

ALLEN & OVERY

Myanmar's new investment regime

April 2017

Speed read

The new Myanmar Investment Law came into force on 18 October 2016 and the implementing rules came into effect on 30 March 2017 along with the other relevant notifications which were all published recently. These instruments create the new legal framework for the investment process for Myanmar. In our previous bulletin on the Investment Law “[A big week for Myanmar: A new investment law and the termination of U.S. Sanctions \(October 2016\)](#)”, we examined the scope, objectives, key principles and the other important provisions in the new Myanmar Investment Law. This bulletin examines if and how the implementing rules and the associated notifications are laid out to achieve the objectives and the policy aims of the new investment regime. In doing this, we look at each area which has been developed further by the implementing rules and the notifications; composition of the ‘new’ Myanmar Investment Commission (MIC) and how it is intended to work; what triggers the need for an MIC permit; the type of activities that are caught by the so-called “Negative List”; the privileges available under the new regime; and other noteworthy features.

Introduction

The new Myanmar Investment Law 2016, combining and replacing the Foreign Investment Law 2012 and the Myanmar Citizens Investment Law 2013, came into force on 18 October 2016 (the **Investment Law**). It lays down the legal framework and core principles of the new investment regime and left it to further rules and notifications to flesh out the framework.

The Investment Rules (the **Rules**) were published by the Ministry of Planning and Finance on 30 March 2017 and the so-called Negative List (the **Negative List**) was published on 10 April 2017 via Notification 15/2017. The Myanmar Investment Commission (MIC) had already published Notification No. 10/2017 dated 22 February 2017 announcing the determination of tax exemption zones (the **Notification 10/2017**), Notification No. 11/2017 dated 3 March 2017 which delegates certain decision making powers for the endorsement process to the regional and state-level investment committees (the **Notification 11/2017**) and Notification No. 13/2017 dated 1 April 2017 prescribing the classification of promoted sectors (**Notification 13/2017**). Suffice to say that the Investment Law along with the Rules and the above notifications for now complete the picture of the new investment process that has now been put in place in Myanmar. The new Myanmar Companies Law which was originally part of the package updating the investment regime has not yet been passed.

In our previous bulletin on the Investment Law “[A big week for Myanmar: A new investment law and the termination of U.S. Sanctions \(October 2016\)](#)”, we examined its scope (in terms of to whom it applies), objectives, key principles, the outline of the proposal process and some of its important provisions. We noted in that bulletin that one of the aims of the Investment Law is to make the regime more policy based rather than transaction based, thereby making it more efficient and robust. This bulletin examines if and how

the implementing rules and regulations are laid out to achieve this goal and the other aims of the new process. In doing this, we look at each area which has been developed further by the implementing rules and the notifications; composition of the ‘new’ MIC and how it is intended to work; what triggers the need for an MIC permit; the type of activities that are caught by the so-called “Negative List”; the privileges available under the new regime; and other noteworthy features.

A new MIC?

The Investment Law spells out the minimum number of members comprising the MIC as nine and permits any increment in odd numbers.¹ Currently the MIC has 11 members including the Secretary, and we are not aware that this will change. The MIC will continue to have a chairman (but under the Investment Law, he or she must be nominated by the President from members of the Government), a vice-chairman and a Secretary who will head the administrative arm of the MIC. The Directorate of Investment and Company Administration (**DICA**) will continue to serve its role as the secretariat or administrative arm of the MIC. Currently the Minister of Planning and Finance serves as the chairman and we are not aware that this will be changed in the near future. All members other than the Secretary, who is regarded as a civil servant, have the same tenure as the Government.

Some existing powers such as advising the Government on investment policies and requesting and obtaining assistance from government departments are turned into legal powers under the Investment Law. The workings of the MIC are formalised to some extent into a form that is akin to a board of directors of a company by having in place, for example, provisions on quorum and voting rights. The Investment Law and the Rules now also contain new provisions regarding

¹ Investment Law, section 7

conflicts of interest and expressly give the Government the right to dismiss an MIC member on various grounds including the failure to properly perform their duties.² The MIC is to hold monthly meetings with ad-hoc special meetings to take place as necessary. These provisions clearly are in response to demands for more robustness, transparency and accountability in the decision making process within the MIC.

