

SPI Newsletter

## UPDATE ON THE FBC'S PROPOSED RELAXATION OF CERTAIN FOREIGN BUSINESS RESTRICTIONS

LINDA OSATHAWORANAN (Partner)  
SAITHIP MANSRI (Partner)  
PANJAREE CHUMUANG (Associate)  
PETCHADA KINGWATTANAKUL (Associate)

Further to our earlier article dated 18 October 2018 (available [here](#)), we provide a brief update on the progress of the Foreign Business Committee's ("FBC's") proposal to the Ministry of Commerce ("MOC") to relax the requirements imposed on certain service businesses among affiliated or group companies in Thailand.

On 14 May 2019, the Thai Cabinet approved a draft of the "Ministerial Regulation re: The categories of service businesses which do not require the permission to operate as foreign business (No. ...) B.E. ..." proposed by the MOC ("**Draft Ministerial Regulation**").



Under the Draft Ministerial Regulation, the following categories of service businesses are exempted from the list of other service business under List Three (21) of the Foreign Business Act B.E. 2542 (1999) ("**FBA**"), meaning that such three categories of service business would no longer require permission to operate as a foreign business:

- 1) the business of providing loans to affiliated or group companies in Thailand;
- 2) the business of providing leased space together with public utilities to affiliated or group companies; and
- 3) the business of providing consultation on management, marketing, human resources and information technology to affiliated or group companies.

In addition, the Draft Ministerial Regulation includes definitions of "affiliated companies" and "group companies".

The Thai Cabinet's recent announcement stated that the MOC should consider the comments of the Ministry of Finance, the Ministry of Digital Economy and Society, and the Bank of Thailand on the Draft Ministerial Regulation. The Draft Ministerial Regulation will then be reviewed and revised by the Office of the Council of State. Thereafter, the MOC is authorized to enact the Draft Ministerial Regulation.

This is a positive development for foreign investment in Thailand, as it demonstrates that the FBC is proactively considering and proposing new service businesses to the MOC for which it considers should not require permission to operate as a foreign business, based on such businesses not having an adverse effect on local Thai operators.

However, until the Draft Ministerial Regulation is passed and comes into force, an investor who plans to conduct certain prescribed service businesses is still required to obtain a foreign business license, or a foreign business certificate under the law on investment promotion (BOI), US-Thai Treaty of Amity, or other bilateral or free trade agreements between Thailand and other countries (as applicable) in order to legally conduct those businesses in Thailand.

We will update you when the effective date is announced.