

## 2013 Laws in Review; Upcoming Changes in 2014

*There have been significant changes in the legal landscape of Myanmar this year, many of which affect foreign investment in the country. A total of 37 laws were passed in 2013. The following is a short summary of recent changes in the law over the past year in selected key sectors.*

### Investment

In 2013 alone, the Myanmar Investment Commission ("MIC") issued 187 investment permits of which 116 were issued to foreign and joint-venture companies and another 71 to Myanmar companies. A majority of these investments are in the garment and manufacturing sectors, while others are in the real estate development and hospitality industries. According to the Department of Investment and Company Administration ("DICA"), more than US\$ 44 billion in foreign investments were approved as of 30 November 2013.

In a major development earlier in January this year, DICA and the MIC released the 2013 Rules and Regulations and Notification under the 2012 Foreign Investment Law. These documents provide detailed classifications and conditions for business activities permitted to be undertaken by foreign entities in Myanmar. Additionally, the updated Myanmar Citizens Investment Law was enacted in July, essentially levelling the incentives for Myanmar investors to be on par with their foreign counterparts under the Foreign Investment Law.

The Government continues to improve the legal framework of Myanmar in an effort to attract more foreign investments. In 2014, the century-old Myanmar Companies Act (passed in 1914) is scheduled for review and amendment. The Foreign and Myanmar Investments Laws may also be amalgamated to facilitate investment implementation. Additionally, the draft Special Economic Zone Law—which provides details for the formation of free trade zones, tax exemptions and small/medium enterprise promotion schemes—is scheduled to be discussed at the coming parliamentary session in January 2014.

### Financial Services and Capital Markets

Two important pieces of legislation for the financial services industry were brought into effect as of July 2013: (i) The Central Bank of Myanmar Law; and (ii) The Securities Exchange Law.

The Central Bank of Myanmar Law essentially grants to the Central Bank of Myanmar ("CBM") greater autonomy and authority to oversee monetary policy and financial stability of the country. The CBM will have nine directors appointed to its board by the President and approved by the Parliament. The CBM is currently reviewing its banking policies and some anticipate that it may allow certain foreign banks to engage in corporate banking services in Myanmar, however, any official notification to that effect has yet to be issued.

The Securities Exchange Law was passed at the end of July, 2013 in anticipation of the establishment of the Yangon Stock Exchange in 2015. The law provides a general framework for the regulation of capital markets in Myanmar, including the creation of the Securities Exchange Commission, which will be tasked with licensing and regulating all securities-based transactions in Myanmar.

It is expected that the Banks and Financial Institutions Development Committee of the Parliament will be reviewing the 1990 Financial Institutions of Myanmar Law in an effort to modernize the legislation to better suit the current financial environment in the January 2014 Parliamentary session.

## Employment

In 2013, the Ministry of Labor, Employment and Social Security ("**MLES**") promulgated the Minimum Wages Law and Rules along with the Employment and Skills Development Law.

The Minimum Wages Law and Rules establish a broad framework for the determination of minimum wages across various industries to be determined by the National Committee for Determining the Minimum Wages. The Employment and Skills Development Law, among other things, requires a labor contract for all employees in Myanmar and mandates requirements for the establishment of skills and training centres.

## High Growth Sectors – Telecommunications and Real Estate

The awarding of National Telecommunications Licenses to Telenor (Norway) and Ooredoo (Qatar) in June 2013 marked a significant milestone in Myanmar's telecommunications industry as this sector, once completely reserved for Myanmar citizens under the State-owned Economic Enterprises Law, was opened up for the first time to foreign investment. Shortly after the tender results were published, the Telecommunications Law was passed in October 2013 after several rounds of discussions at the Parliament. Next year, the Ministry of Communications and Information Technology is expected to publish the Telecommunication Rules which will incorporate feedback gathered through the public consultation process.

Investors in the Real Estate sector are waiting for the enactment of the highly-anticipated Condominium Law. A draft of the Condominium Law was officially published on 10 November 2013 in the state-owned newspapers for public discussion. As currently drafted, the law is expected to allow foreign investors the right to purchase condominium units in certain collectively owned buildings, so long as such units are located on the 6th floor or higher, and the percentage of foreign unit owners in the building does not exceed 40 percent.