One of the most significant changes is to clearly streamline internal procedures through the Rules. For example, the Rules make it clear that the main task of the Proposal Assessment Team (the **PAT**) is to substantively assess proposals made to the MIC by reviewing them, raising additional queries with investors and consulting with other Government bodies, especially the Government Ministries.³ Clear guidelines will also be established by DICA specifically for the PAT. Unlike under the old Foreign Investment Rules of 2013, the Rules expressly state that the PAT is to be headed by either the Secretary or the Deputy Director General of DICA although the exact composition of the PAT is left to be established via further notifications. Similarly, the existing One-Stop Service centre is also specifically given legal basis under the Rules which call for co-operation from a broad base of Government departments and bodies including the Directorate of Trade, the Customs, the Internal Revenue Department, the Directorate of Labour, the Department of Mines and the Yangon Electric Power Supply Corporation.⁴

We view these provisions in the Rules as the MIC's attempt to shoulder the responsibilities to liaise with the Government bodies which, hitherto, have been borne primarily by investors themselves. The much more definitive list of investments which require a Ministry's approval set out in the Negative List also appears to support this approach.

All these initiatives point to the desire to improve the decision-making process within the MIC. They are likely to require more human as well as financial resources, better co-ordination and the ability of the Government Ministries to move forward as one unit on investment issues – success will depend on the extent to which this happens in practice.

What investments need an MIC Permit?

Under section 36 of the Investment Law, investors wishing to conduct businesses that: (i) are strategic to Myanmar; (ii) are capital intensive; (iii) may have a large potential impact on the environment or local community; (iv) utilise state-owned land or property; or (v) are otherwise designated by the Government, will need to submit a proposal to the MIC for an MIC Permit (the **Proposal**). Further clarifications made in the Rules follow the overall aim to significantly cut down the list of investments which would require an MIC Permit.

For example, an investment will be considered strategic to Myanmar only if it meets one of the criteria set out in the Rules which include the investment: (i) being made in communications, technology (relating to information, communication, medical, bio or similar area), transport infrastructure, energy infrastructure, urban development infrastructure, building new cities, extractive and natural resources and media and the expected investment value exceeds USD20m; (ii) involving a concession or a similar authorisation and the expected investment value exceeds USD20m; (iii) is being conducted across the border, in a conflict area or across the States or Regions; or (iv) is for primarily an agricultural purpose and includes rights to occupy or use over 1000 acres of land, or for non-agricultural purpose and includes

rights to occupy or use over 100 acres of land.⁵ Similarly, an investment is capital intensive only if its expected value exceeds USD100m.⁶ An investment may have a large potential impact on the environment or local community if it: (i) is a so-called "EIA Type Project" (as determined under the existing environmental legislation); (ii) is in a designated protected area; or (iii) involves expropriation of a large area of land or relocation of, or affecting the legal rights of, over 100 people.

Businesses which are not caught by the above criteria under section 36 need not apply for an MIC Permit. However, if they wish to benefit from the right to take a long lease of 50 years plus two ten year renewals or certain tax privileges available under the Investment Law, they will need to apply for an Endorsement (as defined in the Investment Law) from the MIC. This is another significant change introduced in the new investment regime. Furthermore, the MIC, via Notification 11/2017, has delegated to region and state investment committees the power to issue Endorsements in respect of investments involving registered capital of up to USD5m or 6 billion Kyats. While this will take some caseload off the MIC and DICA, a lot of training and capacity building will be needed for this decentralisation to work as intended.

What is the process of applying for an MIC Permit or Endorsement

The diagram below sets out the steps and the indicative timing (as set out in the Rules) for each step involved in the process of submitting a Proposal and receiving an MIC Permit or a negative decision and submitting an application for an Endorsement.

A few noteworthy points set out in the Rules are as follows:

- While the Rules aim for a turnaround time of less than 85 working days to issue a Permit, we note that the previous target of 90 days was frequently missed, especially in the early days of its implementation. However, potentially less caseload under the new regime could mean that this ambitious target may be achieved.
- The previous practice requiring the proposal to be made through the relevant Ministry for investment in sectors involving natural resources or covered by the State Owned Enterprises Law 1989 (such as mining, electricity, oil and gas),⁷ is replaced with the requirement for the Proposal to be made through a Government authority that has a significant interest in the investment or has granted or will grant the relevant concession. The new requirement arguably limits the Government's involvement, and depending on whether the authorities do actually relinquish control, this could speed up the process significantly.
- Although the MIC ultimately has the discretion whether or not to grant a Permit, in deciding whether the investment is "beneficial to the interests of the Union" the MIC is guided by the Rules which set out the mandatory and other criteria that the MIC must consider.⁸ This approach arguably departs – albeit slightly – from the previous approach which gave fairly wide discretion to the MIC. Similarly, the MIC must apply the criteria set out in the Rules when assessing an application for an Endorsement.⁹

