

Joint Bill Committee Reports on Laws to be Repealed or Revised

Efforts accelerate to update the legal framework of Myanmar's business environment as Myanmar endeavors to promote investor confidence.

On 3 June, the Myanmar language version of the state-run newspaper, *New Light of Myanmar*, published a report by the Joint Bill Committee of the Pyidaungsu Hluttaw on laws to be repealed or revised in the near term. The report is the result of a multi-stakeholder meeting that included high-level participation from the Union Government, both houses of Parliament, and representatives from the Judiciary. Held on 14 May, the meeting's stated objectives included streamlining the process by which the domestic legal structures are to be harmonized with international treaties and agreements to which Myanmar is signatory, enacting laws for enhanced protection of foreign investments, and repealing, amending or drafting new laws and regulations to better suit the rapidly changing economic situation inside Myanmar. Following the meeting, the Pyidaungsu Hluttaw approved a list of laws to be repealed or revised as proposed by the Union Government. Among those laws to be revised are:

1. 1960 Urban Rent Control Act;
2. 1894 Land Acquisition Act;
3. 2002 Fertilizer Law;
4. 1990 Pesticide Law;
5. 1990 Private Industrial Enterprise Law;
6. 2011 Private School Registration Law;
7. 1992 Savings Bank Law;
8. 1993 Myanma Insurance Law;
9. 1996 Insurance Business Law;
10. 1914 Myanmar Companies Act;
11. 1950 Special Companies Act;
12. 1932 Partnership Act; and,
13. 1989 State-owned Economic Enterprises Law.

Laws expected to be repealed and rewritten in their entirety include:

1. 1903 Burma Extradition Act
2. 1908 Registration Act
3. 1990 Financial Institutions of Myanmar Law

It was also reported separately that long-awaited amendments to MIC Notification 1/2013 have been internally finalized and will soon be published. MIC Notification 1/2013, issued by the Myanmar Investment Commission on 31 January 2013, details the various classes of economic activities that are reserved only to Myanmar citizens, those that may be undertaken only by joint venture with a Myanmar entity, and those that are allowed only upon compliance with particular conditions.

New Anti-Money Laundering Law Increases Reporting Requirements

The new Anti-Money Laundering Law (2014) provides for a new series of reporting requirements for banking, real estate and professional business services.

Passed at the end of the first quarter of 2014, the Anti-Money Laundering Law (the “**AMLL**”) aims to improve for Myanmar’s ability to fight the laundering of funds related to drug trafficking and terrorism. Drafted to bring the developing nation in line with international best practices, the AMLL criminalizes the acquisition, possession or use of money and/or property known to be from illicit sources, the conversion or concealment of such property in order to disguise its origin, or assistance in any acquisition, conversion or concealment of illicit funds and property.

To combat these offenses, the AMLL establishes a two-tiered enforcement regime, at the head of which is the Anti-Money Laundering Central Body (the “**Central Body**”), which is responsible for high level policy, national reporting and executive action. Operating under the Central Body is the Financial Action Task Body (the “**FATB**”) responsible for ensuring compliance from covered institutions (called “**Reporting Entities**”), situational assessments and direct interaction with Reporting Entities as necessary. Institutions considered as Reporting Entities under the AMLL are banks, financial institutions, and non-financial business and professionals (the “**NFBP**”), which in turn include real estate agents, dealers in precious metals and stones, casinos and in certain situations, lawyers, accountants and business consultants.

The most relevant issue for foreign investors is the inclusion in the AMLL of an obligation of Reporting Entities to engage in Customer Due Diligence measures (“**CDD Measures**”) based upon a risk determination by the Central Body. CDD Measures are to be employed by Reporting Entities prior to carrying out a transaction of an amount equal to or greater than a forthcoming designated threshold, opening an account for a new customer, carrying out a money transfer via international wire or electronic transfers, or at any time should there be doubts concerning the veracity of previously obtained data or on suspicion of activity connected to money laundering or terrorism financing.

CDD Measures include identifying and verifying a customer’s identity using independent sources, identifying the beneficial owner of the entity or individual undertaking the transaction, verifying the authorization of an agent acting on behalf of a third party, along with the true identity of the agent, and carrying out “enhanced versions of CDD Measures” in cases where the individual is known to have public functions or office domestically, or is a Director, Deputy Director, or Board Member of an international organization. Additionally, Reporting Entities will be required to maintain records, including documentary evidence and records obtained through CDD Measures, transaction records for five years from the date of transaction or attempted transaction, copies of transaction reports previously sent to the FATB for five years from the date of submission, and risk assessments for up to five years from their last modification.

While the law sets out further monitoring and evaluation requirements (including the establishment of risk-management systems), the law, as written, does not provide clear or in-depth detail on the exact operation of these systems. Presumably, additional legislation and implementing rules will be promulgated to flesh out these far-reaching set of requirements.