

The Government of the Republic of the Union of Myanmar

The Ministry of Planning and Finance

(The Myanmar Investment Rules)

Notification No. 35/ 2017

The 3rd Waxing of Tagu, 1378 M.E.

(30th March, 2017)

In exercise of the power conferred by subsection (a) of section 100 of the Myanmar Investment Law, the Ministry of Planning and Finance, with the approval of the Union Government, hereby issues these rules.

Chapter I

Title and Definition

1. These rules shall be called **the Myanmar Investment Rules**.
2. The expressions in these rules shall have the same meanings in the Myanmar Investment Law. Moreover, the following expressions shall have the meanings given hereunder:
 - (a) **Law** means the Myanmar Investment Law;
 - (b) **Associate**:
 - (i) specifically, in relation to a company, means:
 - (aa) a director or a secretary of the company;
 - (bb) a related body corporate;
 - (cc) a director or a secretary of a related body corporate; and
 - (dd) any person who controls the company, or who is controlled by the company;
 - (ii) generally, in relation to any person, including a company, means:
 - (aa) any person in concert with the person who is acting, or proposes to act in relation to the relevant matter; or
 - (bb) any associated person or any person who proposes to associate formally or informally, in any other way in relation to the relevant matter; or
 - (cc) any prescribed person in relation to the relevant matter;
 - (iii) who may be prescribed under above clause (i) or (ii), shall, however, not be included in any case merely by the following causes:

- (aa) Having given advice to the person or acting on behalf of the person in the performance of the functions relating to any professional capacity or business relationship; or
- (bb) Having been appointed as a proxy or representative of a person at a meeting of members of a company or a company depending on type;
- (c) **Government Department, Government Organization** means any Union, Region or State level administrative organizations, ministries, commissions and committees;
- (d) **Type of Project Required to Make Environmental Impact Assessment** means the type of project prescribed under the Environmental Conservation Law, Rules and Environmental Impact Assessment Procedures;
- (e) **Foreign Company** means the foreign company defined in the Myanmar Companies Act or the successive laws;
- (f) **Holding Company in relation to a Company** means a holding company of which the respective company is a subsidiary;
- (g) **Myanmar Company** means a company incorporated in Myanmar and registered under the Myanmar Companies Act or the successive laws;
- (h) **Small Company** means a company, other than a public company or subsidiary of a public company, which conforms to the following conditions:
 - (i) having no more than 30 employees or less than the number of employees in it or its subsidiaries or such other number as may be prescribed under the Myanmar Companies Act or any successive law;
 - (ii) Having less than 50 million kyats of total annual revenue in the previous financial year in it or its subsidiaries or less than the amount prescribed under the Myanmar Companies Act or any successive law;
- (i) **Subsidiary** means:
 - (i) a subsidiary of the other company if it conforms to any of the following circumstances:
 - (aa) the composition of the board of such company of being controlled by the other company; or
 - (bb) exercising or controlling the exercise of more than one-half of the votes out of the maximum number of votes that can be exercised at a meeting of the said company by the other company;
 - or

- (cc) holding more than one-half of the issued shares of the said company by the other company, other than shares that has no right to participate beyond a specified amount in a distribution of either profits or capital; or
- (dd) having the entitlement to receive more than one-half of every dividend paid on shares issued by the said company, other than shares that have no right to participate beyond a specified amount in a distribution of either profits or capital; or
- (ii) a subsidiary created by the subsidiary which conforms to any circumstances in the above clause is a subsidiary of the other company;
- (j) **HS Code (Harmonized System Code)** means the Harmonized System or Harmonized Tariff Schedule developed by the World Customs Organization and used by the customs authority of the Union from time to time;
- (k) **Investment Monitoring Division** means the investment monitoring division of the Commission Office;
- (l) **Investment Screening Application** means an application submitted to the Commission by the person who desires to invest to obtain non-binding guidance under rule 28;
- (m) **Investment Assistance Committee** means the committee formed under rule 165;
- (n) **Prohibited Investment Activity** means an investment activity which applies to stipulations under section 41 of the Law;
- (o) **Investment Promoted Sectors** means the sectors included a list of business promotion activities in the notification to be issued by the Commission in accordance with section 43 of the Law from time to time;
- (p) **Region or State Committee** means a Region or State Investment Committee formed by the Commission under rule 151;
- (q) **Region or State Committee Office** means the branches of the Region or State Office of the Directorate of Investment and Company Administration, which undertake office works of the relevant Region or State Investment Committee;
- (r) **Proposal Assessment Team** means the proposal assessment team formed by the Commission under rule 149 to support the screening of the proposals;
- (s) **Related Body Corporate** means:
 - (i) a holding company in relation to a company;
 - (ii) a subsidiary in relation to a company; or

- (iii) a holding company or a subsidiary in relation to a company;
- (t) **Restricted Investment Activity** means an investment activity to be stipulated by notification by the Commission from time to time in accordance with section 43 of the Law;
- (u) **Raw Material** means natural or unprocessed or unrefined materials required for goods manufacturing. Moreover, raw materials or goods required to produce finished goods, manufactured goods used to improve finished goods or partly-manufactured goods and materials necessary for packaging are included. In such raw materials, unprocessed or natural or ready-to-be-used raw materials are also included;
- (v) **Transition Period** means the period of 24 months from the date on which these rules take effect;
- (w) **Working Day** means any day when the Commission Office is open other than a Saturday, Sunday or a public holiday;
- (x) **Application Fee** means any fees to be paid by the investor when submitting the proposal, endorsement application, tax exemption or relief application or land use application to the Commission, Region or State Committee;
- (y) **Construction Period of Investment or Preparatory Period of Investment** means the period approved by the Commission to implement, extend or prepare the proposed investment.

Chapter II

Types of Investment Activity

Types of Investment Activity Required a Permit

3. For the provision of subsection (a) of section 36 of the Law, a type of business which conforms to any of the following stipulations is stipulated as an investment activity that is essential to the National strategy:
 - (a) investment exceeding USD 20 million in any business in the area of communication and information technology, pharmaceutical technology, biotechnology, similar technologies, energy, infrastructure and urban development, extraction of natural resources and media;
 - (b) investment exceeding USD 20 million, under the grant for the land use right or use of other property, agreement on such concession or similar authorization by government department and government organization;
 - (c) investment by foreign investor or investment exceeding USD one million by Myanmar citizen investor along the borderline between the boundary of the Union and other country or the conflict area;

- (d) cross-border investment by the foreign investor or investment exceeding USD one million by Myanmar citizen investor;
 - (e) investment across the Regions or States within the Union;
 - (f) investment in agriculture on more than 1000 acres of land;
 - (g) investment to carry out other business except agriculture on more than 100 acres of land.
4. For the purpose of section 36 (b) of the Law, an investment is taken to be a large capital intensive investment if the expected investment value exceeds USD 100 million.
5. For the provision of subsection (c) of section 36 of the Law, an investment shall be deemed to have a large impact on the environment and the local community if it conforms to any of the following stipulations:
- (a) being or being likely to be a type of project required Environmental Impact Assessment;
 - (b) being the investment business located in designated or proposed a protected area, forest reserved area, Key Biodiversity Area or areas selected and specified to support the ecosystem services and cultural and natural heritage, cultural monuments and unspoiled natural areas proposed or specified under the existing laws, procedures and notifications, including the Environmental Conservation Law;
 - (c) the land to be used or leased for investment activity;
 - (i) Has been or is likely to be acquired through expropriation by paying compensation, compulsory acquisition procedure or by agreement in advance of such expropriation or compulsory acquisition procedure in accordance with the laws of the Union and will either cause the relocation of at least 100 individuals permanently residing on such land or comprise an area of more than 100 acres.
 - (ii) Comprises an area of more than 100 acres and would be likely to cause involuntary restrictions on land use and access to natural resources to any person having a legal right to such land use or access;
 - (iii) is likely to cause conflict with the proposed investment activity due to litigation in good faith by a person or disputing over ownership of land in obtaining more than 100 acres of land to occupy or use;
 - (iv) may adversely impact at least 100 individuals by continual occupying such land scrutinized by a body which has right to scrutinize in applying to occupy or use land.
6. For the provision of subsection (d) of section 36 of the Law, investment on the land or building at the disposal of the government department and the government organization is stipulated as investment activities used state-owned land and building. Provided that it does not include the land use rights arising

from the grant, alteration or other administration under the provisions and procedures of land administration within the authority of the government department and government organization.