2_Investment Law, sections 16, 21 and 22

3_Rules 56, 57 and 149

4_Rule 163

5_Rule 3

6_Rule 4

7_Rule 35 of the Foreign Investment Rules 2013

8_See Rule 64 for the list of mandatory and non-mandatory criteria

9_See Rule 79 for the list of mandatory and non-mandatory criteria

– An investor may submit a “Screening Application” for non-binding guidance on whether the proposed investment is a kind which would require a Proposal, one which is likely to be submitted to the Parliament under section 46 of the Investment Law, a Prohibited Investment under section 41 meaning it could not proceed, a Restricted Investment under section 42 meaning it could be a type that could only be conducted in a joint venture or a Promoted Investment under section 43 increasing the likelihood of approval and the incentives.¹⁰ The MIC must conclude its assessment of a Screening Application within ten working days unless it requires additional information from the investor in which case the period may be extended.¹¹

Types of Investments

The Investment Law and the Rules categorise businesses into three types of investment activities: those which are prohibited outright under section 41; those restricted pursuant to section 42; and those which are in promoted sectors under section 43.

The prohibited activities include businesses which may: bring into Myanmar any hazardous or poisonous wastes, or utilise any technology, medicine, flora, fauna or instrument which is still being tested abroad or has not obtained approval for use; affect the traditional culture and customs of ethnic groups; or cause enormous impact on natural environment and ecosystem.

The restricted businesses pursuant to section 42 include:

- a. those allowed to be carried out only by the Government although such businesses can be contracted out to an investor;¹²
- b. businesses which are not allowed to be carried out by a foreign investor including a ‘foreign company’ as defined in the Myanmar Companies Act 1914;
- c. those businesses allowed to be carried out only in the form of a joint venture with a citizen owned entity (including a Myanmar company under the Myanmar Companies Act) or a Myanmar citizen, in either case holding minimum 20% of the shares or the interest in the joint venture subject to any prescribed exceptions in the Negative List; and
- d. those which can be carried out only with the approval of the relevant Ministry.

The MIC has specified via the Negative List the activities which fall into each of these restrictions. A summary of these activities are set out in the Appendix. Based on our review of the Negative List, it appears that the activities are more precisely defined and limited in their scope compared to the list under the previous investment framework. The idea is that by defining these groups more precisely (especially the activities which require approval from a Ministry), a clearer demarcation is achieved between those activities which fall under the purview of the MIC (therefore MIC will process the approvals for these without the need for investors to engage with the relevant Ministry) and those which require other Government authorities to be involved. However, activities in finance, banking and insurance are included within the Negative List and investors are expected to deal directly with the relevant licensing agency (the Central Bank of Myanmar or the Ministry of Planning and Finance). It should be noted that in these sectors an MIC Permit or Endorsement is not currently required.

Many investors had hoped that the establishment of the new investment regime would coincide with the passing of the new

Companies Law which was expected to allow up to 35% foreign shareholding in a Myanmar company without that company being considered “foreign”, but that timing is currently unlikely to happen as the new law is making slow progress through the Parliament and any foreign investment through a Myanmar company into the restricted activities mentioned in paragraph (b) above remain impossible.

Investors wishing to carry out a restricted investment must notify the MIC in the prescribed form within three months of implementing such investment unless they are already submitting a Proposal or an application for Endorsement or are a Small Company (as defined in the Rules).¹³

Tax Incentives and Land Rights

Our previous bulletin lists the key tax incentives and other benefits as set out in the Investment Law (see page two of “[A big week for Myanmar: A new investment law and the termination of U.S. Sanctions \(October 2016\)](#)”). The Rules appear to qualify these incentives with further rules and criteria that an applicant will need to meet to obtain the relevant privileges.

First of all, the Rules make it clear that an investment must be in a Promoted Sector in addition to the investor being granted a Permit or an Endorsement in order for the investor to benefit from the income tax exemptions.¹⁴ Notification 13/2017 prescribes business activities which fall under the Promoted Sector list. These include: cultivation and other agriculture related services (but excluding tobacco and virginia related services); farming activities; a wide range of manufacturing businesses (such as manufacturing of food and drinks (except for alcoholic beverages), certain dairy products, clothing, plastic, rubber, metals, electronics, glass, machineries); establishing new urban areas and industrial zones; activities relating to waste, water supply, public transport and affordable housing in cities; construction of roads, rails, bridges, runways, seaports, river ports and dry ports; power generation, transmission and distribution including renewables energy; telecoms businesses; education and healthcare services; scientific research and development activities; hotels and tourism; and information technology businesses.

