NISHIMURA & ASAHI

Second Quarter 2023 (Apr. - Jun.)

ASIAN LEGAL UPDATE

Indonesia

Authors: Jeanne E. Donauw and Hans Adiputra Kurniawan

1. KPPU Regulation No. 3 of 2023 and Government Regulation No. 20 of 2023: New Merger Filing Regulation and Fees

The Indonesian Business Competition Supervisory Commission – *Komisi Pengawas Persaingan Usaha* ("KPPU") issued KPPU Regulation No. 3 of 2023 ("Reg 3 of 2023") as a new merger filing regulation, replacing, and revoking the previous regulation on the same matter, namely KPPU Regulation No. 3 of 2019 ("Reg 3 of 2019"). Some of the key takeaways from Reg 3 of 2023 are briefly discussed below:

(i) **Merger Filing Requirement: Local Nexus Test in Foreign-to-Foreign (F2F) Transactions**
Pursuant to Reg 3 of 2023, a mandatory merger filing is only triggered if **all** transacting parties have assets or sales in Indonesia. This is a notable change compared to the regime of Reg 3 of 2019, which triggered a merger filing obligation even if only **one** transacting party had sales or assets in Indonesia.

(ii) **Calculation of Assets Value**: Both Reg 3 of 2019 and Reg 3 of 2023 refer to the parties' combined assets when calculating the assets threshold. The critical difference is while Reg 3 of 2019 calculated parties' combined assets on a worldwide/global basis, the new Reg 3 of 2023 calculates the assets within Indonesia's jurisdiction only.

In addition, based on the Government Regulation No. 20 of 2023, starting 5 May 2023, the Government will impose merger filing fee to applicants (i.e., the acquirer), which will be calculated based on the following formula: **0.004% x [the combined assets value OR combined sales value, whichever is lower]**
The fee is capped at IDR 150 million (approx. USD 10,000, assuming USD 1 is IDR 15,000) and can be waived under certain conditions, for example, if the proposed transaction is due to a government's policy.

2. Government Regulation No. 25 of 2023

Government Regulation No. 25 of 2023 on Mine Areas ("**GR 25 of 2023**") aims to address the lack of clarity in relation to some of the issues under the previous regime (Government Regulation No. 22 of 2010), by setting out more detailed provisions compared to its predecessor, including in relation to allocation of mine areas. One of the key changes introduced by GR 25 of 2023 is that the Ministry of Energy and Mineral Resources can assign, among others, private companies (subject to meeting certain regulatory requirements) to carry out research and investigation activities in relation to the mining business areas allocation for metal minerals or coal as well as for development and exploitation of coal. If the assigned area is set as a mining business area, the appointed entity performing research and investigation activities is entitled to a right to bid-match in the tender of relevant area.

3. Energy Conservation

On 16 June 2023 the government issued a new government regulation on energy conservation which revoked another government regulation on the same subject matter. A couple of notable points from this new regulation 33 of 2023 are:

(i) Omission of monetary penalty as a form of disincentives for those do not perform their energy conservation obligation;
(ii) The regulation regulates about data sharing and access to information, and mandates government to standardize, manage, and develop information data system for the implementation energy conservation.
(iii) The regulation lays out a basis for energy conservation services business, among others, investment grade energy audit, energy conservation project financing, measurement and verification of energy performance.

A number of areas in this regulation will be further regulated by implementing regulations, including, ministerial regulations.

Malaysia

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1. Passing of The Insolvency (Amendment) Bill 2023

The Insolvency (Amendment) Bill 2023 ("**Bill**") was passed in the House of Representatives on 24 May 2023 and will be tabled before the Senate. The effective date of the Bill has not been appointed at the time of writing.
In line with the Government's intention to preserve the welfare of bankrupts, the Bill seeks to provide a more effective bankruptcy administration and discharge process in Malaysia. Some of the proposed amendments introduced by the Bill are summarized as follows:

(i) **Inclusion of categories of bankrupt individuals to be discharged**
The amendments introduced 2 new categories of bankrupt individuals, who may be qualify for a discharge of bankruptcy without objection from the creditors:
  (a) a bankrupt who is incapable of managing himself and his affairs due to any mental disorder, as certified by a psychiatrist from any government hospital; and
  (b) a bankrupt aged 70 years and above and in the opinion of the Director General of Insolvency ("DGI"), is incapable of contributing to the administration of his estate.