7. The investor does not require applying for a permit under subsection (d) of section 36 of the Law in the following circumstances:
- (a) leasing or receiving a license for the land or building for a term of 5 years or less;
 - (b) sub-leasing such state-owned land or building by the investor from any of the following persons in a manner permitted under lease agreement, agreement or other agreement:
 - (i) a person who has previously obtained the right to use the state-owned land or buildings from the government department and government organization in accordance with the laws of the Union, including the Law; and
 - (ii) a person authorized to sub-lease or sub-license the state-owned land or building in accordance with the approval of the government department and government organization.
8. The investor who subleases land or buildings, according to subsection (b) of section 7 shall use them in a manner permitted under the lease agreement or agreement concluded by the government department and government organization.
9. Although the investor does not require obtaining a permit when initially making his investment activity, if his investment involves in the stipulations for the investment required to obtain the permit due to a change in the type of investment, he shall submit a proposal before making such changes.
10. In determining monetary amounts and land areas in rules 3, 4 and 5, it shall be deemed that it means the total amount of investment activity of the investor and his associates and any businesses relating to the investor.
11. Nothing in these rules shall limit prescribing conditions required submitting to obtain approval of the Pyidaungsu Hluttaw under section 46 of the Law and laying down other conditions or stipulations to assess a proposal or grant a permit, including determining a minimum capital proportion to be contributed in the total investment amount.

Prohibited Investment Activities

12. The Commission may, from time to time, issue notifications of prohibited investment activities under section 41 of the Law with the approval of the Government.
13. Without limiting other law, an investment activity which is not included in a notification referred to in rule 12 shall not be stipulated as a prohibited investment activity under the Law.

14. Any person shall not carry out a prohibited investment activity.
15. Hazardous or poisonous waste in subsection (a) of section 41 of the Law means all substances prohibited under the existing laws to be imported, exported, stored, traded, manufactured or otherwise produced within the Union. The production or use of such substances is the businesses prohibited other than the express exemption, exception, or permit under the Law.
16. The Commission:
 - (a) may request information from such investor if there is reasonable ground to believe that a prohibited investment activity or its related businesses are being engaged;
 - (b) may order any investment to suspend or cease if there is reasonable ground to believe that a prohibited investment activity is operated; and
 - (c) shall revoke the permit or endorsement if it is known that a prohibited investment is operated according to the inspection results.

Restricted Investment Activities

17. With the approval of the Government, the Commission may, under section 43 of the Law, issue notifications of investment activities restricted under section 42 of the Law and, under section 44 of the Law, amend these notifications. A person making a restricted investment activity shall perform in accordance with the Law and other applicable laws.
18. The rights of the Commission to discuss or to request for advice shall not be limited under section 45 of the Law when considering amendment the notification referred to in rule 17.
19. Notwithstanding any limitation in any other laws, an investment activity not included in the notification referred to in rule 17 shall not be stipulated to be a restricted investment activity under the Law.
20. The government department and government organization may conclude a contract with investor in respect of investment activity allowed to be carried out only by the Union under subsection (a) of section 42 of the Law and other applicable law, and may allow the investor to involve in the investment activity according to the extent of the contract.
21. Myanmar citizen investors may carry out investment activity stipulated under subsection (b) of section 42 of the Law.
22. Myanmar citizen investor shall contribute 20% of the minimum direct shareholding or interest proportion in the joint venture other than businesses expressly excepted by notification under subsection (c) of section 42 of the Law.

Notice for Restricted Investment Activities

23. An investor carrying out the investment activity-restricted under section 42 of the Law shall notify the Commission Office or-Region or State Committee Office for such businesses.
24. The investor shall send the notice under rule 23 to the Commission Office or Region or State Committee Office within 3 months form the commencement of implementation of the investment activity.
25. Sending notice under rule 23 shall not apply to an investor or a small company that still submits a proposal or endorsement application for the investment activity.

Chapter III

Investment Promoted Sectors

26. The Commission may, from time to time, issue notifications of investment sectors to be promoted, and amend them with the approval of the Government.
27. The Commission may, without limiting the effect of the other powers or rules, stipulate the minimum investment criteria and maximum value of tax exemption before the enjoyment of tax exemption and relief of an investment activity for the investment sector to be promoted at any time. The eligibility criteria could include a minimum cash investment that must be made as a proportion of the total investment amount.

Chapter IV

Submission of Investment Screening Application and Issuance of Guidance

28. A person who desires to invest may submit an investment screening application to the Commission for non-binding guidance on the kinds of the following proposed investments:
 - (a) businesses required to submit a proposal to the Commission under section 36 of the Law;
 - (b) businesses likely to be submitted to the Pyidaungsu Hluttaw for approval under section 46 of the Law;
 - (c) investment activities restricted under section 42 of the Law and its related notification;
 - (d) investment activities-involved in investment promoted sectors; or
 - (e) investment activities prohibited under section 41 of the Law.
29. In the investment screening application, the investor shall:
 - (a) fully disclose the nature of the investment;

- (b) disclose all information which appropriate person may consider in the assessment of the Commission;
and
 - (c) right fully disclose information.
30. The Commission shall assess the application after a person, who desires to invest, submits the investment screening application and pay the stipulated application fee.
31. The Commission:
- (a) shall assess an investment screening application within 10 working days, if it is complete; and
 - (b) may extend the assessing period if it requires to ask for additional information from the investor.
32. The Commission shall issue non-binding guidance after assessing the investment screening application within the specified period.
33. The guidance issued under rule 32 shall be assumed as advice for the continuation of the investment in accordance with law and shall not be assumed to know in advance whether a chance of an approval of being granted.
34. The Commission may revoke the application if the requested information is not provided by the investor within 10 working days from the requested date or such extension.
35. Any prescriptions under rule 29 is amended, the Commission may determine that the guidance issued under rule 32 should be amended. It shall notify the determination to the investor.

Chapter V

Submission of Investment

36. Every submission shall be carried out in accord with the following stipulations:
- (a) it shall be in writing;
 - (b) it shall be in Myanmar or, if desired, it may be both in Myanmar and English;
 - (c) Where it is a proposal, a summary of the proposed investment shall be in Myanmar or, if desired, it may be both in Myanmar and English;
 - (d) it shall be signed by a relevant applicant;
 - (e) the stipulated form shall be completed;
 - (f) it shall contain the information prescribed by the Commission;
 - (g) it shall contain the information which is true and complete and shall not be disclosed fraudulently;
 - (h) it shall be submitted to the Commission Office or relevant Region or State Committee Office; and

- (i) the relevant application fee shall be paid.
37. The investor shall submit the following matters to the Commission after obtaining the permit or endorsement, although it is not required to mention such matters in the submission. The Commission Office shall inform such information to the Central Bank of Myanmar:
- (a) where the investment is carried out with foreign loan, the repayment schedule, including the loan amount, the sum of principal and interest, remittance amount and the timeline; and
 - (b) the receiving bank of capital and loan from abroad and the banking channel for remittance and settlement.
38. A summary of proposed investment submitted under sub rule (c) of rule 36 shall include the following information:
- (a) the investor and other person involving a significant direct or indirect interest in the investment;
 - (b) the principal location or locations of the investment;
 - (c) a description of the sector and business which the investment is to be made;
 - (d) proposed amount of the investment;
 - (e) a description of the plan, including expected timetable for the implementation of the investment;
 - (f) the number of employees to be appointed and export earnings from investment; and
 - (g) other information to be prescribed by the Commission from time to time.
39. If the investor has not yet legally established the enterprise, the person responsible for establishing such enterprise may submit the proposal as an investor. The establishment as the enterprise under the law is a condition of being issued the permit and shall not alter any of the obligations of the investor under the Law.
40. The Commission may consult with government department and government organization in considering a submission without limitation of its other powers. It may consult with other stakeholders and persons affected by the determination in relation to any proposal, and obtain information for its determination. Provided that, it may, at its discretion, decide whether to consider such information.

Chapter VI

Submission and Assessment of Proposal

41. (a) Where a proposed investment subject to sub rule (b) is involved in the investment in section 36 of the Law, an investor shall submit a proposal to the Commission to obtain permit and invest only after obtaining a permit.
- (b) If another investor or business organization, who holds the permit, desires to make the proposed investment, it shall not require further obtaining the permit under subsection (a) except any investment involved in rule 237.
- (c) The investor shall pay the application fees for the proposal, prescribed by the Commission.
42. The intended investor submitted the proposal to the Commission under rule 41 shall make investment only after obtaining the permit and comply with all conditions in the permit.
43. The following persons shall apply for the proposal:
- (a) a person who desires to invest;
- (b) the representative authorized by a person who desires to invest; or
- (c) a subsidiary involved in the business of which a person desires to invest.
44. In submitting the proposal, if an investment involved in any of the following conditions among investment activities to be obtained the permit in section 36 of the Law, the proposal shall be submitted through the relevant ministry:
- (a) having a significant ownership interest in the investment by government department and government organization;
- (b) having been granted or intending to grant concessions to the investor by government department and government organization; or
- (c) being required or authorized by law to do so by government department and government organization.
45. The Commission may, after receiving to screen the proposal, publish a summary of the proposal for public awareness within 10 working days from the date of receipt.
46. If a person who desires to obtain the right to use land, or tax exemption or relief, applications for them may be submitted together with the proposal.