Investments seeking to benefit from an income tax exemption must be in a place situated in either Zone 1, Zone 2 or Zone 3 as determined by the MIC.¹⁵

As noted in our previous bulletin, there is no longer a blanket income tax exemption for 5 years. Instead, investments within the areas designated as Zone 1 areas (less developed regions) will have 7 years of exemption, and investments in Zone 2 areas (moderately developed regions) will have five years and three years only for investments in Zone 3 areas (adequately developed regions). Zone 1 mostly includes townships in the less populous States, Zone 2 regions include rural townships in the Regions and most townships in the delta region and Zone 3 regions include most townships in the Yangon and Mandalay regions.¹⁶ Under the Rules, if more than 65% of the total investment is made or conducted within Zones 1 and 2, the investment is considered to be made in Zone 2, and if the same proportion is invested in Zones 2 and 3, then the investment is considered to be in Zone 3, and if the same proportion falls into Zones 1 and 3, the investment is considered to be in Zone 3.

There are many other qualifications set out in the Rules. For example, the exemptions or reliefs from customs duties and other internal taxes on the importation of the raw materials and partially manufactured

10_Rule 28

11_Rule 31

12_Rule 20

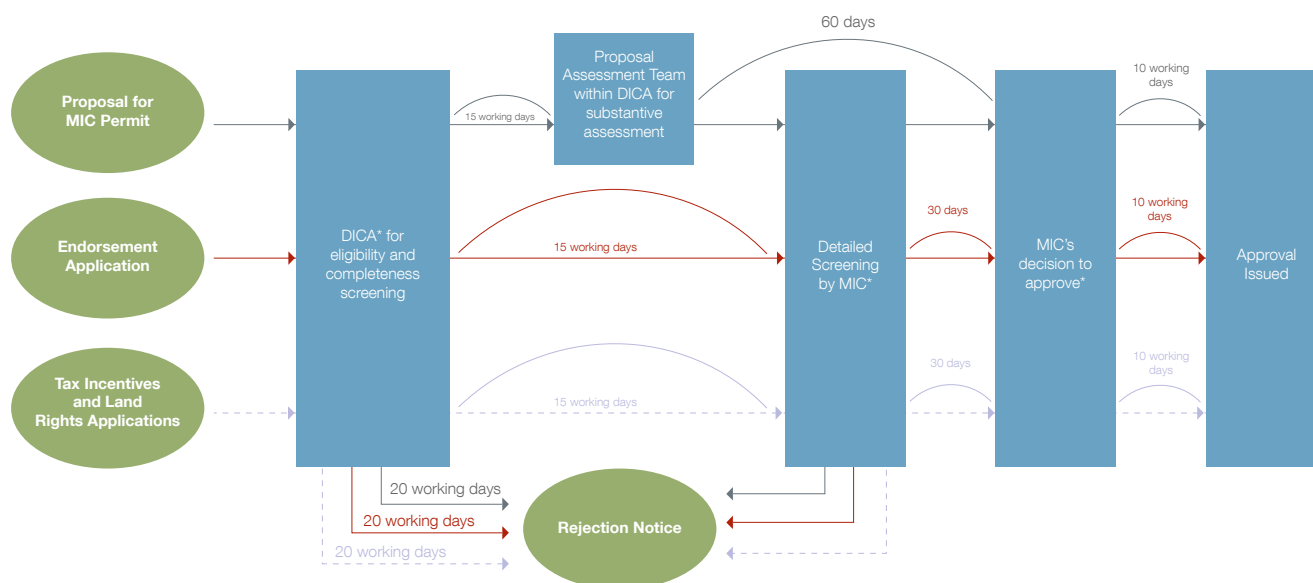
13_Rules 24 and 25

14_Rule 91(c)

15_Rule 91(f)

16_MIC Notification 10/2017

DIAGRAM: APPROVAL PROCESS FOR MIC PERMIT, ENDORSEMENT AND TAX INCENTIVES AND LAND RIGHTS APPLICATIONS



Note: All time periods are subject to extension or suspension by the MIC in accordance with the Rules.