(ii) **Easing of the early automatic discharge provisions**
  (a) The amendments enable bankrupt individuals to be automatically discharged from bankruptcy after the expiration of 3 years from the date of submission of the bankrupt's statement of affairs, provided that: (1) the bankrupt has paid the sum of money determined by the DGI, for the purposes of the administration of the bankrupt's estate, having regard to the financial ability of the bankrupt; and (2) the bankrupt has complied with the requirement to render an account of moneys and property to DGI.
  (b) As a protective measure, the amendments empower the DGI to suspend the automatic discharge of a bankrupt for a period of not exceeding 2 years if the bankrupt fails to comply with duties and obligations under the Insolvency Act 1967.

(iii) **Use of electronic communication during bankruptcy administration**
The amendments allow: (a) the use of remote communication technology (e.g. live video link) for the conduct of creditors' meetings, if it is convenient for the majority of the creditors in the opinion of the DGI; and (b) the use of electronic communications for the services of notices and documents under Insolvency Act 1967, provided the recipient has given consent for the use of electronic communications.

2. Transfer of Listing Framework from LEAP Market to ACE Market

Bursa Malaysia Securities Berhad ("**Bursa**") has issued amendments to the transfer of listing framework from LEAP Market to ACE Market ("**LEAP Market Transfer Framework**"). LEAP Market is a qualified market accessible only to sophisticated investors, being accredited investors, high net-worth entities and individuals as prescribed under the Capital Market and Services Act 2007. Therefore, a transfer from LEAP Market to ACE Market, which is open to the public and retail investors, will provide access to a larger pool of investors.

Under the LEAP Market Transfer Framework which came into effect on 1 April 2023, a company listed on LEAP Market:

(i) must be listed for at least 2 years;
(ii) must demonstrate a clear and transparent price discovery mechanism in place, to show fairness and reasonableness of its issue price pursuant to its transfer to the ACE Market;
(iii) can opt to provide all the shareholders with an exit offer that complies with the Take-Overs and Mergers Code or any other alternative exit mechanism, which is equitable to the shareholders; and
(iv) will only be delisted from LEAP Market upon successful completion of the transfer and listing on ACE Market, unlike the previous regime where a company listed on LEAP Market must be delisted from LEAP Market to facilitate its listing on ACE Market.

Philippines

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1. Implementation of Rules and Regulations for the Public Service Act

The National Economic Development Authority ("NEDA") has released the implementing rules and regulations ("PSA IRR") for Republic Act No. 11659 or the Public Service Act, as amended ("PSA"). The PSA was passed in 2022 and allowed up to 100% foreign ownership of entities that wished to operate public services in the country. Implementation of this law however has been slow as government regulators were waiting for more guidance and clarity before issuing authorizations to foreign owned entities who wanted to operate public services in the Philippines.

While the PSA IRR complements the significant changes already provided under the PSA, there have been notable clarifications made. For instance, the PSA IRR clarifies that the criteria for determining a "foreign state-owned enterprise" shall also apply to subsidiary enterprises, depending on the mode of acquisition of the holding or parent enterprise. The kind of control a foreign State has over an entity, making it a "foreign state-owned enterprise," has also been clarified as the ability to substantially influence or direct the actions or decisions of an entity, even in limited circumstances where the foreign State owns 50% or less of the voting power of the entity in question. And while the PSA already prohibits foreign governments or foreign state-owned/controlled enterprises from investing additional capital after the PSA's effectivity, the PSA IRR clarified that such entities with existing investments in public services or utilities classified as critical infrastructure prior to the effectivity of the PSA may maintain them and are not required to divest their capital.