Proposal Assessment Procedure

47. The Commission Office shall assess a proposal for eligibility and completeness at the Commission Office or other place designated by the Commission. If the proposal is eligible and complete, it shall be

- accepted. The Proposal Assessment Team shall assess it in accordance with the stipulations and then submit to the Commission's meeting.
48. On receipt of the proposal submitted under rule 47, the Commission shall assess whether or not an investment in the proposal should be allowed in accordance with the stipulations. It may reject the proposal within 15 working days from date of receipt if it determines inappropriate to grant permission. If a proposal is rejected, the Commission shall give the notice of the rejection with an explanation of the grounds of rejection to the investor-within 5 working days from the date of rejection. If the proposal is not rejected, it shall be deemed to be accepted.
49. The Commission shall assess it within 60 days from the date of receipt of the proposal, and if it determines to allow, it shall issue the permit within 10 working days. The copy of the permit shall be delivered to the relevant Union ministries and relevant Region or State government.
50. The Commission may grant the permit to the investor or its subsidiary involved in the investment.
51. Without limitation of other rules, the permission in relation to a permit, or tax exemption or relief may be:
- (a) granted in respect of a proposed or stipulated investment;
 - (b) granted in respect of types of investment;
 - (c) granted in accordance with the payment of a bond;
 - (d) granted for a specified duration; or
 - (e) granted in whole or in part.
52. The assessment period of the proposal under rule 49 may be suspended in any of the following conditions:
- (a) being required by the Commission to ask for additional information from the investor or other organizations to make its assessment and determination on the permit and any related application; or
 - (b) being required to submit to the Pyidaungsu Hluttaw to obtain its approval under section 46 of the Law.
53. The Commission may make the suspension of proposal assessment period more than once under this rule and the Commission office shall inform the investor the suspension.
54. When the Commission receives the additional information according to rule 57 or the approval of the Pyidaungsu Hluttaw, it shall end the period of suspension and resume the timeframe.
55. If the Secretary of the Commission assumed-that it is beneficial to the interests of the Union to make an extension in the circumstances relating to the complexity or novelty of the proposal, he may extend the

- proposal assessment period under rule 49. The time of extension may be extended more than once under this rule and the extension shall be informed to the investor.
56. The Commission shall have an investor or its authorized representative attend the meetings of the proposal assessment team or the Commission. If required, experts from government departments and government organizations in relation to the nature of the business shall be invited to attend the meeting.
57. The Commission may request the investor to provide more information relevant to the proposal at any stage of the process before acceptance and submission of the proposal to the meeting of the Commission.
58. The investor shall provide more information requested by the Commission under rule 57 within 20 working days from the request date or extension approved by the Commission.
59. The Commission may reject the proposal if the investor fails to provide the requested information within the time prescribed under rule 58.
60. If the investor desires to obtain the permit for the proposed investment, although the proposal is void, he shall resubmit the proposal and pay the prescribed application fees.
61. In assessing the proposal, the Commission may, if required, consult with government departments and government organizations. Such departments and organizations shall provide required personnel or other resources to the Commission. Where the investment subjects to the Ethnic Rights Protection Law, the Commission may consider whether or not to consult with and to obtain the remark of the relevant Region or State Government or other stakeholders as part of the assessment process or other conditions to be included in the permit.
62. In assessing a proposal, the Commission may reject the proposal at any time if it considers being un conformity with law or ineligible to issue the permit.
63. The Commission may further issue guidelines on the procedure of the permit application and assessment.

Proposal Assessment Criteria

64. In assessing the proposal, the Commission shall consider objectives, principles, rights and responsibilities of the Law, emphasizing on the interest of the Union. In assessing the investor and investment proposal, the Commission shall consider whether or not the following criteria are met with:
- (a) acting and carrying out investment in accordance with the laws of the Union by intended investor;
 - (b) being an investment activity required to obtain a permit;
 - (c) being the proposal which is consistent with the Law;

- (d) demonstrating a commitment to carry out the investment in a responsible and sustainable manner by reducing and avoiding any adverse environmental and social impacts by the investor; such commitment without limiting environmental conservation actions, compliance with environmental conservation policies and human right, and application of effective technology for natural resource and practices of waste management strategy being included;
 - (e) having business experience and acumen in respect of the investment by the investor or holding company or an associate involving the management of investment;
 - (f) making financial commitment to the investment activity by the investor, associate, and holding company;
 - (g) being the investor, an associate, and holding company of good character and business reputation; and
 - (h) inconsideration of the policies and objectives of national development, security, economics, social and culture issued by the Union Government or Region or State Governments, being the investment which is compatible with the policies and objectives of them to be affected by the investment.
65. In assessing the proposal in accordance with rule 64, the Commission :
- (a) shall take all criteria into consideration and determine that the investor and the proposed investment shall be net mandatorily with the criteria in rule 64 (a) to (c) and are met with most relevant criteria in of rule 64 (d) to (h); and
 - (b) shall determine whether or not the investor and the proposed investment meet with the mandatory criteria and the relevant non-mandatory criteria.
66. For the provision of rule 64 (g), in assessing whether the investor has a good character and business reputation, the Commission may consider whether or not the investor, an associate or a person involved in the investment was penalized under or contravened the laws relating to any environment, labour, tax, anti-corruption or human rights.

Chapter VII

Submission and Assessment of Endorsement Application

67. In respect of an investment activity not involved in section 36 of the Law, the following persons may submit an endorsement application to the Commission Office or relevant Region or State Committee Office:
- (a) the investor;

- (b) the authorized representative of the investor; or
- (c) the subsidiary involved in the investment.

68. The investor:

- (a) may submit the relevant land use application or tax exemption or relief application with the endorsement application concurrently; and
- (b) shall pay endorsement application fee prescribed by the Commission.

69. In the initial implementation of the investment, the investor, who applies endorsement application, shall submit recommendations, approvals, licenses, permits, and similar authorized documents required by section 38 of the Law with the endorsement application. Provided that where the business is a kind of the business required to obtain recommendation, license or similar authorized document in the implementation process of the investment after obtaining the endorsement application according to the nature of business, such documents shall be obtained and submitted to the Commission after the submission of the endorsement application.

70. The endorsement application submitted under rule 68 shall be assessed whether or not to be eligibility and completeness at the Commission Office or the relevant Region or State Committee Office. If the endorsement application is complete with the stipulations, the endorsement application shall submitted for review and approval of the Commission, Region or State Committee.

Endorsement Application Assessment Procedure

71. When receiving the endorsement application according to rule 70, the Commission or relevant Region or State Committee, may reject it within 15 working days from the date of the receipt of the endorsement application, if it is deemed to be incomplete, ineligible for the stipulations or inappropriate for approval under other situations. If rejected, the Commission or relevant Region or State Committee shall notify the rejection and an explanation of the grounds of rejection within five working days from the date of the rejection to the investor. If not rejected, the endorsement application shall be deemed to be accepted.

72. (a) If the Commission decides to approve the endorsement application, after screening it within 30 days from the date of receipt, the Commission shall issued the endorsement within 10 working days from the date of decision;

- (b) If the Committee decides to approve the endorsement application, after screening it within 30 days from the date of receipt by the relevant Region or State Committee, the Committee shall issue the endorsement within 10 working days from the date of decision;

- (c) The Commission or Region or State Committee shall also deliver the copy of endorsement to the relevant Union Ministries and Region or State Governments.
73. The Commission or relevant Region or State Committee may grant the endorsement to the investor or its subsidiary involved in the investment.
74. The Commission or relevant Region or state Committee may request more information relating to the endorsement application at any stage of the assessment process of endorsement application to the investor.
75. Application may be rejected if the investor does not provide the information requested by the Commission or relevant Region or State Committee within 20 working days from the requested date, or such extension approved by the Commission. If the endorsement application is void, the investor who desires to obtain the land use right or tax exemption or relief shall resubmit the endorsement application and pay the prescribed application fee.
76. The Commission may consult with government departments or government organizations in assessing an endorsement application, and request government department or government organizations to provide relevant personnel or other resource to complete the assessment process of endorsement application within the timeframe.
77. In assessing the endorsement application, the Commission may reject an endorsement application at any time if it deems to be non-compliance with law or ineligible for endorsement.
78. The Commission may issue further guidelines for the endorsement application assessment procedure.

Endorsement Application Assessment Criteria

79. The commission or relevant state or regional committee must assess every application for an endorsement, and determine whether to issue an endorsement, after considering the objectives, principles, right and responsibilities in the Law and applying the following criteria:
- (a) action and carrying out investment in accordance with laws of the Union by the investor;
 - (b) the business of being required to obtain the endorsement application under section 37 of the Law;
 - (c) being an endorsement application in conformity with the Law;
 - (d) the application of being involved in the investment prescribed by the Law; and
 - (e) being an investor who is eligible to receive one or both of the land use right or tax exemption or relief by the endorsement.