* State or Regional investment committees will assess the applications for Endorsements and Tax Incentives and Land Rights Applications for an investment below the threshold amount set by the MIC

goods (mentioned under section 77(c) of the Investment Law) are only available if at least 80% of the expected income is in foreign currency from exports.¹⁷

In a significant departure from the single all inclusive application under the Foreign Investment Law 2012, the Rules require that investors wishing to benefit from tax or land use incentives (i.e., a Land Rights Authorisation) must make separate applications for these benefits in addition to the Proposal or the application for Endorsement.

In applying for Land Rights Authorisations, where change in use is proposed, a recommendation letter or approval from a State or Regional Government or other relevant Authority may be required.¹⁸

The MIC can delegate to state and regional level investment committees to assess the applications for the Tax Incentives and the Land Rights Authorisations.¹⁹ We have not seen any notification giving guidance on when the MIC can delegate.

Impact on financing

We have separately composed a key considerations bulletin for Myanmar financing available here – [Myanmar's New Investment Regime: Financing of investments in Myanmar \(April 2017\)](#).

Investment Guarantee and other protections to investors

Protections afforded to the investors are few and many inconsistencies and contradictions in the relevant provisions leave investors with a degree of uncertainty with regards to the protection that they are actually being given (please see our previous bulletin “[A big week for Myanmar: A new investment law and the termination of U.S. Sanctions \(October 2016\)](#)” for details). Unfortunately neither the Rules nor the notifications give clarity to these provisions and therefore the above uncertainties remain.

Settlement of investment disputes

While the Rules do not add much to the dispute resolution provisions in the Investment Law for disputes between investors, it appears that substantial effort is being made to resolve disputes between Government authorities and investors. The Rules require that no courts or arbitral proceedings are brought between an investor and a Government authority unless a notice has been given to the MIC of the grievance and the steps set out in the Rules (or in a relevant notification) have been taken to try to settle the dispute.²⁰ This could potentially be a concern for the investors. The MIC has 24 months to establish detailed procedures for handling disputes but until then how helpful this initiative will be remains to be seen. In the meantime, the Rules establish the Investor Assistance Committee (**IAC**) within the MIC. The IAC is tasked with helping the MIC establish a grievance mechanism and receiving grievance or dispute notices from investors against Government authorities. The IAC also has some helpful powers – it has the power to consult with any Government authority after receiving a grievance from an investor, request that officials from the relevant authority meet with investors to resolve the issues and propose that the chairman of the MIC consult with the Minister responsible for the authority against which the grievance or dispute has been raised.²¹

Insurance and transfer of interest

Investors with an MIC Permit or the tax incentives, must take out from a licensed insurance business in Myanmar relevant insurances from the prescribed list in the Rules including: property and business interruption insurance, engineering insurance, professional liability insurance, professional accident insurance, marine insurance and workmen compensation insurance.²² The draft version of the Rules contained a qualification which states that insurance will need to

17_Rule 97
18_Rule 117
19_Rule 118

20_Rule 173
21_Rules 166 and 167
22_Rule 212

be taken out only to the extent available on reasonable terms in Myanmar, but this qualification no longer features in the final version of the Rules. It is also worth noting that a few weeks before the publication of the Rules, the Ministry of Planning and Finance, via a notification, permitted foreign insurers who meet the criteria set out in the notification to apply for a license to operate in the Special Economic Zones in Myanmar.

All businesses which have secured an MIC Permit or an Endorsement, must give notice to the MIC of any sub-lease, mortgage or transfer of shares or any transfer of business.²³ Prior approval from the MIC is required in respect of a transfer or a series of transfer of shares of business which would result in a person who is not a Related Body Corporate of the investor (defined to include a holding company of the investor company, a subsidiary, or a subsidiary of the holding company) acquiring majority ownership or control of the investor or more than 50% of the investor's assets.

Conclusion

The legal framework for the new investment regime to which the Investment Law and the Rules have given birth is more extensive and detailed than previous investment frameworks. It is ambitious in its

attempt to create a more robust MIC by giving more legal basis to its powers and streamlining its approval processes. While attempting to take away caseload from the MIC and DICA through decentralisation, the new framework also adds to their tasks, for example, requiring them to better co-ordinate with Ministries and Government bodies and be more involved in any dispute resolution between investors and Government.

