



# Myanmar Workshop #1 – Rules and Regulations

*Thailand: Business Hub of the Mekong Region*

8 June 2018, Bangkok

- Introduction
- Legal and Tax Overview
- Panel Discussion
- Q&A

# Regional Reach: ASEAN and South Asia

## **Bangladesh (2011)**

---

Partner: 1

Advisers: 6

## **Cambodia\* (1995)**

---

Partners: 6

Advisers: 32

## **Lao PDR (1994)**

---

Partners: 3

Senior counsel: 1

Advisers: 7

## **Indonesia<sup>‡</sup> (2011)**

### **Mataram Partners**

---

Partner: 0

Advisers: 1

## **Myanmar (1995)**

---

Partners: 3

Advisers: 15



## **Philippines<sup>‡</sup> (2015)**

---

### **Ocampo & Suralvo Law Office**

---

Partners: 3

Advisers: 5

## **Singapore (2010)**

---

Partners: 1

Advisers: 3

## **Thailand (2005)**

---

Partners: 6

Advisers: 17

## **Vietnam (2006)**

---

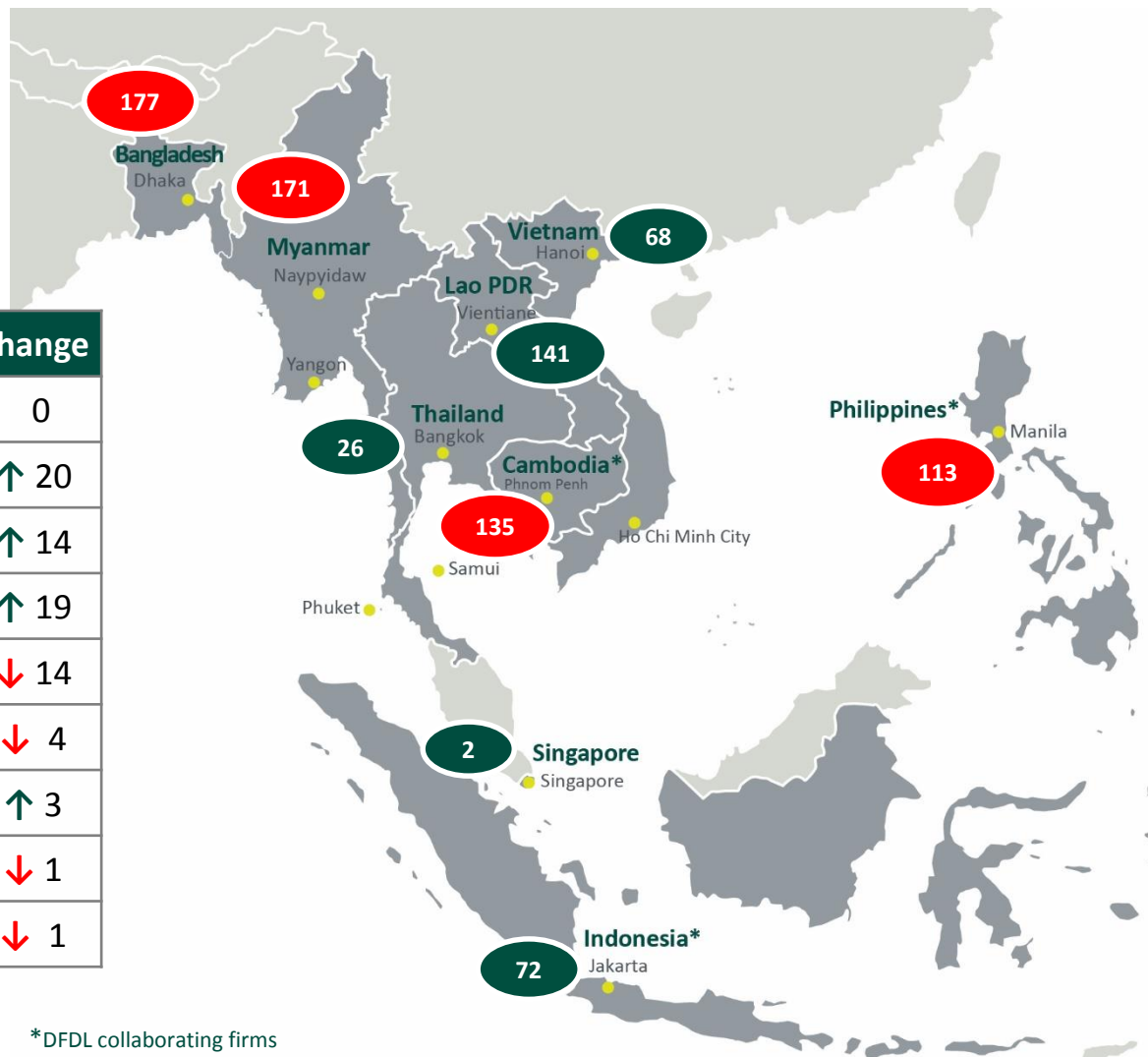
Partners: 4

Advisers: 9

In Cambodia, DFDL works in commercial cooperation with Sarin & Associates. In Indonesia, DFDL works in association with Mataram Partners. DFDL does not operate or practice law in the Philippines. DFDL collaborates with Philippine law firm, Ocampo & Suralvo Law Offices, which provides local legal advice.

# Ease of Doing Business

Economy	2018	2017	Change
Singapore	2	2	0
Thailand	26	46	↑ 20
Vietnam	68	82	↑ 14
Indonesia	72	91	↑ 19
Philippines	113	99	↓ 14
Cambodia	135	131	↓ 4
Lao PDR	141	139	↑ 3
Myanmar	171	170	↓ 1
Bangladesh	177	176	↓ 1



Source: World Bank - Doing Business 2018

\*DFDL collaborating firms

---

# Myanmar Legal Overview and Updates



## Key Facts to understand the Legal Framework

- Old British colonial laws (common law) + socialist (military) laws and practice
- Planned economy
- WTO accession: 1995
- Gradual shift to more democratic governance



