

RECENT DEVELOPMENT ON PROPOSED REMOVAL OF 3 BUSINESSES FROM LIST 3 OF FBA

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Business operation by foreigners in Thailand is primarily regulated by the Foreign Business Act B.E. 2542 (1999) (“**FBA**”) under supervision of the Ministry of Commerce (“**MOC**”). The FBA restricts (and in some cases forbids) foreigners from engaging in a wide range of business activities for different reasons as listed in its three annexes.

In recent years, the MOC has been opening up certain types of service business for foreign operators with a view to further reduce obstacles for foreign investment to improve investment attractiveness in Thailand. The main focus has been to reduce the licensing process of (i) businesses under administration of specific authorities and/or laws; (ii) businesses which foreigners frequently apply for a license; and (c) businesses which are necessary for the country’s development.

Recently, after having conferred with other relevant authorities, the MOC proposed to the Thai Cabinet to remove the following three businesses from the catch-all provision of service businesses under List 3(21) of the FBA:

1. **Telecommunications Business (for Type One License):** This business is for operators who do not have their own telecommunication network and whose service business is deemed appropriate to be liberally provided.

It is to be noted, however, that while the removal of this type of business from the restricted list of the FBA would result in the foreign business operator not being required to apply for a foreign business license/certificate, the foreign business operator would still need to apply for type one telecommunication license from the Office of The National Broadcasting and Telecommunications Commission (NBTC) under the Telecommunications Business Act B.E. 2544 (2001).

2. **Treasury Center:** This business is for operators who manage foreign currency for its conglomerate group both in Thailand and overseas, where the scope of business includes (i) purchasing of obligations or invoices and acting as agents in paying or receiving funds; (ii) netting of income or obligations; (iii) purchasing, selling, or exchanging of foreign currencies and management of exchange rate risk; and (iv) managing of liquidity. Again, a license issued by the Bank of Thailand under the Exchange Control Act B.E. 2485 (1942) would still be required for the operation of this business.
3. **Software Development Service Business:** This business is for a juristic person registered under Thai law which operates business with one of the following characteristics: (i) developing and providing software service on analytical and connection aspects for the management of Big Data, Data Analytics as well as Predictive Analytics; (ii) developing software for information and cyber security; (iii) developing software for controlling and connecting equipment with advanced technologies as well as business operation management; and (iv) developing software for supporting the manufacturing industry.

Although in its early stage and the timing for implementation has not yet been determined, this proposal reflects a positive stance from the Thai government towards foreign investment in Thailand.

We will closely monitor the development of this matter and will provide further updates as they become available.

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