Finally, the PSA IRR also provides that reciprocity requirements in relation to allowed foreign investments in critical structure (i.e. telecommunications) are deemed satisfied if: (a) Philippine nationals are allowed to own more than 50% of capital stock in any activity related to agriculture, industry and services in the home country of the foreign national; and (b) the home country of the foreign national allows Philippine nationals to invest the same value of capital in any economic activity related to agriculture, industry or services.

With the effectivity of the PSA IRR last 4 April 2023, hopefully government regulators start implementing procedures to allow full foreign ownership in industries that were liberalized by the PSA. These include operators of airports, railways, expressways, and telecommunications that were previously limited to 40% foreign ownership prior to the amendment of the original Public Service Act.

2. Implementation of Rules and Regulations for the Financial Products and Services Consumer Protection Act

On 25 April 2023, the Philippine Securities and Exchange Commission ("SEC") issued the implementing rules and regulations ("FCPA IRR") for Republic Act No. 11765 or the Financial Products and Services Consumer Protection Act ("FCPA"). Under the FCPA and the FCPA IRR, the SEC now requires investment advisors to secure a license and register as such before they can advise on financial products under the jurisdiction of the SEC. Under the FCPA IRR, an investment advisor is any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, whether electronically or in any other form, as to the value of investment products or as to the advisability of investing in, purchasing, or selling investment products, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning investment products. Such financial products or services refer to those developed or marketed by a financial service provider and which may include, but are not limited to, savings, deposits, credit, insurance, pre-need and health maintenance organization (HMO) products, securities, investments, payments, remittances and other similar products and services. This also includes digital financial products or services which pertain to the broad range of financial services accessed and delivered through digital channels.

Notably, the registration procedures for investment advisors under the FCPA IRR are still currently being drafted by the SEC, and in the interim, the SEC is requiring all investment advisors to submit an undertaking to the SEC on or before 12 August 2023, signifying their intent to register as investment advisors in accordance with the requirements and procedures to be prescribed by the SEC. Entities or persons who advise their clients on investing in Philippine financial products should consider whether they are covered by the FCPA IRR and are required to register as an investment advisor (and should submit an undertaking by 12 August 2023).

Singapore Authors: Melissa Tan and Chin Su Xian

1. Investor Protection Measures for Digital Payment Token Services

The Monetary Authority of Singapore ("**MAS**") announced on 3 July 2023 new requirements for Digital Payment Token ("**DPT**") service providers to safekeep customer assets under a statutory trust before the end of the year. This is intended to mitigate the risk of loss or misuse of customers' assets, and facilitate the recovery of customers' assets in the event of a DPT service provider's insolvency. MAS will also restrict DPT service providers from facilitating lending and staking of DPT tokens by their retail customers. These measures were introduced following an October 2022 public consultation on regulatory measures to enhance investor protection and market integrity in DPT services, in particular for DPT service providers to, amongst others, segregate customers' assets from its own assets and held in trust, conduct daily reconciliation of customers' assets and keep proper books and records, maintain access and operational controls to customers' DPTs in Singapore, ensure that the custody function is operationally independent from other business units, and provide clear disclosures to customers on the risks involved in having their assets held by the DPT service provider.

These requirements will be put into effect by way of legislative amendments to the Payment Services Regulations 2019, which the MAS is currently seeking public feedback on until 3 August 2023: https://www.mas.gov.sg/publications/consultations/2023/consultation-paper-on-proposed-amendments-to-the-ps-regs.

2. Companies, Business Trusts and Other Bodies (Miscellaneous Amendments) Act 2023

With effect from 1 July 2023, amendments to the Companies Act 1967 ("**Companies Act**"), the Business Trusts Act 2004, the Variable Capital Companies Act 2018 and the Singapore Labour Foundation Act 1977 came into force. These amendments aim to promote a more pro-business environment whilst upholding market confidence and safeguarding public interest.