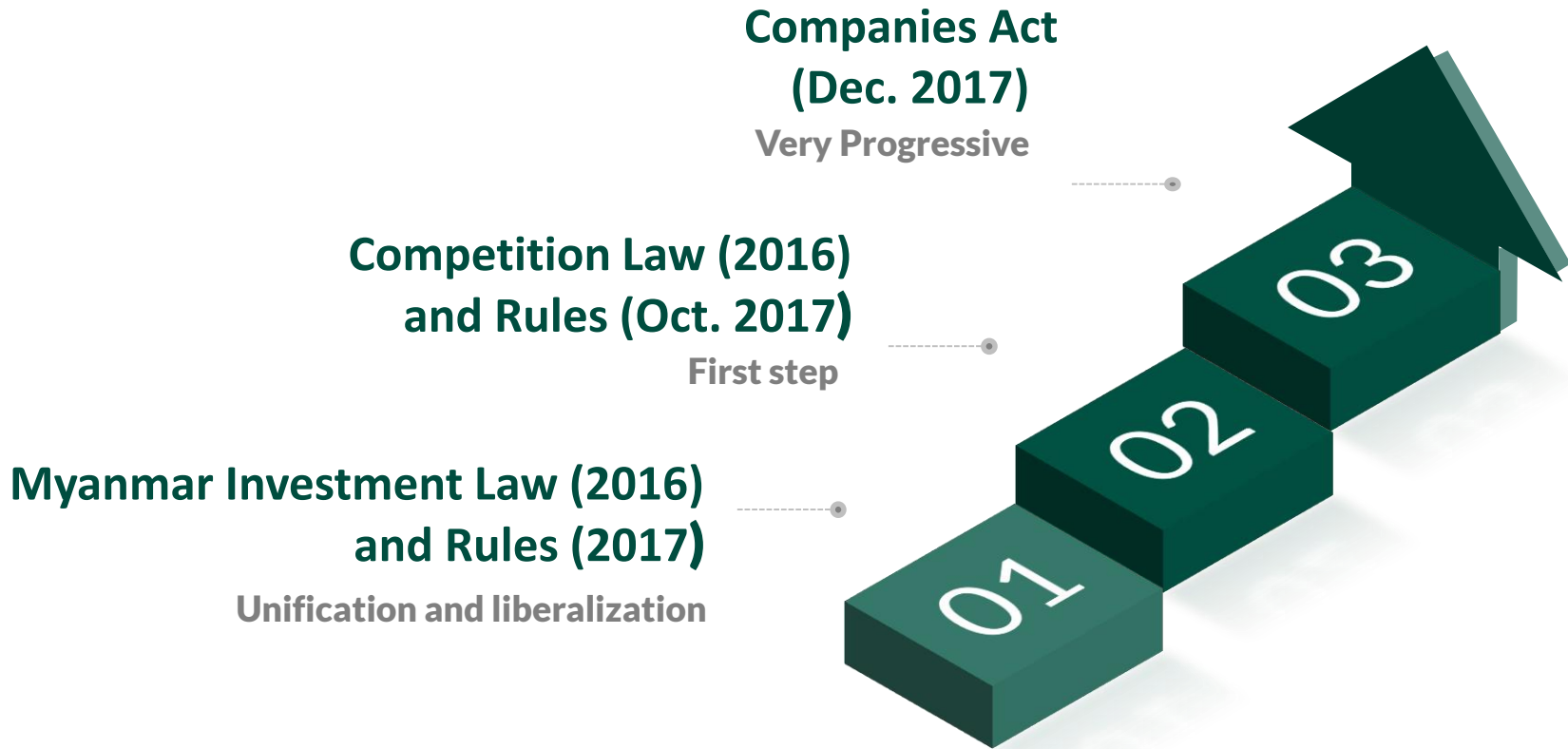
## Main Legal Challenges



- Old laws not always relevant, some new laws not implemented
- Overwhelmed bureaucracy, extensive Governmental influence
- Enforcement issues
- Independence of judiciary