Chapter VIII

Submission and Assessment of Tax Exemption or Relief Application

80. If an investor who has obtained a permit or an endorsement, or who still applies for a permit or endorsement, desires to enjoy tax exemption or reliefs in sections 75, 77 and 78 of the Law, the investor may submit the tax exemption or relief application.
81. If an investor who has obtained a permit or an endorsement, or who still applies for a permit or an endorsement, desires to make an additional capital investment within the Union, tax exemption or relief shall only be applicable to such additional capital investment.
82. Tax exemption or relief application may be submitted with a proposal or an endorsement application, Tax exemption or relief under sections 77 and 78 of the Law may be submitted as an additional. The investor shall accurately specify tax exemption or relief to be enjoyed in its application.
83. In applying the income tax exemption under subsection (a) of section 75 of the Law, the application for tax exemption or relief shall state the zone in which the investor has being invested or carried out or the investor has being invested or carried out more than 65% of the value of the investment calculated in accordance with rule 96. If necessary, the investor shall give other information.
84. If an investor applies for custom duties or other internal tax exemptions reliefs under subsections (a) and (d) of section 77 of the Law, the investor shall provide without limiting the request of other information:
- (a) list of machineries, equipments, instruments, machinery components, spare parts, materials used in the business and construction materials unavailable locally for the investment construction and investment preparation, and goods in details with four digit HS Code in the HS Code chapter; and
 - (b) a calculation of the total value of materials to be imported which the investor desires to apply for tax exemption or relief, including customs duty or other internal tax.

Tax Exemption Relief Application Assessment Procedure

85. When receiving tax exemption or relief application under rule 80, if the Commission thinks that the application is incomplete or ineligible for the criteria or inappropriate for approval under other situations, it may reject the application within 15 working days from the date of receipt. If the Commission rejects the tax exemption or relief, the Commission office or relevant Region or State Committee office shall notify the investor within 5 working days from the date of rejection with the grounds of rejection. If not rejected, it shall be deemed to be accepted.

86. The Commission office may request to provide further information relating to the tax exemption or relief application at any stage of the assessment process. The investor shall submit the information within 20 working days from the requested date or such extension approved by the Commission. If the investor fails to submit the information within such timeframe, the Commission may reject the tax exemption or relief application.
87. If the Commission decides to approve it, after assessing the tax exemption or relief within 30 days from the date of receipt, it shall issue the tax exemption or relief within 10 working days. The copy of tax exemption or relief shall also be delivered to the relevant Union Ministries and Region or State Governments.
88. The Commission may grant tax exemption or relief to the investor or its subsidiary involved in investment.
89. Without limiting any other rules, the approval of a tax exemption or relief may be:
- (a) granted in respect of a proposed or stipulated investment;
 - (b) granted by the payment of a bond;
 - (c) granted for a prescribed duration; or
 - (d) granted in whole or in part.
90. The Commission may issue guidelines on submission and assessment of tax exemption or relief application procedure.

Tax Exemption or Relief Assessment Criteria

91. The Commission shall consider whether the investment is consistent with the following criteria or not, based on the objectives, principles, rights and responsibilities of the Law:
- (a) acting and making investment in accordance with the laws within the Union;
 - (b) submitting and applying tax exemption or relief application in accordance with the Law;
 - (c) making all investment in the promoted sectors for income tax exemption;
 - (d) exceeding the amount of USD 300,000 for the expenditure of additional funds or further capital within the Union;
 - (e) obtaining a permit or endorsement or process in application;
 - (f) in the case of applying income tax exemption, making investment in zone 1, zone 2, zone 3 or more than one zone, by notification, stipulated by the Commission;
 - (g) the development of a skilled labour force supporting the creation of new employment opportunities;
 - (h) bring or enhancing new technology or business skills into the Union;

- (i) causing competition, development of capacity building or productivity, or enhancing services or infrastructure within the Union; and
- (j) increasing export earnings of the Union.

92. In such assessing, the Commission shall:

- (a) take all criteria into consideration and determine that the investor and the proposed investment shall be met mandatorily with the criteria in of rule 91 (a) to (f) and with the most relevant criteria out of rule 91 (g) to (j);
- (b) determine whether or not to meet the mandatory criteria and to fulfill the revelant non-mandatory criteria; and
- (c) consider the effect on the receipt of the Union budget dye to the applied tax exemptions and reliefs;

93. (a) The Commission may grant or refuse all or some tax exemption or reliefs applied by the investor. It may grant the tax exemption or relief in whole or in part, stipulating the regulations, including the conditions for the performance relating to the investment between the investor and an associate person.

- (b) If the Commission grants the tax exemption or relief to the investor according to subsections (a) and (d) of section 77 of the Law, it shall approve and notify the investment construction period or investment preparatory period to be enjoyed.

94. The Commission may refuse to grant a tax exemption or relief if any investor or associate suspended or significantly reduced and initial investment for which a tax exemption or relief was enjoyed under any law within the previous 3 years.

95. Tax exemption or relief applies to the investment allowed to enjoyed tax exemption or relief. It does not apply to the other business or other income carried out by the investors and its subsidiary.

96. Where the investor makes investment in more than one zone;

- (a) the zone in which more than 65% of the value of the investment is invested shall be deemed as the location of investment.
- (b) if more than 65% of the total value of the investment is invested in:
 - (1) zone 1 and zone 2, the investment shall be deemed to be in zone 2;
 - (2) zone 2 and zone 3, the investment shall be deemed to be in zone 3; and
 - (3) zone 1 and zone 3, the investment shall be deemed to be in zone 3.

97. Customs duty exemption or relief under subsection (b) of section 77 of the Law shall be granted only if at least 80% of the income expected to be earned from the investment is in foreign currency from exports. It

may be granted on a pro-rata basis on income in excess of this amount expected to be earned in foreign currency from exports of that investment.

98. The Commission shall calculate a reimbursement of customs duty paid under subsection (c) of section 77 of the Law on a pro-rata basis of the customs duties paid by the investor based on the proportion of income from the investment earned in foreign currency from export. The reimbursement may be applied for the custom duties paid in the assessment year at the end of an assessment year. The reimbursement may be made in the offset form of a customs duties and future customs duties to be paid by the investor.
99. (a) The Commission may grant a tax exemption or relief from income tax, in respect of reinvestment, if the following criteria are met with:
- (i) the profits reinvested are earnings received by the investor in the assessment year in which the income tax exemption under subsection (a) of section 78 of the Law was claimed;
 - (ii) the re-investment of said profit has occurred in the assessment year following the assessment year in which the income tax exemption under subsection (a) of section 78 of the Law was claimed; and
 - (iii) being duly paid for income tax and other taxes other in the assessment year in which the income tax under subsection (a) of section 78 of the Law was claimed.
- (b) In making reinvestment according to subsection (a) of section 78 of the Law relating to income tax exemption, the payment of operating expenses shall not be calculated.
- (c) Tax exemption or relief to be enjoyed under subsection (a) of section 78 of the Law shall not be enjoyed if the profit from the investment is reinvested during the investment construction period or investment preparatory period.
- (d) In granting an exemption or relief under subsection (a) of section 78 of the Law, the Commission shall consider whether the investor complies to the law and the conditions of the permit or endorsement or tax exemption or relief or not, including the effects and benefits of tax exemption or reliefs for reinvestment.
- (e) No investor shall enjoy further exemption or relief to be enjoyed under subsection (a) of section 78 of the Law to an investor, if the investor fails to make an reinvestment in the relevant year in which investor applies to enjoy tax exemptions or reliefs and enjoys previous tax exemptions or reliefs under subsection (a) of section 78 of the Law.
100. The Commission may grant the investor the right to depreciate his assets at the rate permitted under the applicable laws of the Union or at an equal to 1.5 times rate to be stipulated from time to time.

101. The Commission may grant the investor the right to deduct research and development expenses up to a maximum of 10% of his assessable income under subsection (c) of section 78 if the Law in the following conditions:

- (a) the research and development activities applied to only the permitted investment;
- (b) the research and development activities essential for the economic development of the Union; and
- (c) the research and development activities of being recognized by the applicable statistics standards of the Union;

102. The Commission may make any further decision for any limitations or stipulations of the amount of or process for applying or administering the tax exemption or relief, including the consideration for the research and development expenses in excess of 10% of assessable income, if the Commission thinks necessary for the interest of the Union.

Other Matters Relating to the Issuance of Tax Exemption or Relief

103. In granting the income tax exemption under subsection (a) of section 75 of the Law, the Commission may reassess tax exemption or relief after making the operation from three years to five years at the zone(s) in which the investment is made more than 65% of the value of investment, It may amend the tax exemption or relief according to the means or rule 96 depending on the zone(s) in which the actual investment is made if the value of actual investment in the zone(s) is different from the value assessed when granting tax exemption or relief. Any amendment may have retrospective effect. If it is found that the investor enjoyed more than tax exemption or relief to be enjoyed under the reassessment, he shall be liable for such amount to pay tax, and shall be payable in its following assessment year. Provided that no adjustment shall be made if it is found that the investor enjoyed less than tax exemption or relief to be enjoyed under reassessment.