It is too early to say how the aspirations of the new investment regime will translate into realities, but it appears that the Investment Law and the Rules have endowed the MIC with a legal framework that might help it to achieve these goals. The challenge as with previous ambitious plans will be implementing these new procedures and minimising any practice that could make the process more cumbersome than it needs to be for investors or the MIC. Time will tell, but the MIC has been one of the more efficient, open and successful bodies whose discretion had in many ways been used along the lines now enshrined in the Investment Law and Rules, so while there is always need for caution, there is also room for optimism that investment flow into Myanmar can continue and increase with, potentially, a more robust process and greater certainty.

23_Investment Law, section 72

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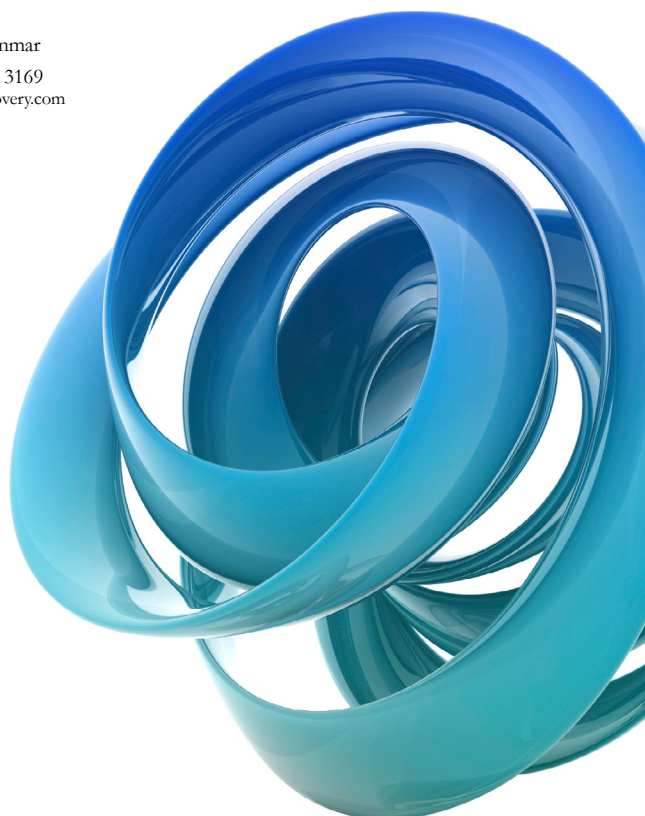


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SUMMARY OF THE NEGATIVE LIST

Summary of the list of restricted investment activities pursuant to section 42 of Myanmar Investment Law

The Negative List states that:

- to the extent any other restrictions are stipulated in the laws relevant to each Ministry, such restrictions are also to be applicable to the investment;
- banking, insurance and financial services are to be permitted according to the plans approved by the relevant Ministries and organisations; and
- any export and import business shall be conducted in accordance with the policy of the Ministry of Commerce.

The Negative List also includes for each activity the applicable Industrial Codes. For these codes, please refer to the Negative List itself.

	Type of Investment
(A) Investment activities allowed to be carried out only by the Government	Manufacturing products for security and defence purposes, ammunition and related services for the national defence
	Manufacturing of national postage stamps, establishment of post offices and post boxes (which are only to be performed by the post office operator on behalf of the Government)
	Air Traffic Services and Pilotage Services
	Managing natural forest and forest area except for businesses relating to reduction of carbon emission
	Feasibility studies and production of radioactive metals such as uranium and thorium
	Administration of electric power system and inspection of electrical works
(B) Investment activities that are not allowed to be carried out by foreign investors	Printing and publication of periodicals in ethnic languages including Myanmar
	Fresh water fisheries and relevant services; establishment of quarantine station for exportation and importation of animals; pet care services
	Forestry products manufacturing from forest area and government administered natural forest
	Prospecting, surveying and performing feasibility study and developing mineral for small and medium scale businesses in accordance with the Mines Law; refinement of minerals in medium and small scales
	Performing shallow oil wells up
	Printing and issuing sticker for visa and stay permit for foreigners
	Prospecting, exploration and production of jade/gem stones
	Tour-guide services
	Mini market and convenience store (floor area must be above 10,000 square feet (100 x 100 feet) or 929 square meters)

