



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 94 - 16th July 2022

Dear Readers,

We would like to summarise recent efforts to collect foreign currency from private businesses:

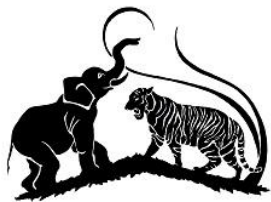
1. CBM orders conversion of foreign currency held by companies with up to 35% foreign ownership by Monday, 18th July 2022

Yesterday, the Central Bank of Myanmar (“**CBM**”) notified commercial banks of a decision of the Foreign Exchange Supervisory Committee (“**FESC**”) to convert the foreign currency holdings of companies with up to 35% foreign ownership to MMK (letter FE-1/754 dated 15th July 2022 - [English translation](#)). The CBM -

- sent a list of companies with up to 35% foreign ownership that it had received from the FESC to commercial banks;
- requested the commercial banks to complete, by 15th July 2022, a table with information on foreign currency accounts held by companies on this list; and
- ordered the commercial banks to promptly purchase and convert to MMK any foreign currency balance and report the purchases by 18th July 2022.

2. Other related developments

- (a) On 13th July 2022, the CBM ordered a **moratorium on the repayment of private cross-border loans**, requiring commercial banks to request their customers to **renegotiate the repayment schedule** with their foreign lenders (letter FE-1/744 (ka) - [corrected English translation](#)).
- (b) Likewise on 13th July 2022, the CBM **revoked an exemption** (introduced less than a month ago) of companies registered with the Directorate of Investment and Company Administration (“**DICA**”) with **10% and more foreign ownership** (letter FE-1/739 - [English translation](#)).
- (c) **Pulses, rice, corn, sesame, peanuts and oilseeds** (the combination of commodities varies a bit depending on which official announcement deals with the matter) may only be **exported in border trade if the buyer pays in USD** (instead of THB or RMB). Furthermore, an export license may only be obtained and customs clearance is only possible if the exporter can prove that he **received the purchase price in advance**. We



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 94 - 16th July 2022

furthermore understand that a recommendation letter from the Myanmar Pulses, Beans, Maize & Sesame Seeds Association is required.

(letters from the [Trade Department \(Muse 105th Mile Trade Zone\) dated 2nd July 2022](#); [Customs Department \(Regional Offices Supervision Division\) dated 13th July 2022](#); [Trade Department \(Myawaddy Trade Zone\) dated 14th July 2022](#)).

- (d) JETRO reported that the **term of validity of import licenses was reduced** starting from 1st July 2022 from originally 3 months to **30 days (imports from ASEAN) or 45 days (imports from the rest of the world)**.

3. **CBM issues procedures for foreign investment in non-bank financial institutions**

Unrelated to the topic above, we would also like to inform our readers that the CBM on 13th July 2022 issued Directive 8/2022 ([Burmese language](#)) which paves the way for **foreign investment in non-bank financial institutions** (at least theoretically - there may not be much appetite for it at the moment).

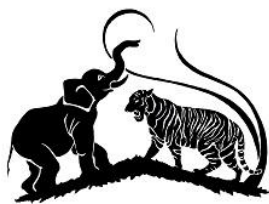
Non-bank financial institutions **engage in particular in the financing of commodities** such as cars and motor-bikes. Unlike banks, they are not allowed to solicit deposits. Unlike microfinance companies, they are not subject to caps on the amounts that they may lend and are also not restricted to specific townships.

A non-bank financial institution requires a registration certificate from the CBM and may, depending on the terms and conditions of the registration certificate, engage in (i) financing; (ii) leasing; (iii) factoring; (iv) credit token business; (v) money services; and (vi) any other credit services the CBM may prescribe.

To the extent that we know, there are currently no non-bank financial institutions with foreign investment. We understand that the CBM was not particularly opposed to foreign investment in the sector, but due to the lack of a proper procedure and possibly other business reasons, no foreign investor seems to have ever followed through with a license application.

CBM Directive 8/2022 now sets out specific procedures (to be **completed “within 6 months”**) for foreign participation in the sector. It allows a foreign financial institution -

- to set up a **100% foreign-owned subsidiary** with a **minimum capital of USD 10 million** (in contrast, the minimum capital for a local investor to set up a non-bank financial institution is MMK 3 billion; currently approx. USD 1.5 million); or to



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

NEWSLETTER 94 - 16th July 2022

- **acquire shares in an existing (local) non-bank financial institution** (the Directive calls this “joint venture investment”). There are **no minimum or maximum foreign/local ownership ratios** (although a foreign investor acquiring more than 35% of a non-bank financial institution must present a “financial strategy and an estimate of the financial development” for the next three years), and the Directive also sets **no minimum or maximum investment amount** for a joint venture investment.

We hope that you have found this information useful.

Sebastian Pawlita
Managing Director

Nyein Chan Zaw
Director

About Lincoln Legal Services (Myanmar) Limited

Lincoln Legal Services (Myanmar) Limited provides the full range of legal and tax advisory and compliance work required by investors. We pride ourselves in offering result-oriented work, high dependability and a fast response time at very competitive prices. Please do not hesitate to contact us:

- Sebastian Pawlita, Managing Director
Phone: +95-9-262546284 (English)
E-Mail: sebastian@lincolnmyanmar.com
- Nyein Chan Zaw, Director
Phone: +95-9-790488268 (Myanmar)
E-Mail: nyeinchanzaw@lincolnmyanmar.com

Office address: La Pyi Wun Plaza, Room 409 (4th Floor), 37 Alan Pya Pagoda Road, Dagon Township, Yangon

Web: www.lincolnmyanmar.com