104. The expansion of the volume of investment by the investor under subsection (d) of section 77 of the Law means that it shall be deemed that the volume of investment is expanded only after 80% of the proposed capital investment has been contributed.

105. The investor shall import the materials for expansion of the volume of investment according to subsection (d) of section 77 of the Law within two years from the date of receipt of tax exemption or relief. If investor shall not import the materials within such duration, such exemption or relief shall be voluntarily void.

106. The import of materials according to subsection (a) of section 77 of the Law shall only be carried out during the investment construction period or investment preparatory period. If not, it shall be voluntarily terminated.
107. The investment construction period or investment preparatory period shall come to an end on the date of commencement of commercial operation except rule 146(d).
108. Without having the approval of the Commission, if the machinery equipment, instruments, machinery components, spare parts and construction materials imported under the tax exemption or relief under subsections (a) and (d) of section 77 of the Law are used for any purpose other than the construction or implementation of the investment, the investor shall pay all applicable duties and taxes to be paid at the time of such importation. The Commission may impose any of administrative penalties prescribed under section 85 of the Law on such investor.
109. Before granting a customs duty exemption or relief under subsection (a) and (d) of section 77 of the Law, the Commission shall assess whether or not the goods imported are to be used in the construction and implementation of investment or not.
110. If a custom duty exemption or relief is granted under subsection (b) of section 77 of the Law and the percentage of income actually earned in foreign currency from exports in an assessment year is less than expectation stated in the tax exemption or relief application, the customs duty exemption or relief shall be reduced to a pro-rata exemption on the actual export earnings in that period, and the investor shall repay any excess customs duties exempted under the tax exemption or relief.
111. If investor enjoys tax exemption or relief with the depreciation rate less than the stipulated period under subsection (b) of section 78 of the Law, he shall use such depreciation rate from the commencing year of commercial operation.
112. If the investor authorizes, without importing themselves for the intended materials, a person or company to import the materials for the investment that obtained a permit or an endorsement according to subsection (a) and (d) of section 77 of the Law, the investor shall state such person or company and obtain the approval after submitting to the Commission.
113. Before to the investor enjoys benefits of any tax exemption or relief under sections 75 and 78 of the Law, the investor shall apply the Internal Revenue Department to accept the tax assessment for the relevant assessment year.

114. In evaluating a tax assessment of an investor enjoying a tax exemption or relief under sections 75 and 78 of the Law, the Internal Revenue Department shall review whether the investor complies with the provisions of the law relating to the tax exemption or relief and any conditions prescribed in the tax exemption or relief granted to the investor or not.

115. The Commission may revoke approval if it thinks that approval has been obtained through fraud or other misleading conduct relating to the permit or tax exemption or relief or the investment has not been carried out in accord with the application. Without limiting other relevant laws, the investor whose approval has been revoked shall repay tax exemption or relief granted to him.

Chapter IX

Submission and Assessment of Land Use Application

116. The investor who is in the application process or has already obtained the permit or endorsement may submit the land use application for investment.

117. The following facts shall be included at least in the land use application and the Commission may request the other necessary facts from the investor;

- (a) area, type and location of the land or buildings;
- (b) the facts relating to the owners of the land or buildings;
- (c) recommendation or similar document or permission obtained from Region or State Government, the government department or government organization to approve the change of land use to perform investment;
- (d) whether investors require to make significantly alteration of topography or elevation of the proposed land according to the subsection (f) of section 65 or not;
- (e) the period for right to use the proposed land; and
- (f) the land or buildings lease agreements (draft).

Land Use Application Assessment Procedures

118. the Commission may:

- (a) assign the Region or State Committee to assess the land use application; and
- (b) delegate its powers to any officer whose position is at least director level at the Commission office or Region or State Committee office formed for such purpose or commission officers to assess the land use application.

119. When receiving the land use application submitted under rule 116, the commission or relevant Region or State Committee may reject to within 15 working days from the date of receipt of the land use application, if it is deemed to be incomplete, ineligible for the stipulations or inappropriate for approval under other situations. If rejected, the Commission or relevant Region or State Committee shall notify the rejection and an explanation of the grounds of rejection within five working days from the date of rejection to the investor. If not rejected, the land use application shall be deemed to be accepted.
120. (a) After assessing the land use application within 30 days from the date of receipt by the Commission, if the Commission decides to approve it, it shall issue the right to use land within 10 working days.
- (b) After assessing the land use application within 30 days from the date of receipt by the relevant Region or State Committee, if the Committee decides to approve it, the Committee shall issue the right to use land within 10 working days.
- (c) the Commission, Region or State Committee shall also deliver the copy of the right to use land to the relevant Union Ministries and Region or State Governments.
121. The Commission office and Region or State Committee office may request further information in relating to the right to use land from the investor at any stage of the process.
122. The land use application may be rejected if the investor does not provide the information requested under rule 121 within 20 working days from the requested date, or timeframe approved by the Commission. If the application is rejected, the investor who desires to obtain the land use right, he shall resubmit the land use application.
123. The Commission may grant the permission of the land use right to the investor or its subsidiary.
124. The Commission, Region or State Committee shall maintain the assessment, review and decision made in accord with the criteria for the assessment of the land use right under rule 126.
125. The Commission may issue necessary guidelines for land use application and assessment process.

Land Use Right Assessment Criteria

126. The Commission shall determine whether to issue the land use right or not after consideration the land use application is consistent with the following criteria, including objectives, principles, rights and responsibilities in the Law:
- (a) acting and making an investment in accordance with the laws of the Union;
- (b) submission of the land use application in accordance with the Law;

- (c) being obtained or being permitted by the investor a permit or endorsement in respect of the investment;
- (d) on the proposed land being able to be used by the investor for the investment objectives under applicable law at the present time or at the completion of the change of the land use right or similar statutory procedures; and
- (e) requirement to make significantly alteration of topography or elevation of the proposed land or being likely to make alteration of topography or elevation of the proposed land by the investor, and being unable to mitigate properly the impact, arising a material adverse impact on the environment due to such change.

127. When assessing the land use application in accordance with rule 126, the Commission shall determine whether is met with the criteria or not.

128. The Commission may grant or reject the right to use land applied in whole or part.

Other Matters Relating to Issuance of the Land Use Right

129. When obtaining the land use right from the Commission under the applicable laws and the conditions stipulated by the Commission, the investor may commence to enjoy land use right. The relevant authorized organization shall perform to enforce these rules.

130. The investor shall implement the change process in accordance with the law for the change of the land use when necessary to alter the land use right to be consistent with the investment or to perform completely the similar legal process.

131. The Commission or Region or State Committee may, without obtaining any recommendation or approval, directly permit the land use right to the investor, when the investor applies the right to use land located in the relevant business zone, such as the industrial zone, hotel zone and trading zone to operate the relevant business.

132. If the primary objectives of the land not located in the stipulated zone is inconsistent with the types of the proposed investment, the Commission shall request the recommendation of relevant Region or State Government. If the relevant Region or State Government thinks that the proposed business is fit to operate on the land and permit to do, the Commission may allow the investor to use the land notwithstanding the objective of the land. Such permission shall not be deemed to exempt the responsibility under the applicable law.

133. When submitting the ownership of the land to be carried out the investment, if the land which the investor owns or leases is not the name of current owner, the land owner shall have the right to submit the credible evidence and document of his ownership of that land. The Commission shall accept such submission if it reasonably thinks true of land ownership according to attached evidences and documents by the land owner. If the land is in process for applying the grant to be carried out the investment, such evidence shall be submitted.
134. The following investors shall not be required to obtain the land use right from the Commission through submission in connection with section 50 of the law:
- (a) Myanmar citizen investors; or
 - (b) an investor who has been granted under the laws to make investment in a company that retains its status as a Myanmar company after dealing with foreign investors.
135. If the investor proposes to sublease land or buildings under the approval of the Authority who has interests in such land or buildings; to implement as a part of the investment, it shall not be required to apply for the separate land use right. In that case, the investor must notify the commission in the prescribed form and after that can lease land or building for long term according to section 50 of the law and must comply with registration obligations and other applicable law:
- (a) having previously obtained the land use right for the land and buildings;
 - (b) abiding the terms and conditions in the land use right; and
 - (c) having the right to sublease the land and buildings according to the land use right and approval of the government department and government organization that have interest of the land and buildings.

Chapter X

Matters relating to Permit, Endorsement, Tax Exemption or Relief, or Land Use Right

136. The Commission may, when the investor applies to it, without limiting any other rules:
- (a) vary the permit, endorsement, a tax exemption or relief or land use right, which is granted by law with the consent of the investor;
 - (b) vary or add any terms and conditions of the permit, endorsement, tax exemption or relief or land use right with the consent of the investor; and
 - (c) revoke any terms and conditions of the permit, endorsement, tax exemption or relief or land use right with the consent of the investor.