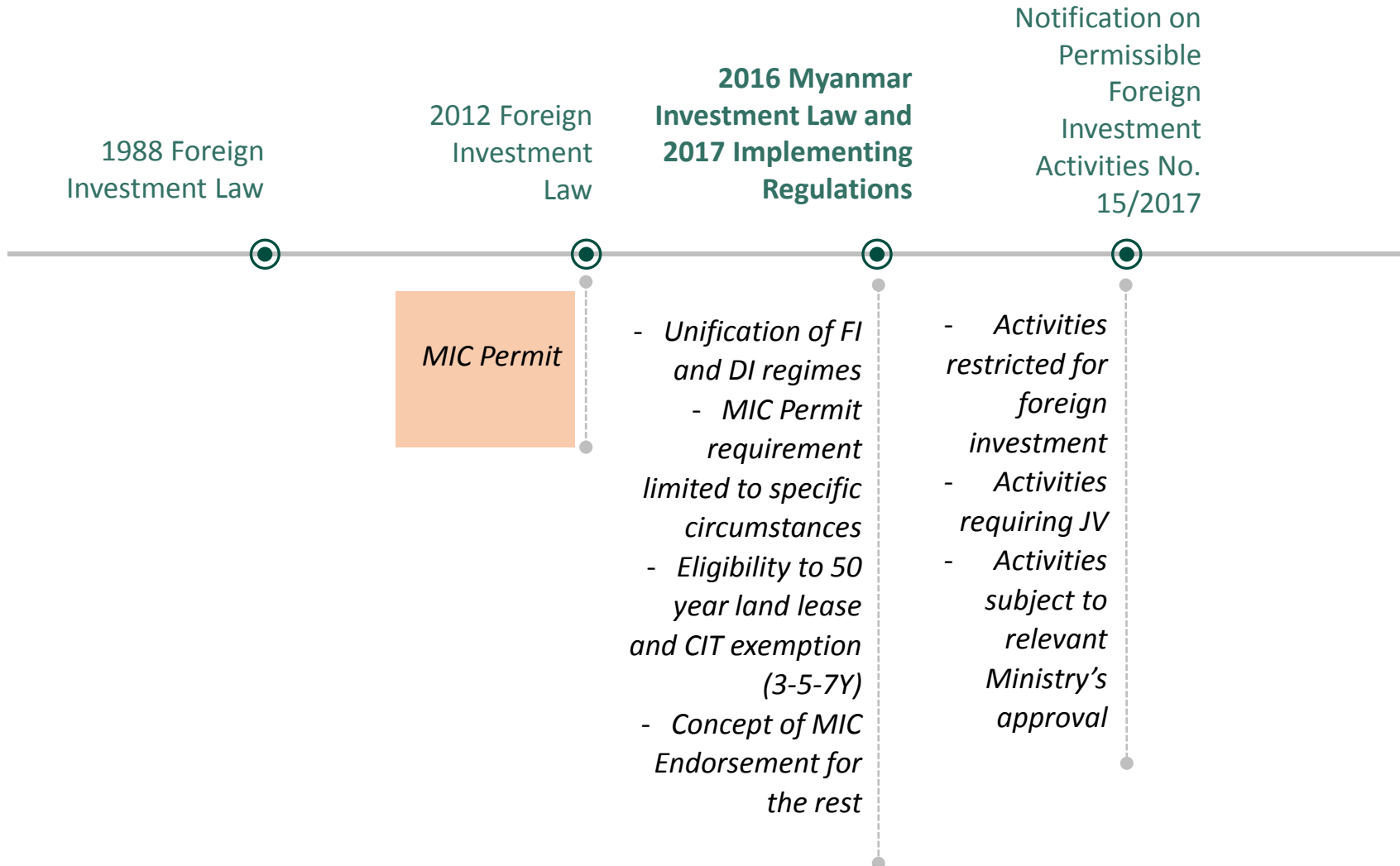
# Top 3 Recent Legal Developments





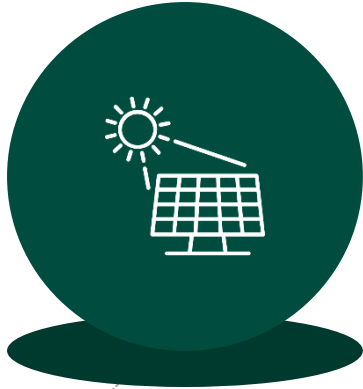


# Evolving Foreign Investment Legislation





# Sector Specific Considerations



## Energy

Electricity Act (Oct. 2014);  
Implementing Rules WHEN???



## Mining

Prohibited gold production and  
exploitation; MONRE  
authorization regime for other  
minerals; tight exploration  
schedules



## Retail/Wholesales

MIC Notification 15/2017



## Education

Recent notification pending new law allowing  
foreign investors to establish international  
schools



## Real Estate/ Hospitality

Hotels and Tourism Law - Licensing restrictions?  
Condominium Law (Thai approach) – Infant implementation



- Minimum wage levels based on the business sector and demanded skills in the private sector.
- The Law distinguishes between “laborers” and “employees”.
- Failure to abide by the minimum wages can result in a fine of about USD330 and imprisonment for between 1 and 6 months for the employer.
- Notification 2/2018 establishes the daily minimum wage at MMK 4,800 (approx. USD 3.60) for 8h workday. This does not apply to small businesses (less than 10 employees).