The following are among the key amendments implemented pursuant to the Companies, Business Trusts and Other Bodies (Miscellaneous Amendments) Act 2023:

(i) The holding of fully virtual or hybrid meetings (in addition to physical meetings) will be permanently allowed for all companies, business trusts and variable capital companies. For public listed companies in Singapore, pursuant to the amended Practice Note 7.5 (General Meetings) of the Mainboard Rules and Practice Note 7E (General Meetings) of the Catalist Rules, the Singapore Exchange (SGX) has clarified that such issuer shall not hold wholly virtual general meetings but may hold either fully physical meetings in Singapore, or hybrid meetings at a physical location in Singapore and using technology that allows persons to participate in that meeting without being physically present at the location of the meeting. In addition, issuers which hold general meetings outside of Singapore without allowing shareholders in Singapore to participate virtually should hold information meetings for the shareholders at a physical location in Singapore;

(ii) All companies are now required to accept proxy instructions given by electronic means instead of leaving this to be stipulated in the company's constitution. This is intended to encourage shareholder engagement by making it easier for shareholders to appoint proxies to exercise their votes;

(iii) In order to provide greater protection to minority shareholders, changes have been made to the computation of the threshold for the compulsory acquisition of shares under section 215 of the Companies Act. In particular, shares held by persons connected with the offeror will be excluded from the computation of the 90% approval threshold for compulsory acquisition;

(iv) The enhancement of the regime for disqualification of persons as directors under section 155A of the Companies Act, where (a) the length of automatic disqualification for first-time offenders has been reduced from five (5) years to three (3) years, and (b) the Registrar is empowered to grant leave to disqualified directors, in addition to directors' existing right to seek leave from the High Court; and

(v) The increase in the maximum punishment for offences pertaining to financial statements or profit and loss accounts of companies (including foreign companies) not giving a true and fair view and complying with the prescribed accounting standards to a maximum fine of S$250,000 (where there is no intent to defraud) and a maximum fine of S$250,000 and/or up to three (3) years' imprisonment (where there is intent to defraud). The aim of such updated maximum punishment is to reflect the severity of the offence and deter wrongdoing.

Thailand Authors: Jirapong Sriwat and Apinya Sarntikasem

1. Amendment on Approval for Offering the Sale of Newly Issued Share#

The Notification of the Capital Market Supervisory Board No. TorJor. 5/2566 Re: Application for Approval and Granting of Approval for Offering of Newly Issued Shares#No. 15) (the "**CMSB Notification**") was published in the Government Gazette on 15 May 2023 and entered into force on 16 May 2023. This CMSB Notification amends Clause 26 with regard to additional rules and exception for offering of newly issued shares by a holding company. The previous notification provides that the issuer (the holding company) for public offerings (including IPO)#must appoint a person to be a director and an executive of a subsidiary#proportionate to their shareholding in that subsidiary. However, the requirement for an issuer to appoint executives in proportion to its shareholding in each subsidiary or associated company has been abolished. The CMSB Notification only requires the issuer to appoint the director proportionate to their shareholding in that subsidiary. Moreover, the CMSB Notification also adds an exception that in the case where the issuer has limitations or there is a necessity that causes inability to send a person to be a director of a subsidiary according to the shareholding proportion, the issuer can demonstrate mechanisms to ensure that the issuer can oversee management or make decisions on matters that are significant to the operations and financial position of the subsidiary according to its shareholding proportion.

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2. Documents for Registration for Establishment, Capital Increase, and Amalgamation with Capital Increase

The Order of the Office of the Central Company and Partnership Registration No. 1/2566 Re: Rules and Supporting Documents for Registration for Incorporation, Capital Increase, and Amalgamation with Capital Increase (the "**Order**") was published in the Government Gazette on 11 April 2023 and entered into force on 7 February 2023. Under this Order, a company wishing to increase its registered capital to be over Baht 5,000,000 is required to submit a bank statement showing that it has already received the payment for the increased capital (as opposed to showing the entire amount of its registered capital). In the case of amalgamation with capital increase, a bank statement of an authorized director showing that he/she has already received the payment for the increased capital is required to be submitted together with the application for company incorporation. Then, within 15 days after the new company has already been incorporated as a result of the amalgamation, such new company is required to submit a bank statement showing that the company has already received the payment for the increased capital from the aforementioned director.

