



LINCOLN LEGAL SERVICES (MYANMAR) LIMITED

COMPLIANCE CHECKLIST FOR AN INVESTMENT IN MYANMAR

(Excerpt: Corporate Compliance)

Corporate compliance

Sr. no.	Obligation	Which authority?	When?	Potential penalty for non-compliance
1	<p>Filings with the Directorate of Investment and Company Administration (“DICA”)</p> <p>(a) Regular filings</p> <ul style="list-style-type: none"> ▪ Annual return (filing fee: MMK 50,000) ▪ If the annual return is not filed within 28 days after due date together with the filing fee and late penalty, the registration of the company is automatically suspended. In this case, the company has to file the annual return, pay the filing fee and late penalty, and file an application to lift the suspension (filing fee: MMK 100,000), section 430(d) MCL. 	<p>DICA (online) - form “AR”</p> <p>DICA (online) - form “I-9D”</p>	<p>Within 2 months after company incorporation; thereafter annually, not later than 1 month after the anniversary of incorporation (section 97(a) MCL)</p> <p>Within 6 months following the suspension</p>	<p>MMK 100,000 for late filing</p> <p>If the company does not file the application to lift the suspension within 6 months following the suspension, the company may be struck off the register (section 430(e) MCL).</p>

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	<p>(b) Event-driven filings</p> <ul style="list-style-type: none"> ▪ Notice of alteration of constitution (filing fee: MMK 30,000) ▪ Notice of change of company name (filing fee: MMK 100,000) ▪ Change to share capital or register of members (filing fee: MMK 10,000) ▪ Notice of change of registered office or principal place of business (filing fee: MMK 30,000) ▪ Notice of location of company registers and indexes, if different from the registered office or 	<p>DICA (online) - form “C-1”</p> <p>DICA (online) - form “C-2”</p> <p>DICA (online) - form “C-3”</p> <p>DICA (online) - form “C-4”</p> <p>DICA (online) - form “C-10”</p>	<p>Within 28 days from the date of passing the special resolution to alter the constitution (section 18(a) MCL)</p> <p>Within 28 days from the date of passing the special resolution to change the company name (section 25(d) MCL)</p> <p>Within 21 days after the event (sections 113, 96 MCL)</p> <p>Filing to be done prior to the address change (section 141(c) MCL)</p> <p>Within 21 days from the change of location (section 95(c) MCL)</p>	<p>Late filing fees MMK 25,000 (1-90 days) or MMK 50,000 (91-180 days)</p> <p>Late filing fees MMK 25,000 (1-90 days) or MMK 50,000 (91-180 days)</p> <p>Late filing fees MMK 25,000 (1-90 days) or MMK 50,000 (91-180 days)</p> <p>Late filing fees MMK 25,000 (1-90 days) or MMK 50,000 (91-180 days)</p> <p>Late filing fees MMK 25,000 (1-90 days) or MMK 50,000 (91-180 days)</p>

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	<p>principal place of business (no filing fee)</p> <ul style="list-style-type: none"> ▪ Appointment, resignation or removal of a director or company secretary or change of this person's details (filing fee: MMK 10,000) ▪ Other filings do not happen often and are therefore not detailed here. All corporate filings are listed on DICA's website. The relevant categories of forms are: <ul style="list-style-type: none"> ▪ A - Application forms for incorporation and registration of companies and other entities ▪ AR - Annual Return forms ▪ C - Forms relating to change of company details and share capital matters ▪ D - Forms relating to directors and officers ▪ F - Forms relating to change of company type ▪ H - Forms relating to 	DICA (online) - form "D-1")	Within 28 days from the change (section 189(c) MCL)	<p>days)</p> <p>Late filing fees MMK 25,000 (1-90 days) or MMK 50,000 (91-180 days)</p>

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	<p>mortgages and charges</p> <ul style="list-style-type: none"> ▪ H - Forms relating to mortgages and charges ▪ I - Forms relating to compliance matters ▪ J - Forms relating to winding up <p>The company must retain a copy of any filing made with DICA.</p>			
2	<p>Preparation and/or keeping of internal documents</p> <p>The MCL requires companies to prepare and/or keep in particular the following documents:</p> <ul style="list-style-type: none"> ▪ Minutes of board meetings, shareholder (member) meetings and resolutions (157(a) MCL), to be entered into the minutes book within 21 days from the event and signed by the chairman or other authorised director; ▪ register of directors and secretaries (section 189(a) MCL) and register of 	DICA may inspect these documents (section 426 MCL)	<p>Prepare meeting minutes within 21 days from the event (section 157(a) MCL)</p> <p>Update the registers whenever there is a</p>	<p>Fine of MMK 150,000 for failure to make minutes accessible to members (section 158 MCL)</p> <p>Fine of MMK 250,000 for failure to make the</p>