# What to Watch?

- Removed requirement to specify bus objectives
- Foreign co. from 35%
- Remote/online incorporation
- 1 shareholder co.
- No minimum capital requirement



Entry into force of Cies Act  
(exp. Aug. 2018)



- Banking sector reform?**
- **Amendment to Stamp Duty Law?**
- **Towards permitted e-money/peer-to-peer transactions?**



- Draft Patent Law
- Draft Copyright Law
- Draft Trademark Law

Myanmar to conform to Paris Convention  
by 2019

---

# Myanmar Tax Overview



## **New tax laws issued in FY 17-18**

- 2018 Union Tax Law (effective 1 April 2018)
- Amendment to the Stamp Duty Law (effective 1 August 2017)
- Amendment to the Special Goods Tax Law (effective 1 April 2017)

## **Recent changes in tax administration**

- Introduction of online payment system (effective February 2018)
- Classification of taxpayers within the Myanmar tax offices (effective April 2018)



# Snapshot of Myanmar taxes



Taxes	Myanmar
Corporate Income Tax (CIT)	25%
Commercial Tax (similar to VAT)	5%
Withholding Tax – Dividends (non-residents)	0%
Withholding Tax – Interest (non-residents)	15%
Withholding tax – Royalties (non-residents)	15%
Withholding tax – Services (non-residents)	2.5%
Personal Income tax (Employment)	0-25%
Non-resident Capital Gains Tax on Sale of Shares	10% 40-50% (if under oil and gas exploration)
Special Goods Tax	Various
Tax Treaty Network	8
Transfer pricing rules	No



## Clarification on the financial year

- **Private enterprises** – Tax year is still the same (1 April 2018 – 31 March 2019)
- **State-Owned Enterprises, Banks and Financial institutions (under CBM)** – Change of year to align with the new budget year (starting 1 October 2018 to 30 September 2019)
  - \* *Transition rules for the period April-September 2018 not yet clear*





- For **Special Goods Tax**: Exemption of emerald and diamond and changes in tiers/ rates of tobacco, cheroot, and vehicle
  
- For **Commercial Tax**: There are 86 goods and 30 services exempt from CT. New additions are:
  - ✓ Pure bulk gold;
  - ✓ Jet fuel sold for domestic flights (previously applicable to overseas flights only);
  - ✓ Domestic air transport services (previously subject to 3% CT);  
and
  - ✓ Services for the publication of books, magazines, journals, and newspapers.



- For **Income Tax**: No major change.

Note: There were proposals to remove withholding tax and to provide tax amnesty for resident citizens and non-resident citizens. However, the law was passed without these features.

- For **Capital Gains Tax**: No major change.

Clarified that the higher CGT rate of 40-50% applies to oil and gas exploration sector (upstream). Previously, it applies to the general “oil and gas sector”.



## Withholding Tax

Payment	Resident	Non-resident	Under DTA
Dividends	N/A	N/A	-
Goods within Myanmar; Services rendered in Myanmar; Leases and other contracts	2%	2.5%	Can be exempted
Interest	N/A	15%	8-10%
Royalties	10%	15%	5-15%

### Note:

- Myanmar has eight existing DTAs – Lao, India, Malaysia, Singapore, South Korea, Thailand, the UK, Vietnam.



Under Myanmar Investment Law	Under Special Economic Zone Law
<p>Incentives are <u>not</u> automatic – depending whether the company has been granted <u>Permit or Endorsement</u>.</p>	<p>Incentives are automatic (as approved by SEZ)</p>
<p>Income tax holiday</p> <ul style="list-style-type: none"> <li>Zone 1 – Seven years ITH</li> <li>Zone 2 - Five years ITH</li> <li>Zone 3 – Three years ITH</li> </ul>	<p>Income tax holiday</p> <ul style="list-style-type: none"> <li>Exempted zone – Seven years ITH</li> <li>Promotion zone – Five years ITH</li> <li>Reduction of the income tax rate by 50% for the next 5 years</li> </ul>
<p>Other incentives including duty and tax free importation of equipment</p>	<p>Other incentives including duty and tax free importation of equipment</p>



- France has no existing DTA with Myanmar, but Thailand and Singapore have. However, tax treaty benefit is not automatic and must be applied for a relief.
- There is no tax on dividends and branch profit remittance tax.
- The WHT on service fees (if rendered in Myanmar) is 2.5%.
- Myanmar Company can be entitled to tax incentives under MIL or SEZL.

---

Panel

**Excellence · Creativity · Trust**

Since 1994