137. The investor may submit the application in writing to the commission with the application fee for the variation of the permit, endorsement, tax exemption or relief or land use right or conversion of any conditions of the permit endorsement, tax exemption or relief or land use right.
138. The following facts are the conditions, whether or not it is expressed in, of every permit, endorsement, tax exemption or relief or relief or land use right:
- (a) the information expressed when the investor submits an application to the Commission shall be correct;
 - (b) except where compliance shall reasonably be excused, each investor and applicant shall comply with the presentations and plans submitted to support the application; and
 - (c) The permit, endorsement, tax incentive or land use right is granted subject to continuing compliance with all applicable law.

Chapter XI

Criteria for the Tax Exemption or Relief Applicant

139. The investment construction period or investment preparatory period shall be counted from the date of approval by the relevant government department or government organization for investment construction or preparation. The investor shall submit the copy of such approval to the Commission within 10 working days from the date of receipt.
140. The investor shall complete the construction process within the investment construction period or investment preparatory period or extended period if so. The completion of the construction shall be informed to the commission within 30 days soon after it was completed. The investor shall commence manufacturing or rendering service after the end of investment construction period or investment preparatory period.
141. If the construction or preparatory activities are not completed within the stipulated construction period or preparatory period due to credible ground, the investor shall apply to the Commission for extension of the construction period or preparatory period at least 30 days in advance before the expiry date or the original stipulated construction period or preparatory period with the explanation for the delay. If the investor applies for extension of the investment construction period or investment preparatory period, the Commission may extend the investment construction period or investment preparatory period no longer

than 50 percent of the original permitted construction period or preparatory period based on the inspection of reasonable circumstances for extension.

142. The extension for investment construction period or preparatory period shall not be allowed more than twice except the situations of force majeure, including natural disasters, instabilities, riots, strikes, State emergency, armed conflict, insurgency or outbreak of war and the approval of the Commission because of the reasonable ground.
143. The investment construction period or investment preparatory period shall be stipulated according to the terms and conditions of the contract concluded by the permission of the Commission for the surveying and feasibility study of exploration, extraction, upgrading and operation for the production of commercial scale of oil, gas and minerals.
144. The commission shall withdraw the permit issued to the investor if the construction activity is not completed within the original investment construction period or investment preparatory period or extension. The investor shall have no right to claim for the reimbursement of remedy, compensation or any other financial terms or right to the investor due to withdrawal of the permit.
145. If the extension of investment construction period or investment preparatory period is allowed, the investor shall complete the investment construction or investment preparation within such extension. The investor shall submit the completion of the construction or preparation to the Commission within 30 days from the date of completion.
146. The commencement date of the commercial operation of any manufacturing or service business shall be stipulated as follows:
- (a) the date specified in bill of lading or air consignment note or similar documents used in international trade for the export of manufacturing business; such date shall not exceed 180 days from the date of completion of the investment construction period or investment preparatory period;
 - (b) the date of the first income derived from the local sales of the manufacturing business; such date shall not exceed 90 days from the date of completion of the investment construction period or investment preparatory period;
 - (c) the commencement date of service business; such date shall not exceed 90 days from the date of completion the investment construction period of investment preparatory period; and
 - (d) If the investment earns income during the investment construction period of investment preparatory period, the date on which any tax assessable income earns may be regarded as the commencement

date of commercial operation. The determination of the commencement date of commercial operation shall not cause any loss of tax incentives available to the investor subject to section 77 (a) and (d) of the Law under the approval of the commission.

147. After received a tax exemption or relief, the investor shall maintain all accounts, receipts, records, books, other documents, computer records and other trading electronic records for:

(a) 7 years; or

(b) the period stipulated by any other applicable law, or longer period out of above two periods from the following year of assessment year in which the investor had enjoyed the tax exemption or relief.

Chapter XII

Report of the Commission

148. The Commission shall annually report the completion and development situation of the investment permitted by it to the Pyidaungsu Hluttaw through the Government in accordance with the subsection (g) of section 24 of the Law. The Commission shall publish the summary of report in Myanmar and English within 20 working days after submitting the report to the Pyidaungsu Hluttaw. The annual report shall include the following facts:

(a) the investment trend;

(b) the main activities of the Commission, including the summary of the activities or the Investment Monitoring Division and Investment Assistance Committee and activities of One Stop Services;

(c) the summary of settlement for investor grievances; and

(d) the list of all administrative penalties imposed on investors.

Chapter XIII

Proposal Assessment Team

149. The Commission shall, in assessing the applications, form the Proposal Assessment Team by notification to assist the Commission, which comprises with the officers from the Ministries, relevant government department and government organization and assign duty to the team.

150. The Secretary of the Commission or Deputy Director General of Directorate of Investment and Companies Administration shall perform as a leader of the Proposal Assessment Team. The team leader may issue the guidelines necessary to implement efficiently functions of the Proposal Assessment Team.

Chapter XIV

Region or State Committee

151. The Commission shall form Region or State Committee consisting of up to 7 members with odd number, with the approval of the government;
- (a) the Chief Minister of the Region or State, who will be appointed as the chairman;
 - (b) the head of the Region or State Committee office, who will be appointed as the secretary; and
 - (c) other appropriate qualified person from the region or state minister or other government department or government organization to be appointed by the Chairman of Region or State Committee as member.
152. The Commission shall issue the procedures to assess the investment to be performed within the Region or State.
153. In assessing the investment within the Region or State, the Region or State Committee shall perform in accordance with the Law, rule and procedures issued under rule 152.
154. The chairman of the Region or State Committee may resign voluntarily during the tenure with the approval of the chairman of the Commission if he desires to resign.
155. If the investment invests up to any monetary amount, by notification, stipulated by the Commission, the duties and powers of the Region or State Committee are as follows:
- (a) assessing the proposal under proposal assessment procedure and recommending whether or not to approve the proposal to the Commission to issue the permit;
 - (b) assessing the endorsement application under the endorsement assessment procedures and issuing the endorsement; and
 - (c) monitoring the investment under the laws, rules and regulations after obtaining the permit and endorsement.
156. The Commission shall only assess the proposal or endorsement application in the following conditions:
- (a) investing in more than one Region or State; and
 - (b) the investment which may be performed with the approval of the relevant ministries out of the investment restricted by notification under the subsection (d) section 42 of the Law and rule 17.

157. The investor may also submit and endorsement application to the Commission as well as Region or State Committee for investments that the Region or State Committees can be issued endorsement under rule 155.

158. The Commission may:

- (a) assign the Region or State Committee to approve the endorsement and land use application; and
- (b) delegate its powers of assessing the endorsement application and the land use application to any officers whose minimum level is director of the Commission Office or officers of Region or State Committee formed for such purpose or the Commission officers.

Chapter XV

Use of the Third Party Service Provider

159. In accordance with the subsection (j) of section 25 of the Law, the Commission may engage an independent contractor, advisor or third party service provider to assist it in performing its duties and functions under the Law and these rules. Provided that, the Commission shall not delegate any of its powers to such independent contractor, advisor or third party service provider.

Chapter XVI

One Stop Service

160. In respect of the following matters, One Stop Services shall be carried out by comprising the relevant departments:

- (a) providing guideline to the investors in implementing their investments;
- (b) in implementing the investment, acceptance of the application required to be submitted under the applicable law on behalf of the government departments or government organizations;
- (c) acceptance the request for information of any measures or decisions which may be made by government department and government organization under the subsection (a) of section 48;
- (d) assistance to the Investment Assistance Committee to resolve grievances and providing assistance to investors; and
- (e) assistance to the Investment Monitoring Division.

161. If any application submitted for One Stop Service is consistent with all the conditions of the relevant application or other submission process, it shall be deemed as to be duly submitted. The relevant

government department and government organization may determine not to accept or reject the following applications or other applications for one stop service:

- (a) the application or submission which requires the payment of the fees or other type of security to the relevant government department and government organization;
- (b) the application or submission that is inconsistent with or have not been met the requirements; or
- (c) no appointment of any officer of the government department and government organization to assess the application or submission yet.

162. One stop service team shall request in writing all information requested by the investor under sub rule (c) of rule 160 to the relevant government department and government organization. Such government department and government organization shall reply in writing within 15 days.

163. One Stop Service shall be carried out by the team which consists of the authorized officers from the following government departments and government organizations or any their successors;

- (a) Directorate of Investment and Companies Administration;
- (b) Directorate of Trade;
- (c) Customs Department;
- (d) Internal Revenue Department;
- (e) Livestock Breeding and Veterinary Department;
- (f) Department of Fisheries;
- (g) Department of Agriculture;
- (h) Environmental Conservation Department;
- (i) Department of Mines;
- (j) Department of Immigration and National Registration;
- (k) Department of Labour;
- (l) Directorate of Industrial Supervision and Inspection;
- (m) Department of Urban and Housing Development;
- (n) Directorate of Hotels and Tourism;
- (o) Yangon Electricity Supply Corporation; and
- (p) Other Departments stipulated by the Commission from time to time.

