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New Trademark Law Anticipated to Become Effective in March 2023

The Intellectual Property Department (IPD), on 13 Jan 2023, issued a public notice calling interested parties to attend the Trademark Registration Representative [agent] Training (Trademark Registration Training), signaling that the IPD is planning to accept the trademark registrations under the new Trademark Law (2019) in the near future.

According to the notice from the IPD, the Trademark Law (2019) is expected to be operative in March 2023. The training that will begin in February 2023 will result in the award of a completion certificate, which certificate is required to act as an authorized Trademark Representative. In addition to such completion certificate, Trademark Representatives are also required to obtain a WIPO File User Account in order to conduct trademark registrations with the IPD.

Notably under the new law, Myanmar will be moving from “first-to-use” system to “first-to-file” system meaning the trademark owner will enjoy relevant rights and protection only if it is the first to officially register the trademark. The Trademark Law (2019) also requires all trademarks currently in use, regardless of whether they are registered with the Office of the Registrar of Deeds and Assurances (ORD), to re-register again under the new system.

Starting from October 2020, the IPD has been accepting applications for re-registration of the trademarks currently registered with the ORD. This “soft opening” guarantees the current trademark users to have the filing date, which is crucial in the “first-to-file” system, on the day on which trademark applications are officially accepted under the Trademark Law (2019).

DICA Announcement on Nominee Directors and Shareholders

On 17 Jan 2023, the Directorate of Investment and Company Administration (DICA) issued Directive 7/2023 stating that nominee directors and nominee shareholders are not allowed under the Myanmar Companies Law.

It is stated in the directive that while some countries allow the registration of nominee shareholders and practice a system where beneficial ownership is separately disclosed, the Myanmar Companies Law requires any member of the company who is a beneficial owner to be registered in the register of members of the company.

The directive states that only the person/entity shown in the register of members of the company will be recognized as the beneficial owner. The directive comes into effect from its date of announcement. However, it does not state whether and how this will be enforced or penalized.

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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