	Type of Investment
(C) Investment activities allowed only in the form of joint venture with any citizen-owned entity or any Myanmar citizen	Construction for fish landing site, fishing harbour and fish auction market. <i>Further restrictions: To be carried out in accordance with the laws, procedures, directives and regulations of the Fishery Department.</i>
	Veterinary clinic. <i>Further restrictions: To be carried out in accordance with laws, procedures, directives and regulations of the Livestock, Breeding and Veterinary Department.</i>
	Cultivation of crops in agriculture land, their local distribution and export
	Manufacturing and domestic distribution of plastic products
	Manufacturing and domestic distribution of chemicals based on available natural resources
	Manufacturing and domestic distribution of: flammable solids, liquids, gaseous fuels and aerosols; oxidants, compressive gases, corrosive chemicals, industrial chemical gases (including in compressed, liquefied and solid forms)
	Manufacturing and domestic distribution of: cereal products (such as biscuits, wafers, all kinds of noodles, vermicelli); and all kinds of confectionery (including those of sweet cocoa and chocolate)
	Processing, canning, manufacturing and marketing of food products except milk and dairy products
	Manufacturing and domestic distribution of malt and malt liquors and non-aerated products
	Manufacturing, distilling, blending, rectifying, bottling and domestic distribution of all kinds of spirits, alcohol, alcoholic beverages and non-alcoholic beverages
	Manufacturing and domestic distribution of purified drinking water and all kinds of purified ice
	Manufacturing and domestic distribution of all kinds of soap; manufacturing and domestic wholesale of all kinds of cosmetic products
	Development, sales and lease of residential apartments and condominiums
	Local tour service
	Transportation agency for patients to overseas hospitals
(D) Investment businesses to be carried out with the approval of the relevant ministries	Investment activities requiring the approval of the Ministry of Home Affairs: Manufacturing and distribution of medicines which are produced by using narcotic drugs and psychotropic substances
	Investment activities requiring the approval of the Ministry of Information: Cross ownership between Print Media and Broadcasting Media Service; publishing periodical newspapers in foreign languages; broadcasting FM radio programmes; broadcasting Direct to Home (DTH) programmes or DVB-T2 system; Cable TV
	Investment activities requiring the approval of the Ministry of Agriculture, Livestock and Irrigation Investment relating to fisheries resources and fish species; marine fishing; manufacturing and distribution of: veterinary biological products, veterinary medicines; commercial livestock farming; breeder farm and hatchery (poultry); genetic research, genetic conservation and distribution of animal breeds; importation, production and marketing of animal breeds; laboratory services for the safety of animal feeds and animal products and animal diseases diagnosis; services on research and surveillance for animal health. <i>Further restrictions: To be carried out in accordance with laws, procedures, directives and regulations of the Livestock, Breeding and Veterinary Department.</i>
	Investment relating to fisheries resources and fish species; marine fishing; manufacturing and distribution of: veterinary biological products, veterinary medicines; commercial livestock farming; breeder farm and hatchery (poultry); genetic research, genetic conservation and distribution of animal breeds; importation, production and marketing of animal breeds; laboratory services for the safety of animal feeds and animal products and animal diseases diagnosis; services on research and surveillance for animal health. <i>Further restrictions: To be carried out in accordance with laws, procedures, directives and regulations of the Livestock, Breeding and Veterinary Department.</i> Importing, production, domestic marketing and re-exporting of seed, new species of plant; production, storage, distribution and exporting of agricultural insecticide, fertilizer, hormone, weed killer etc.; production and exporting of hybrid seeds; laboratory services for agriculture; research on agriculture and agricultural products; production of seasonal crops

Type of Investment

Investment activities requiring the approval of the Ministry of Transport and Communication

Vehicle registration inspection; and motor driving school businesses

Construction of new railway tracks and stations, and buildings related to train operation; train operation; manufacturing and maintenance of locomotives, carriages, wagons and spare parts, and maintenance of railways; generation of electric power to be used for train operation; dry port services relating to rail transport

Postal services; telecommunication services; production and distribution of: satellite communication items, radar communication items and related equipment, radio communication items; production and domestic marketing of mobile handsets and telephones

Civil aviation training services; aircraft repair and maintenance services; airport hotel services; ground handling services; selling and marketing of air transport services; computer reservation system services; aircraft leasing with or without crew services; air freight forwarding services; aircraft line maintenance services; ramp handling services; passenger handling services; baggage or cargo handling services; refuelling services; airport security services; airport construction, maintenance, management and operation; domestic air transport services; international air transport services; leasing aircraft related items