164. The Secretary of the Commission shall assign a Deputy Director General to administer at the One Stop Service Centre. The Secretary of the Commission shall issue the orders and directives of the measures of the One Stop Service Centre.

Chapter XVII

Investment Assistance Committee

165. According to the section 27 of the Law, the Commission may form the Investment Assistance Committee comprised of the appropriate persons to perform the following duties:

- (a) cooperating with the government departments and government organizations to effectively implement the investment in accordance with the applicable laws.
- (b) receipt of notices according to rule 170;
- (c) receipt of complaint sent by the affected person due to the investment project performing with the permit of the Commission;
- (d) assistance, if required, between the investor and the complainant, the other affected persons, the concerned persons relating to damages due to the investment project performing with the permit of the Commission;
- (e) notifying about complaint according to above sub rule (c) to the Investment Monitoring Division and relevant government department and government organization; and
- (f) assistance to the establishment and administration of a grievance or dispute mechanism according to subsection (n) of section 25, section 82 and 83 of the Law.

166. The Investment Assistance Committee has the right to perform the following matters:

- (a) if it thinks necessary, claim to submit the information of grievance or disputes;
- (b) suspension from the performance in the grievance or disputes activities until it received the information submitted according to the sub rule (a);
- (c) request of assistance from departments which carry out the One Stop Service;
- (d) consultation with the relevant government department and government organization, including explanation of the facts and nature of grievance or disputes and advice of ways to effectively settle in accordance with the applicable laws after receiving the application from the investor;
- (e) arrangement for meeting of the government department and government organization and the investor, if requested by the investor to meet with the responsible officials from the relevant

government department and government organization to find effective ways to tackle the grievance and dispute;

- (f) submission to the chairman of the Commission to consult with the minister for focal ministry responsible for the government department and government organization, if necessary, for effective settlement before prosecuting the investment grievance or disputes occurred between the investor and the Union or between each investor according to section 83 of the Law in the court or arbitration tribunal; and
- (g) request legal advice from the Union Attorney General's Office or external experts for the matters of grievance or disputes.

167. The Commission shall set the detailed process to tackle the disputes relating to the following matters before the end of transition period:

- (a) determining the compensation to be paid under sections 52 and 53 of the Law and inquiring under section 55 of the Law; and
- (b) use of the due attempt by the investor to settle amicably in accordance with section 83 of the Law regarding the investment disputes occurred between the Union and investor or between each investor relating to the investment.

168. The Government shall suspend deciding the claims referred to the Chapter XIV of the Law before completing the process in rule 167.

169. In implementing the process to be set according to the grievance mechanism of section 82 of the Law, the Commission may substitute such organization for the Investment Assistance Committee after establishing the organization responsible to administer the disputes according to section 83 of the law.

Chapter XVIII

Disputes of Investors

170. The investor shall deliver the notice to the Investment Assistance Committee if he has a grievance or dispute matters relating to the following facts:

- (a) a decision made incorrectly by the government department and government organization relating to the investment;
- (b) wrongfully refusal on the application to obtain the permit and license, to register or to obtain approval, by the government department and government organization; or

(c) causing any legal right, protection or approval void.

171. The notices sent under rule 170 shall be submitted as follows:

- (a) it shall be in writing;
- (b) it shall be written in Myanmar or both Myanmar and English if desired;
- (c) it shall be signed by the applicant;
- (d) the applicant shall pay the service fees for relevant application; and
- (e) it shall be attached together with the required documents.

172. The Investment Assistance Committee may reject to accept the notice that does not meet the criteria and shall notify the investor in that case.

173. The investor may file investment dispute occurred between the Union and investor under section 83 of the Law in any court or arbitration tribunal after conducting the following matters:

- (a) sending the notice under rule 170; and
- (b) performing the processes prescribed in the rule and notification to settle the disputes amicably.

174. The investor shall settle amicably the investment dispute occurred between investors in accord with the agreement and the conditions concluded between them. Unless they reach the reconciliation, they may file investment dispute in the court or arbitration tribunal.

Chapter XIX

Investment Monitoring Division

175. The Investment Monitoring Division is mainly responsible to perform the following functions:

- (a) receipt of the submission for amendment of permit, endorsement, tax exemption or relief or land use rights;
- (b) to receive the application of the investor obtained the permit or endorsement, in order to obtain other approvals relating to investment;
- (c) to receive the report submitted by the investor;
- (d) to receive the complaint sent by the affected person due to investment project performing with the permit of the Commission by Investment Assistance Committee;
- (e) to inquire into whether or not investor abides by law;
- (f) to make the plan to investigate whether or not the investor comply with the duties in section 65 of the Law;

- (g) to submit the suggestion to the Commission to impose the administrative penalties according to section 85 of the Law;
- (h) to assist when the government department and government organization collect necessary information on investors; and
- (i) to receive the information that the investor does not comply with the Law.

176. It is the role of the Investment Monitoring Division to inspect the investor and investment to ensure that he complies with the duties in the permit obtained in accordance with the Law.

177. The investor shall submit the application according to the criteria and procedure prescribed in the Law and these rules when he desires to amend the permit or obtain the additional approval.

178. In recommending whether or not any investor should be imposed the administrative penalties according to section 85 of the Law to the Commission, the Investment Monitoring Division shall submit the report, including with the following facts:

- (a) the act or omission of any investor, which causes to breach the law or terms and conditions of the permit;
- (b) the steps taken by the Investment Monitoring Division to investigate the breach of law or terms and conditions of the permit;
- (c) whether or not to notify the investor about the breach of law;
- (d) whether or not the investor has been requested to remedy the breach of law or terms and conditions of the permit;
- (e) whether or not the investor previously breached the law or terms and conditions of the permit or had previously been imposed administrative penalties;
- (f) whether or not the investor makes any performance upon the request to be remedied the breach of law;
- (g) the explanation of recommended administrative penalty that is proportionate to the circumstances of the breach; and
- (h) confirmation of the imposed administrative penalty that is consistent with the other imposed administrative penalty on the other similar circumstances.

179. It is the duty of the Investment Monitoring Division to submit the administrative penalty to be imposed by the Commission for non-compliance with the condition. Such duty shall not preclude taking action of the other relevant government department and government organization for any breach of law. The

- government department and government organization are responsible for the applicable laws of the State to be enforced. The Commission may share the relevant information of the investor to the relevant government department and government organization to set regulations and preservation discipline.
180. The Investment Monitoring Division may provide the information obtained from the investor or investment to the government department and government organization in assistance according to the sub rule (h) of the rule 175. The Investment Monitoring Division may request the investor to give the information for the objective of rule 175.
181. The Investment Monitoring Division may request necessary supports, including on-site inspections from government departments, government organizations and One Stop Service departments. The respective government departments and government organizations shall provide necessary information and supports.
182. The Investment Monitoring Division may request more information from the investor and may make on-site inspections to assess the investment.
183. The Investment Monitoring Division may request in writing and receive the information relating to performances or decisions made under subsection (a) of section 48 of the Law from relevant government departments and government organizations. The respective government departments and government organizations shall reply in writing within 15 working days.
184. If the Investment Monitoring Division thinks necessary for the following purposes, it may request the investor to provide information or evidences by sending notice:
- (a) to monitor whether or not to comply with the conditions in law and permit;
 - (b) to confirm the information mentioned in submissions and attached documents; and
 - (c) to collect statistical information relating to investment which is carried out within the Union.
185. In request under rule 184, the Investment Monitoring Division shall request for the only purposes referred in law and these rules and to the required extent to carry out the duties of the Commission. Although the investor does not require providing unnecessary information to be disclosed, the requested information shall be provided within the period prescribed by the Commission.

Chapter XX

Responsibilities of Investor

186. The records and information to be kept under subsection (h) of section 65 of the Law are the financial records and information to be kept under the laws relating to company and tax, and shall be kept in accordance with the standards provide in those laws.
187. The power of the Commission to make the inspection under subsection (p) of section 65 of the Law includes the right to inspect records relating to the investment and to interview any director, manager or employee of the investor.
188. If it is reasonable grounds that the investor violates the law, the Commission shall send the notice to such investor for inspection prior to the inspection in accordance with rule 187.
189. After obtaining the permit, the investor who requires environmental and social impact assessments shall submit the required performances on environmental and social impact assessments to the Commission along the course of operating business.
190. Investor involved in subsection(q) of section 65 of the Law shall submit the confirmation of implementation of initial environmental impact assessment, reporting of the environmental impact assessment, taking the applicable certification of environmental conservation, and carrying out environmental management programme in accordance with Environmental Conservation Law, rules and procedures of environmental impact assessment. The Commission shall make the decision whether or not to continue the investment based on its compliance.
191. In transfer of shares or business directly or indirectly under section 72 of the Law, if the investor transfers to a person who is not a related body corporate of the investor, prior approval of the Commission shall be taken in the following matters:
- (a) taking and transferring majority ownership or control of the investor; and
 - (b) taking and transferring more than 50% of the assets owned by the investor.
192. The proposed transferee of share or business under rule 191 shall not carry out other activities except the investment contained in permit of the transferred business.
193. In application for prior approval to the Commission under rule 191, the investor shall submit the application, including proposed activity to be carried out by him, commitment of proposed transferee to meet stipulations prescribed in sub rules (d), (e), (f) and (g) of rule 64 and to comply with the terms and conditions of the permit.
194. Where the application is met with the requirements in rule 193 or the transfer does not impact the interests of the Union, the Commission may give its approval.

