



Myanmar's Key Legal Developments in 2013

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One year after the entry into force of the Foreign Investment Law, Myanmar has continued to actively reform its legal system. What are the key laws promulgated in 2013?

Even if there is still a long way to go, the efforts of the Myanmar's government ought to be underlined. In January 2013, the Foreign Investment Law has been completed to detail areas of economic activities opened to foreign companies. The result is many new opportunities for foreign investors. An independent central bank will be established and a stock exchange is expected to be opened by 2015. The welfare of workers and corruption issues have also been addressed. Finally, the Telecommunication law came into force on the 8th of October and sets up a basic framework for companies wishing to tap this big market.

The table below highlights the main laws promulgated in 2013:

No.	Name	Law No.
1	Minimum Wage Law	7/2013
2	Central Bank of Myanmar Law	16/2013
3	Myanmar Citizens Investment Law	18/2013
4	Securities Exchange Law	20/2013
5	Anti-Corruption Law	23/2013
6	Employment and Skill Development Law	29/2013
7	Telecommunications Law	31/2013

1. Further Details on the Foreign Investment Law

In January 2013, the Myanmar Investment Commission (MIC) issued Notification No. 1/2013 and the Ministry of National Development and Economic Planning issued Notification No. 11/2013 (FI Rules) to clarify the investment process under the Foreign Investment Law.

The FI Rules provide details on the procedure to obtain a permit from the MIC as well as the rights

and duties of foreign investors (lease contract, transfer of share etc.).

The MIC Notification No.1/2013 details which areas of economic activity are opened to foreign companies. Under the Notification, business activities are divided into three categories: activities under Category 1 are prohibited to foreign investors, activities under Category 2 are permitted to foreign investors only in the form of a joint venture with a Myanmar citizen and activities under Category 3 are permitted under specific conditions (i.e. such as Minister approvals or an environment impact study requirement). Investments in the form of 100 % ownership are permitted to a large range of business activities.

2. Labour Laws

The Employment and Skill Development Law has been passed on 30th August, 2013, and lays the foundation to enhance the training and skills of workers. An employee skill development fund will be set up to finance training for workers. The fund will be financed by a contribution collected on employers who will be required to pay a monthly fee of no less than 0.5% of the payroll.

The new Minimum Wages Law sets up a committee who will be in charge of determining the minimum wage per sector. It repealed the former Minimum Wages Act (1949).

3. Banking System

The Central Bank of Myanmar Law (CBML) and the Securities Exchange Law have been passed in July 2013 and profoundly changed the way financial sector is regulated in Myanmar.

The CBML established an independent Central Bank to regulate the banking sector and insure the stability of the monetary system.

The Securities Exchange Law sets the framework to establish a stock exchange as well as rules to oversee trading activities. The Myanmar stock exchange is expected to be open by 2015. The law is, however, silent on the possibility for foreigners to trade on the new stock exchange.

4. Anti-Corruption

Corruption is a major issue in Myanmar which occupied the 172th place out of 176 countries in the Corruption ranking 2012. The Anti-Corruption Law was approved in August 2013 and will require top officials to declare their assets. A special commission shall be established in order to address corruption cases. The law also requires members of the anti-corruption commission to declare their assets.

5. Citizens Investment Law

The Myanmar Citizens Investment Law (CIL) has been passed in July 2013 and repealed the previous Citizens Investment Law (1994). The CIL establishes a principle of freedom of investment where business activities are not banned or restricted by any law. The CIL mirrors the Foreign Investment law in numerous points. From now, both the investment proposals made by citizens under the CIL or by foreigners under the FIL are scrutinized by the Myanmar Investment Commission (MIC).

6. Telecommunication Law

The Telecommunication Law came into force in October 2013 and repealed the Myanmar Telegraph Act (1885) and the Myanmar Wireless Telegraphy Act (1934). The new law provides a basic framework for companies wishing to operate a telecommunication business in Myanmar.

The Ministry of Communications and Information Technology (MCIT) released the Proposed Rules for the Telecommunications sectors on the 4th of November, 2013. This draft implements the provisions set out in the Telecommunications Law and provide details on the licensing rules, the interconnection and access, the spectrum, the numbering and the competition issues.

Conclusion

2013 is a year of considerable progress for the Myanmar legal system. The Foreign Investment law has been detailed and structural reforms has been undertaken in the banking sector as well as in the telecommunication sector. A draft bill of the Trademark Law has circulated (the 10th) and is expected to pass soon, probably before the end of the year.

At the same time, and despite recent progress, the different Ministries and entities established under these laws must not forget to issue notifications and rules to complete the new laws. The new laws are broad and many practical issues are not addressed. Further clarifications are then needed to offer legal security to foreign investors.

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