3. The Inquiry of the Labour Disputes via Electronic System

The Rule of the Labour Relations Committee Re: The Inquiry via Electronics System B.E. 2566 (2023) was published in the Government Gazette on 22 May 2023 and entered into force on 23 May 2023. This Rule provides the procedure for the inquiry of labour dispute under Labour Relations Act B.E. 2518 (1975) (the "**LRA**"). According to Section 8 of the LRA, the Office of the Labour Relations Committee has power to conduct preliminary inquiries relating to complaints and labour disputes. To facilitate the Employees, Employers, Labour Relations Committee, and other stakeholders to bring the fact to consider and settle the labour disputes, this Rule authorizes the Labour Relations Committee to proceed with the inquiries via electronic system. The place for proceeding the inquiry via electronic system must be a suitable place without disturbing noise, not a public place, and is a closed area that nobody can enter. The parties and the witnesses in the inquiry must appear and show their identification cards or passports on the screen system so that the Labour Relations Committee can make sure that the people on screen are the parties or witnesses.

4. The Customers' Personal Data Protection of Life and Non-Life Insurance#

The Notification of Office of Insurance Commission Re: Regulations for Protecting the Personal Data of the Customers for the Life Insurance Business B.E. 2564 (2021) and the Notification of Office of Insurance Commission Re: Regulations for Protecting the Personal Data Protection of the Customers for the Non-Life Insurance Business B.E. 2564 (2021) were published in the Government Gazette on 27 April 2023 and entered into force on 1 June 2023. Both Notifications provide the regulations to collect, use, or disclose personal data for an insurance company. For example, the insurance company which is a data controller shall provide the internal policies for collecting personal data prescribing such matter as the minimum period for retaining personal data. Or, if the customers have more than one insurance policy, the insurance company may request their consent for collecting the personal data only once upon the first sale of insurance policy.

Vietnam Authors: Vu Le Bang and Nguyen Thi Thanh Huong

1. Decision No. 500/QD-TTg approving National Power Development Plan for the period of 2021 - 2030 with vision up to 2050 ("PDP VIII")

The new national power development plan was issued and took effect from 15 May 2023. With a view to ensure national energy security and to achieve Vietnam's international commitments on net-zero emissions and just energy transition, PDP VIII sets out the following key frameworks for energy development in Vietnam:

(i) Renewable energy is encouraged, in which (a) onshore wind power is oriented to reach 21,880 MW by 2030, and offshore wind power used for domestic demand is oriented to reach 6,000 MW by 2030 and 70,000 - 91,500 MW by 2050; (b) rooftop solar power is encouraged without limitation on capacity, especially for self-consumption and for areas having a risk of power shortages with the total capacity oriented to reach 168,594 – 189,294 MW by 2050; (c) biomass power and power generated from garbage and solid waste from agricultural, forestry, and wood productions are oriented to reach the capacity of 6,015 MW by 2050. For hydropower, only certain selected projects may be expanded with total capacity oriented to reach 36,016 MW by 2050. Coal-fired power is discouraged, only projects which are listed under the revised PDP VII and under their investment construction until 2030 may be maintained; however, all coal power plants must be converted to biomass or ammonia before 2050.

(ii) PDP VIII indicates the development of 500kV and 220kV transmission grids; however, inter-regional transmission shall be limited with minimized construction of new inter-regional transmission lines before 2030.

(iii) The Ministry of Industry and Trade is assigned to prepare an implementation plan for PDP VIII, which shall cover, amongst others, a pilot scheme for offshore wind power development, a finalized scheme for direct power purchase, and a framework for rooftop solar development.

