conversion Requirements

Starting 4 April 2022, the Central Bank of Myanmar ("CBM") has issued series of notifications on capital controls, requiring mandatory conversion of foreign currency into Myanmar Kyats (MMK). With that, the Foreign Exchange Supervisory Committee (FESC) was also established to scrutinise and approve the use of foreign currencies.

To encourage foreign investments in Myanmar, certain entities and individuals have been exempted from the mandatory foreign currency conversion requirement. These include some foreign companies and institutions, certain Foreign Direct Investment (FDI) businesses (mainly Myanmar Investment Commission-registered companies, both local and foreign), Special Economic Zone Management Committees and related companies, and certain individuals (i.e. non-resident citizens). CBM has also extended the exemption to importers and

exporters conducting cross-border trade. Click [here](#) for more information including related updates from CBM.

raw materials, and commodity lines such as corn and maize. Click [here](#) for more information on the newsletters issued.

Company Laws – Insolvency Law Update

The Directorate of Investment and Company Administration ("DICA") issued an announcement regarding the liquidation of companies with effect from 1 September 2022 in accordance with the Myanmar Insolvency Law 2020 ("MIL"). Based on the announcement, Form W-01 (Notice of appointment of liquidator for company/body corporate) and Form W-09 (Liquidator's final account of winding up of a company/body corporate) are now to be used to register and submit winding up applications through Myanmar Companies Online ("MyCO").

Ongoing company liquidation cases can still use J Forms (forms relating to winding up), which were the prescribed forms under the Myanmar Companies Law ("MCL"). However, going forward, W Forms are required to be used for the winding up of a company. These forms can be found on the [DICA website](#). Furthermore, going forward, public announcements on liquidation made by companies must make reference to the MIL instead of MCL.

Tax – Union Taxation Law 2022

On 30 March 2022, the SAC enacted the [Union Taxation Law](#) ("UTL") for financial year 2022-2023. The UTL introduced a one-time commercial tax of MMK20,000 for selling and activating a new SIM card, and a 15% commercial tax on the income earned from internet connection services. The UTL also provides revised personal income tax rate ranges for undisclosed sources of income that are still subject to income tax. Click [here](#) for more information.

Trade – Restriction of Importation and Exportation of Goods

The Ministry of Commerce ("MOC") issued several newsletters that add to the list of goods that require import and export licences for their importation and exportation, as the case may be. This is a follow up step by MOC to add more items to the commodity lines that require an import and export licence in an attempt to exercise foreign exchange control, and ensure national and food security, and environmental conservation. Notable goods requiring import licences include different categories of foodstuffs,

Gazing Into: 2023

The **national state of emergency** was initially set to be lifted by 31 January 2023. The caretaker government led by the State Administration Council (SAC) would have then completed its two-year term and be required to transfer its powers to the **National Defense and Security Council (NDSC)** according to the Constitution.

However, it has been announced that the national state of emergency will be **extended to another six months**.

It is highly likely that **political instabilities** in Myanmar will continue, increasing not only tension in the political landscape, but also negatively impacting the means and ways of **doing business and investment in Myanmar**.

Corporate Commercial / Anti-money Laundering & Anti-terrorism – Currency Restriction Imposed by Financial Action Task Force

The currency restriction imposed by the Financial Action Task Force ("**FATF**") is of growing concern, with the current U.S. dollar shortages already limiting the availability of imported products and other commodities.

In October 2022, FATF placed Myanmar on its blacklist of jurisdictions for failing to implement the action plan to address the country's strategic deficiencies in combatting money laundering and terrorist financing. This has placed more pressure for residing banks to abide by the increased due diligence and additional reporting requirements, which can have a disincentivising effect on foreign companies and institutions that continue to operate in Myanmar. The Government has approached this by adopting customer due diligence measures for financial institutions through Central Bank of Myanmar regulations in compliance with the FATF Recommendations, and imposing further anti-money laundering measures. It is also possible that trade will be delayed due to difficulties in payments for import/export and that transactions will no longer be easily processed. Although border trade is still possible, the price of bringing in goods and commodities will be much higher, increasing compounded monetary problems.



International Sanctions and Impacts

Since the beginning of the military coup in 2021, the United States, the European Union and Australia have placed targeted sanctions against Myanmar which included those affecting corporations and companies owned by top government officials linked to the coup such as Myanmar Economics Holdings Ltd (MEHL) and Myanmar Economic Corporation (MEC). So far, these sanctions have largely impacted foreign direct investments as they increase caution against the sanctioned companies and restrict their commercial relationship with foreign countries.

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