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Overview of the newly-enacted Registration of Associations Law

On 28 October 2022, the State Administration Council (“SAC”) passed the 2022 Registration of Associations Law (“2022 RAL”) replacing the 2014 Registration of Associations Law (“2014 RAL”). We highlighted below the salient provisions found in the 2022 RAL.

1. Definition of NGOs and INGOs

The 2022 RAL provides for the following specific definitions for NGO and INGO:

- An “internal organization” (or “NGO”) is defined as a “non-governmental organization which was registered under this law, formed with five or more citizens in order to carry out social tasks without taking any benefit in accord with the entitlements mentioned in the Constitution for the sake of the State and the citizens; and such a word shall consist of its branches opened under the permission of the relevant registration body.”
- A “non-governmental international organization” (or “INGO”) is defined as an “organization officially formed in any foreign country to open its branch in the country with at least 40 per cent of Myanmar citizens in the executive committee which was registered at the Union Registration Board under this law in order to conduct any social task without taking benefit in the country; and such a word shall be inclusive of its branches in the country opened under the permission of the Union Registration Board.”

Notably, INGOs are now required under the 2022 RAL to include Myanmar citizens at least 40% in their executive committee even as no such requirement existed under the now-replaced 2014 RAL.

Note: The foregoing definitions are taken verbatim from the English translation of the 2022 RAL as published in Global New Light of Myanmar Newspaper. Registration of Associations Law is also translated as “Organization Registration Law”.

2. Registration of NGOs and INGOs

All organizations formed *without registration* prior to the enactment of the 2022 RAL are required to apply for the registration **within 60 days from the date of the enactment of the 2022 RAL (i.e., 28 October 2022)** if they wish to continue their operations.

For existing NGOs and INGOs registered under the 2014 RAL, they are allowed to carry on their operations until the expiry of their previous registration certificates but they are still required to comply with the provisions of the 2022 RAL. Although the 2022 RAL does not expressly provide for a requirement to replace these previous registration certificates, the organizations holding the previous certificates will need to obtain a new registration certificate in accordance with the 2022 RAL, as the previous certificates may no longer be renewed once they expire.

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3. Registration requirements and fees

The registration of NGOs and INGOs will require the submission of, among others, an organization name; the names of responsible persons; the location and address, the entity's objective; a recommendation from the relevant government department related to the operations of the entity; the number of executive committee members; and the members of the entity; a constitution of the entity; and an undertaking that the entity will comply with existing Myanmar laws.

Specifically for the registration of INGOs, required for submission is a proof of its establishment in the country of origin; a separate recommendation from the Ministry of Investment and Foreign Economic Relations and the Ministry of Immigration and Population; a specification of the source of funds to be used for operations; and remarks of the Ministry of Foreign Affairs.

Upon submission of the application, the relevant registration body under 2022 RAL will issue a temporary registration certificate within 21 days from the application date, during which time the said registration body will conduct the assessment. If it decides that the application is satisfactory, it will issue a registration certificate within 30 days from the application date.

In the event that the relevant registration body rejects their application, NGOs and INGOs may amend their application to be re-submitted within 30 days from date of rejection. If the re-submission is still rejected, such decision is final and may not be appealed further.

The fees for registration and renewal of INGOs are prescribed at 500,000 MMK and 300,000 MMK respectively. For local NGOs, the registration fees range from 300,000 MMK to 30,000 MMK, and the renewal fees range from 100,000 MMK to 10,000 MMK depending on the registration tier and the territory of operations (*i.e.*, Union, State / Region, District, Township).

4. Validity and Renewal of the Registration Certificate

The registration certificate of NGOs and INGO is valid for 5 years from the date of the approval by the relevant registration body. An application for renewal of the certificate may be submitted 90 days before the expiry of the then-current certificate. If the renewal application is not filed within 90 days, applicable fines will be imposed. The renewal application filed after the expiry of the certificate will not be accepted and a complete registration must be applied *de novo*.

5. Organizations not bound by registration requirement

The following organizations are exempt from the registration requirement under the 2022 RAL:

- (a) Organizations that will directly or indirectly carry out religious, business and political affairs in accordance with any existing law;
- (b) Political parties that are required to apply to the Union Election Commission according to the Political Parties Registration Law;
- (c) Organizations formed under any existing law, and
- (d) Organizations formed by the union level, regional level or the union territory level government organizations.

6. Rights and duties of NGOs and INGOs

The associations registered under the 2022 RAL are conferred, among others, with the rights to receive grants, funds and donations from the local and international governmental / non-governmental organizations, the right to sue and be sued, the right to open bank accounts, the right to possess movable and immovable properties in accordance with the existing laws. Any amendments to the organizational structure (*i.e.*, name change, address change, relocation, closure or dissolution, etc.) may also be effected by a majority vote of the registered executive committee members and with the approval of the relevant registration body.