Maritime education and training centres; shipyards and afloat structures; coastal and inland water transport services for passengers or cargo; supporting services for water transport; international transport services for passengers or cargo (not including coastal); vessel leasing with or without crew; tow boat and tug boat services; ship demolition services; brokerage services for ship; survey and inspection services for ship standards; construction of switchbacks/slipways, wet/dry dockyards, landing and mud docks; building of jetties and landing stages, and vessel landing by drainage in the river-creek boundary, bank boundary and waterfront boundary; construction of warehouse, soils, tanks, container yards and port-related infrastructure in the bank boundary and waterfront boundary; construction of inland river ports; conservation works and improvement works for waterways; expansion of port areas and port limit areas; services for port and waterway; services for salvage the sunken ships; shipping agency services; deep sea ports and international multi-purpose ports.

Investment activities requiring the approval of the Ministry of Natural Resources and Environmental Conservation

Logging in forest land and land administered by the Government; establishing forest plantations; wood-based industries and related businesses with implementation of forest plantations; eco-tourism based on forest area and natural land; reproduction and distribution of imported genetically modified organisms and living modified organisms for commercial purposes; advanced technical research and commercial activities in production of improved valuable and rare tree species, conservation and tissue culture production; development of advanced technology, research and human resource in forest sector; import of wildlife animals and plants for breeding and reproduction at local or overseas through import and export for commercial purposes

Prospecting, survey, feasibility study and exploration with foreign investment for large scale production of minerals, or with citizen investment for small, medium and large scale production of minerals; manufacturing and marketing of gems, jewellery and finished products with foreign investment; exploration, finishing and marketing of gems, jewellery and related products with citizen investment; pearl culturing and production; businesses which produce elements impacting the ozone layer; large-scale manufacturing of pulp for paper

Investment activities requiring the approval of the Ministry of Electricity and Energy

Large scale power projects (more than 30 MW according to the Electricity Law); all works of electricity to be connected with power system

Import, production, construction and installation of equipment, accessories, and part of installations relating to the construction of the various kinds of offshore drilling; construction and implementation of storage tanks, loading ports, pipelines, related machineries and equipment, construction of buildings for import, transport, storage, distribution and sale of oil, gas and petroleum products; construction of various types of refineries, maintenance and upgrade of old refineries and implementation of work; import, production, construction and installation of equipment, accessories and part of installations relating to exploration and interpretation of oil and gas by geological, geophysical and geochemical methods; import, production, construction and installation of equipment, accessories and part of installations relating to exploitation, production and research of oil and gas; import, production, construction and installation of equipment, accessories and part of installations for transport and construction related to oil and gas pipeline networks

Type of Investment

Investment activities requiring the approval of the Ministry of Industry

Manufacturing of vaccines

Investment activities requiring the approval of the Ministry of Commerce

Retailing services; wholesale services

Investment activities requiring the approval of the Ministry of Health and Sports

Private hospital services; private general health services; private mobile health services; private care shelter services, private traditional hospitals; private traditional clinics; manufacturing private traditional medicines and medical products; manufacturing of traditional drugs; trading of traditional pharmaceutical raw materials (herbal items); traditional herbal cultivation and production; traditional medicine research and laboratory activities; research on vaccines and diagnostic test kit production. *Further restrictions: Traditional medicine research and laboratory activities are to be carried out together with the Research and Development Division of the Traditional Medicine Department or experts from the Department of Medical Research. Research on vaccine and diagnostic test kit production is to be carried together with the Vaccine Research Division of the Department of Medical Research.*

Investment activities to requiring the approval of the Ministry of Construction

All roads administered by the Ministry of Construction and all parallel roads to be constructed at those existing roads, city bypass roads to be newly constructed on those roads as necessary, all roads to be linked with those roads

Further restrictions: The Ministry of Construction will administer the road area. All matters to be carried in the road area require the approval of the Ministry of Construction.

Construction of elevated expressways, tunnels, inner ring roads, outer ring roads, interchanges, underpasses, overpasses or flyovers, semi-underground roads and submersible tunnels; construction of bridges exceeding 180 feet; production and domestic marketing of bridge connection items (PC strand, PC bar, anchor, steel frames, plate girders, steel trusses, bridge and related steel structures, concrete, steel concrete, compressive strength of concrete, etc).

Urban development exceeding 100 acres; building and marketing of residential apartments with floor area of 50,000 square meters; affordable housing related to industrial zones; urban development exceeding four acres of land in the capital of the Region or State excluding Nay Pyi Taw, Yangon and Mandalay; development of new cities/towns.