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	<p>members (section 90(c) MCL) - the company must also retain written consent of these persons (<i>cf.</i> section 6(b)(v), (viii)(B), (e) MCL) ;</p> <ul style="list-style-type: none"> ▪ share certificate - prepare and have ready to delivery to the respective member within 28 days from the allotment of the shares (section 89(b) MCL); ▪ if the company does not occupy the registered office itself (but uses, e.g., the address of an address service provider): Keep consent of the person occupying the premises as to their use by the company (section 141(b) MCL); ▪ keep written financial records in Myanmar or English to enable the preparation of financial statements (section 258 MCL). 		<p>change</p> <p>Prepare and have ready for delivery within 28 days from the allotment of the shares (section 89(b) MCL)</p> <p>Obtain consent of the person occupying the registered office address whenever this address changes (section 141(b) MCL)</p> <p>Keeping financial records is an ongoing obligation without deadlines. The MCL does not seem to</p>	<p>registers accessible to members or (section 100 MCL)</p> <p>Failure to provide a share certificate (which is <i>prima facie</i> evidence of title) may prompt the member to sue the company for delivery, but the law does not seem to provide a penalty (fine) for non-compliance.</p> <p>Fine of MMK 400,000 for not keeping this consent (section 142 MCL)</p> <p>Fine of MMK 750,000 for not keeping financial records (section 259 MCL)</p>

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			specify any minimum or maximum retention periods.	
3	<p>Display of the name of the company</p> <p>The company has to display its name in English or Myanmar letters at a conspicuous place at its registered office and other places of business, have the name engraved in legible characters in its seal (if any) and display it in legible characters in business documents (section 143 MCL).</p>	Theoretically, compliance is monitored by DICA.	This is an ongoing obligation for which there is no deadline.	Fine of MMK 50,000 for non-compliance (section 144 MCL)
4	<p>Statutory annual general meeting</p> <p>Any company with the exception of a small company must hold at least one general meeting per year at which the members (i) consider the annual financial report, director's report and auditor's report, (ii) elect directors and (iii) appoint the company's auditor (section 146(a), (b), (e) MCL).</p> <p>A "small company" is a company with not more than 30 employees whose revenue</p>	<p>Compliance is monitored by DICA.</p> <p>Furthermore, any member may apply to the competent court to order the company to hold the annual general meeting if the company defaults in holding it</p>	First statutory annual general meeting to be held within eighteen months from the date of incorporation and thereafter once at least in every calendar year and not more than fifteen months after the holding of the last preceding annual general	Fine of MMK 250,000 for default in holding the annual general meeting as prescribed (section 147(a) MCL)

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	in the preceding financial year did not exceed MMK 50,000,000 (section 1(c) (xxxviii) MCL).	(section 147(b) MCL).	meeting (section 146(a) MCL). Notice calling the meeting has to be sent to the members	
5	<p>Auditor</p> <p>Any company with the exception of a small company requires an auditor who is to audit the company's annual financial statements (at least balance sheet and profit/loss statement) prepared by the directors (section 260(a), (b) MCL).</p> <p>If the company is a small company, annual financial statements do not have to be prepared (section 257(c)).</p> <p>The auditor has to be a Myanmar-qualified CPA (section 63(c) Myanmar Accountancy Council Law).</p> <p>The audited financial statements and the directors' report have to be made available to the company's members (section 260(c) MCL), but DO NOT have to</p>	Compliance is monitored by DICA.	The annual financial statements, auditor's report and directors' report have to be attached to the notice calling the general meeting and made available for inspection by the members during a period of at least 21 days before the meeting (section 260(c) MCL).	Fine of MMK 5,000,000 for preparing inaccurate annual financial statements, not having the annual financial statements audited or not making them available to the company's members as prescribed (section 265 MCL).

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	<p>be filed with DICA (section 266(c) MCL).</p> <p>Furthermore, the tax authorities - who previously insisted on the audited financial statements being filed together with the annual tax returns - apparently do not require the filing of the audited financial statements anymore as detailed tax return forms were introduced together with the self assessment system and online tax filings.</p>			
6	<p>Directors' report</p> <p>In addition to the annual financial statements, the directors have to prepare an annual report with respect to the state of the company's affairs (section 261(a) MCL).</p> <p>A directors' report does not have to be prepared if the company is a small company (section 257(c) MCL).</p>	Compliance is monitored by DICA.	The annual financial statements, auditor's report and directors' report have to be attached to the notice calling the general meeting and made available for inspection by the members during a period of at least 21 days before the meeting (section 260(c) MCL).	Fine of MMK 750,000 for knowingly and willfully preparing an inaccurate directors' report or no report at all (section 261(c) MCL).

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7	<p>Registered office in the Union</p> <p>A company must have an address in Myanmar to be used as this company's registered office (section 4(a)(vii) MCL).</p>	Compliance is monitored by DICA.	Having a registered office in the Union is an ongoing obligation without a deadline.	Having a registered office in the Union is an "essential requirement" of a company, so not having one would result in the company not validly existing, removing the corporate veil that protects its shareholders from liabilities incurred by the company. It might furthermore lead to the de-registration of the company.
8	<p>Resident director</p> <p>A company must have at least one director who is ordinarily resident in Myanmar (section 4(a)(v) MCL). This person may be a Myanmar national or a foreigner, provided that he or she resides in the country for at least 183 days in each 12 month period following either (i) incorporation for those companies that</p>	Compliance is monitored by DICA.	Having at least one ordinarily resident director in the Union is an ongoing obligation without a deadline.	Having at least one ordinarily resident director in the Union is an "essential requirement" of a company, so not having one would result in the company not validly

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	<p>were incorporated on or before 1st August 2018, or (ii) 1st August 2018 for those companies that were incorporated before that date (section 1(c)xix MCL).</p>			<p>existing, removing the corporate veil that protects its shareholders from liabilities incurred by the company. It might furthermore lead to the de-registration of the company.</p>