2. Decree No. 13/2023/ND-CP on personal data protection ("PDPD")

Expected to be the first comprehensive regulation on personal data protection in Vietnam, this PDPD was issued on 17 April 2023 and took effect on 1 July 2023, with some notable points as below:

(i) Besides Vietnamese entities and individuals, the PDPD also applies to foreign entities and individuals in Vietnam and those directly engaging in or relating to the processing of personal data in Vietnam.

(ii) The PDPD clearly provides 11 statutory rights of a data subject, including, among others, the right to consent, object, and restrict the data processing.

(iii) The PDPD requires the consent of the data subject for all activities during the data processing, save for certain exceptions provided by law. When being asked for consent, the data subject must be provided with full information about the data processing, including the type of data to be processed, the purpose of data processing, the subjects processing the data, and the rights of the data subject.

(iv) Data controllers or data controlling and processing entities (as the case may be) are required to prepare and issue a written dossier for data processing impact assessment and send it to the competent authority for review and supervision within 60 days after the commencement of the data processing.

(v) Vietnamese citizen's personal data can be transferred overseas only if the transferor prepares a dossier for impact assessment of overseas data transfer and sends it to the competent authority within 60 days from the commencement of the data processing.

3. Decree 10/2023/ND-CP amending and supplementing a number of articles of Decrees guiding the implementation of the Land Law ("Decree 10") and Official Letter 3382/BTNMT-DD[1]

Decree 10, issued on 3 April 2023 and having taken effect on 20 May 2023, and Official Letter 3382, the detailed guidance of Decree 10 are further steps of the authority towards addressing certain perennial land-related issues in Vietnam with the following highlights:

(i) Amount of deposit payable in advance by a bidder in a land auction for land allocation or land lease by the State is increased and fixed at 20% of the total price of the land parcel based on the auction starting price.

(ii) Construction works used for tourism accommodation purposes which meet all the requirements prescribed under relevant laws on land, construction, and real estate business can be eligible for issuance of the certification of ownership over non-residential construction facilities. These construction works may include hotels, condotels, tourism villas, and officetels.

[1] This letter provides detailed guidance of Decree 10. Of note, legal effect of an official letter in Vietnam is questionable because it is not a legal instrument, however, as the matter of practice, the authorities in Vietnam may refer to an official letter to interpret the legal regulations and apply it.

India Authors: Taeko Suzuki and Ayush Sharma

1. Top Indian listed entities required to confirm, deny or clarify rumours

The Securities and Exchange Board of India ("**SEBI**"), on 14 June 2023, issued the SEBI (Listing Obligations and Disclosure Requirements)(Second Amendment) Regulations, 2023 ("**SEBI Amendment**") under which it has become mandatory, for India's top 100 listed entities from 1 October 2023 and thereafter the top 250 listed entities from 1 April 2024 (top 100 and 250 entities determined on the basis of market capitalization as of the end of the immediately preceding financial year), to confirm, deny or clarify any reported event or information in mainstream media, which is not general in nature and which indicates that rumours relating to an impending specific event or information, are circulating amongst the investing public, as soon as reasonably possible and not later than 24 (twenty four) hours from the reporting of the event or information. In case the listed entity confirms the reported event or information, it will be further required to provide the current stage of such event or information.

Prior to the SEBI Amendment, there was only a general requirement on listed entities to, at their own initiative, confirm or deny any reported event or information to stock exchanges. The SEBI Amendment has been issued with an aim to strengthen the corporate governance and disclosure framework of listed companies in India, in order to avoid establishment of a false market sentiment, referencing the regulations in place at the New York Stock Exchange and other jurisdictions.

2. SEBI mandates disclosure of agreements impacting listed entities, including where the entity itself is a non-party

As per the SEBI Amendment, any agreement entered into by a listed entity's shareholders, promoters, promoter group entities, related parties, directors, KMPs or employees ("**Covered Persons**") or the Covered Persons of its holding, subsidiary or associate companies, among themselves or with the listed entity or a third party, must be disclosed by such Covered Persons to the listed entity (except for agreements to which the listed entity is a party) within 2 (two) working days of entering into such agreement (or signing an agreement to enter into such agreement), if such agreement directly or indirectly or potentially or whose purpose and effect is to, impacts the management or control of the listed entity or imposes any restriction or creates any liability on the listed entity. For clarity, such agreements are required to be disclosed even if the listed entity itself is not a party to the agreement. The disclosures received from the Covered Persons must be disclosed by the listed entity to the stock exchange and described in its annual report.