Notable duties of NGOs and INGOs include filing an annual report to the relevant registration body within 60 days from the end of each calendar year. In the case of INGOs and NGOs registered with the Union, Region/State or Union Territory Registration Board, the report must be audited by the Certified Public Accountant (Qualified) whereas in the case of NGOs registered with other relevant registration bodies, the report must be audited by the audit team comprising an accountant or three executive committee members. Besides the submission of the annual report, NGOs and INGOs are required to submit a report on their activities to the Township General Administration Department on a quarterly basis. Not meddling in internal affairs or the politics of the country is also included as a duty of NGOs and INGOs.

7. Administrative actions

Non-compliance with the duties under the 2022 RAL will subject the registered association to administrative actions that could include a warning, a restricting of the activities of the association for a specific period, a temporary suspension of the registration certificate, and a revocation of the registration certificate.

The 2022 RAL provides for a possibility to appeal against the administrative action.

8. Prohibitions and penalties

Anyone convicted of committing any of the following prohibitions will be subject to monetary fines (in Kyats) or imprisonment or both as indicated in the table below.

No	Prohibitions	Applicable Penalty
1	No one shall establish and operate an association without a registration certificate.	Up to 3 years' imprisonment or 10 lakhs in fine
2	No one shall operate an association after the expiry or the revocation of the registration certificate.	Up to 2 years' imprisonment or 5 lakhs in fine
3	No one shall take part, operate, support, impersonate in association that does not have a registration certificate.	
4	No association that has obtained the registration certificate shall use the name of the association to deliver a sermon or solicit for a political party or for a religious belief or for any benefit beyond the social and vocational development work which is carried out for the common interest of the association's members	Up to 3 years' imprisonment or 10 lakhs in fine or both
5	No association that has obtained the registration certificate shall secure, transfer, use, provide any funds, assets or assistance through illegal means; and conceal or withhold any of such acts.	
6	No association that has obtained the registration certificate shall directly or indirectly communicate or abet any of the following organisations or individuals: <ul style="list-style-type: none"> - Armed organisations and individuals fighting against the State; - Organisations and individuals identified by the State as having committed acts of terrorism; - Unlawful associations and their members 	Up to 5 years' imprisonment or 50 lakhs in fine or both; termination of the association and confiscation of its assets as the State's funds
7	No association that has obtained the registration certificate shall directly or indirectly damage sovereignty, law and order, security, and ethnic unity of the State.	

Ministry of Commerce Issues Bulletin on Submission of Evidence of Sufficient Funds for Border Trade Importers

On 31 October 2022, and following action from the Financial Action Task Force, the Ministry of Commerce (the “MOC”) issued Bulletin No. 10/2022 that requires all border trade transactions to be settled only through licensed financial institutions. In implementing this requirement, Bulletin No. 10/2022 allows importers to procure foreign currency from: (a) export earnings; (b) remittance of overseas income of citizens; or (c) other sources of foreign currency income.

At the same time, and specifically for the Thai-Myanmar border trade only, the import approval process under Bulletin No. 10/2022 is to be conducted, as follows:

- (a) When applying for import license, companies are required to provide evidence of having sufficient funds through submission of credit advice and bank statement evidencing the source of funds proposed to be used for the payment of imports - only foreign currency earnings received after 1 April 2022 may be able for satisfying this evidence requirement;
- (b) The Directorate of Trade is to assess the receipt of the source of funds submitted by the company and issue the Import License for an amount not more than the bank balance in the bank statement submitted by the company; and
- (c) For importation of products not requiring an import license, the importer is required to submit the credit advice and bank statement when filing the Import Declaration to the Customs Department.

The foregoing instructions came into effect on 1 November 2022, and will not thereby be applicable to import licenses applied for prior to the said effectivity date. Further, import shipments under the import licenses issued up to 31 October 2022 may be completed until 30 November 2022, otherwise such import licenses will be deemed revoked.

About Kelvin Chia Yangon (KCY)

KCY has been in active operation in Myanmar since 1995, currently with offices in Yangon and Mandalay. KCY is the firm of choice for those seeking to navigate Myanmar's fast-changing and complex regulatory landscape, a jurisdiction in which KCY has gained in-depth legal expertise from the numerous transactions it has handled.

Our main practice areas

Foreign Investments | Incorporation and Company Maintenance | General Corporate and Commercial | Due Diligence | Mergers and Acquisitions | Joint Ventures and Production Sharing Agreements | Investment Funds | Energy/Oil and Gas | Natural Resources/Mining | Banking | Project and Project Financing | Manufacturing | Education | Agriculture | Real Estate | Infrastructure | Construction | Telecommunications | Compliance / Regulatory | Licensing and Permits | Labour and Employment | Immigration | Taxation | Insurance | International Arbitration | Intellectual Property | Special Economic Zones

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