The intent of this amendment appears to be to eliminate the information asymmetry between Covered Persons who have entered into a binding agreement and the listed entity and its shareholders. For instance, the promoters may have entered into binding agreements with third parties (for example, lenders), which have an impact on the management or control of the listed entity or place restrictions (for example, on share transfer) on the listed entity, without the listed entity or its shareholders being aware of such agreement. Of particular concern is the fact that such agreements are capable of causing significant market reactions when they become known to the public at a later stage. This provision of the SEBI Amendment came into effect on 14 July 2023, and the Covered Persons' disclosure requirement applies to all such agreements already in place at the date of the notification of the SEBI Amendment.

Myanmar

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1. Annual Return Filing Requirements by Directorate of Investment and Company Administration

The Directorate of Investment and Company Administration issued an announcement on 1 April 2023 ("**Announcement**") requiring submission of six additional pieces of evidence by companies (one of the pieces of evidence is that the paid up capital of the shares presented in the Myanmar Companies Online system has been remitted to the bank account opened in the company's name) when filing their first annual returns ("**AR**") within two months from the date of company registration. If a company fails to comply with submission of the AR in accordance with the Announcement, the registrar will take action under Section 430(d) of the Myanmar Companies Law, which results striking the company's name from the register.

2. Changes in the Export and Import Activities

The Ministry of Commerce ("**MOC**") issued Notification 35/2023, a new importer and exporter registration order ("**EIR Order**") on 10 May 2023. Under this EIR Order, the MOC has introduced new registration rights for those wishing to conduct export and import activities and divides them into two different categories: (i) for exporting or importing goods from/into the country for trading purposes, a certificate of the Exporter and Importer Registration ("**EIR Certificate**") is required; and (ii) for exporting or importing goods from/into the country for non-trading purposes, a certificate of the Export and Import Business Registration ("**EIRB Certificate**") is required. Individuals or organizations eligible to apply for the EIR Certificate/EIRB Certificate are described in the EIR Order, including rights relating to holders after obtaining them. The registration term and fees differ depending on the types of applicant. Moreover, detailed requirements for the application and renewal process for the EIR Certificate/EIRB Certificate are stated in the EIR Order. The EIR Certificate/EIRB Certificate can be applied for at the Department of Trade ("**DOT**") under the MOC.

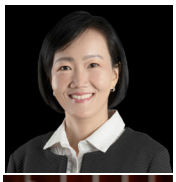
3. Myanmar Trademark Update under Implementing Legislation

There have been significant changes to the trademark registration process in Myanmar during the last few months. The changes began when the long-awaited Trademark Law ("**TL**") became effective on 1 April 2023, pursuant to Notification 82/2023.

After the enforcement of TL, as part of the implementing TL, the MOC issued the Trademark Rule on 31 March 2023, that sets out the substantive procedures for applications for trademark registration, including detailed requirements for registration, criteria for marks, and requirements for mark descriptions, examination of marks, oppositions to registration, re-application processes, corrections to an application, the renewal process, transferring registered mark ownership, and other relevant matters.

Further, pursuant to notification 1/2023, the service fees for the various types of applications for mark registration are specified. For example, the fee for application to register a trademark is 150,000 Myanmar kyat (approximately 10,300 Japanese yen).

Contacts



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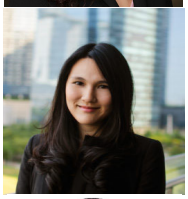

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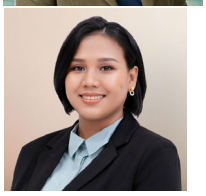

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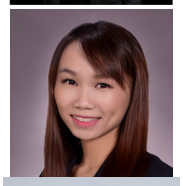

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