195. In considering the submission of investor, the Commission may consult and share information with relevant government departments and government organizations.
196. The investor obtained a permit or tax exemption or relief shall, within 3 months of the end of the financial year, submit an annual report, including the following matters in details with prescribed form to the Commission:
- (a) the progress in implementing the investment;
 - (b) the following material variations for the investment in implementation of the description in the application:
 - (i) whether or not change of the amount of the investment and capital investment;
 - (ii) whether or not change of the investors and shareholders or beneficiaries in the investment;
 - (iii) appointment of employment for the investment;
 - (iv) impact of the investment on the environment and local community; and
 - (v) whether or not change of the land use right and land or use of land in the investment;
 - (c) how the investor and the investment are supporting the objectives of the section 3 of the Law;
 - (d) the compliance with the terms and conditions of the permit by the investor and reason for omission, if omitted to comply with;
 - (e) the business licenses, permits and approvals obtained by the investor from the date of approval or submission of previous annual report;
 - (f) how the investment being carried out with the responsible and sustainable commitment;
 - (g) in the case of investor obtained tax exemption or relief:
 - (i) within one year, the estimated value of the tax exemption or relief claimed or value of the tax exemption or relief which has been enjoyed by him and classification of types of tax exemption or relief;
 - (ii) the recalculation and reimbursement of tax exemption or relief under these rules or confirmation that no such recalculation and reimbursement is required;
 - (iii) the confirmation of the applicable zone of the investment if the investor enjoyed the exemption under section 75 of the Law; and
 - (iv) the export earning of the investment;
 - (h) the audited financial statements of the investor; and
 - (i) other requirements prescribed by the Commission.

197. The investor shall, during the operation period under the permit of the Commission, submit business report quarterly in the form prescribed by the Commission.
198. The investor shall describe information relating to sublease or mortgage of right to use land, transfer of share or business under section 72 of the Law in business report.
199. The investor shall publish the summary of the submitted report under rule 196 for public awareness on his website or website of the Commission within 3 days from the date of the submission. If it is published on the website of the investor, the website address shall be notified to the Commission.
200. The investor who obtains the land use right:
- (a) shall conclude the land or building lease agreements related to the land use right and submit the details to the Commission;
 - (b) shall submit the details to the Commission, if the period of land or building lease agreements related to the land use right is extended; and
 - (c) shall obtain the approval of relevant government departments and government organizations for change of land use related to the land use right and shall submit a copy of the respective documents to the Commission.
201. The Commission may prescribe other reporting stipulations, as it thinks, necessary for all sector or particular sector of the investment to be provided by the investor periodically or temporarily.
202. The investor shall comply with all terms and conditions in the permit and other applicable laws when the investment is carried out.
203. The investor shall fully assist the negotiating processes with the relevant government departments and government organizations for the affected persons due to investment plans.
204. The responsibilities of the investor under the Law shall apply to the only extent of the laws of the Union except as expressly provided in these rules or subsequent amendment rules or notifications. Additional responsibilities shall not be imposed again on the investor without contrary to other laws of the Union.
205. The provisions of the section 69 and 70 of the Law shall only apply to contracts to be initially obtained permit or endorsement before entering into relevant contracts by the investors. Such provisions shall not apply to contracts concluded under the ordinary course of the establishment or operation of the investment. The contracts applied to such sections of the Law shall be concluded in accord with the permit, endorsement or approval for extension or amendment.

206. If the investor desires to appoint expert foreigner as senior manager, technical and operational expert or advisor according to subsection(a) of the section 51 of the Law, he shall submit the application attached with passport, expertise evidence or degree certificate and summary of biography of such foreigner to the Commission and obtain the approval.

Chapter XXI

Transfer of Funds

207. The responsibilities of the investor in sections 57, 59 and 61 of the Law shall apply to the only extent of the laws of the Union except as otherwise expressly provided in these rules, subsequent supplement rules or notifications. These sections do not contrary to other laws nor impose additional obligations on the investor.

208. In the rights enjoyed by Myanmar citizen investors for transfer of funds under section 58 of the Law, transfer of dividends includes.

209. Without limiting section 59 of the Law, the foreign investor shall submit the application, including all information relating to tax obligations, the proposed transfer of funds and the proposed manner to be operated to obtain approval to the Commission if the following matters arise:

- (a) proposing to transfer of types of funds referred to in subsections (c), (e) and (f) of the section 56 of the Law; and
- (b) obligations to pay tax in the Union or remains to perform the responsibilities that are likely to be and occurring disputes.

210. The Commission shall issue its approval if the transfer under the matters in rule 209 does not impact the interests of the Union. In considering the submission of the investor, the Commission may consult and share information with other relevant government department and government organization.

211. The legal permit referred to in section 60 of the Law means any approval or authorization issued by relevant government departments and government organizations which permits a person to earn income or carry out business within the Union.

Chapter XXII

Insurance

212. The investor obtained the permit or tax exemption or relief shall insure the relevant insurance out of the following types of the insurance at any insurance business entitled to carry out insurance business within the Union based on the nature of the business:

- (a) Property and Business Interruption Insurance;
- (b) Engineering Insurance;
- (c) Professional Liability Insurance;
- (d) Bodily Injury Insurance;
- (e) Marine Insurance; or
- (f) Workmen Compensation Insurance.

213. This rule shall not limit the responsibilities of the investor who shall insure any other insurance due to insurance policy required under other applicable law.

Chapter XXII

Stipulation of Service Fees

214. According to section 26 of the Law, the Commission may prescribe service fees to be charged by the investors for the performance of relevant functions, including application fees and service fees for issuance of permit, endorsement, tax exemption or relief and the land use right. The Commission:

- (a) shall issue rate of current service fees in Myanmar and English on website used by it;
- (b) shall describe rate of current service fees at any prominent places of the Commission;
- (c) shall not charge other fees except service fees issued in schedule of service fees;
- (d) shall charge service fees without nondiscrimination by compulsory system in accordance with rule 215;
and
- (e) shall issue receipts upon the payment of the applicable fees.

215. The Commission may stipulate differential service fees or relief from service fees according to the type and size of investment based on just and fair provisions.

Chapter XXIV

Administrative Penalties

216. Any administrative penalties imposed under section 85 of the Law shall be proportionate to the circumstances of the breach and shall be consistent with administrative penalties imposed on other investors in similar circumstances.

217. Before imposing any administrative penalty, the Commission:

- (a) shall analysis the report submitted by the Investment Monitoring Division under rule 178;
- (b) shall decide on the proposed administrative penalty;
- (c) shall send the investor notice, including the following facts under subsection(b) of the section 85 of the Law:
 - (i) the act or omission of the investor which constitutes the breach of the law or the terms and conditions of the permit or endorsement or tax exemption or relief or land use right;
 - (ii) administrative penalty to the imposed; and
 - (iii) the reasoning for such decision;
- (d) shall describe in writing the steps which the investor shall remedy the breach and prescribed period in which the investor complete such steps in the notice, if it believes that the breach is capable of remedy by the investor;
- (e) shall describe the conditions to be performed to revoke the temporary suspension in the notice if the proposed administrative penalty is a temporary suspension under clauses (ii) and (iii) of subsection (a) of the section 85 of the Law;
- (f) shall, if it is credible evidence that any associate or other person involves in the breach and the Commission desires to impose administrative penalty on such person, describe full name of such person to be included in the blacklist of business under clause(5) of the subsection(a) of the section 85 of the Law; and
- (g) shall prescribe the period not less than 10 working days from the date of receiving the notice for responding the notice and the administrative penalty required to be imposed under subsection(b) of the section 85 of the Law to the investor. If the Commission believes that there is reasonable ground to take immediate action due to the effect of the breach, it may reduce such prescribed period.

218. In resolving and submitting the notice issued under rule 217, the investor shall submit whether to be just and fair of the extent of the breach and administrative penalty or commitment to comply with the steps prescribed by the Commission to remedy the breach within the period prescribed in the notice.

219. The Commission shall notify final decision to the investor if the resolving and submitting of the investor are accepted and considered under rule 218 or if the resolving and submitting is not made until end of the period prescribed in the notice or if the Commission imposes any different penalty from initially proposed administrative penalty or if it does not take action.
220. In the notice under rule 219, date of commencing effect of penalty shall be described. The Commission shall notify the investor, other relevant person or organization and relevant government department, government organization at the instant of receiving final decision under rule 219 and subsection (b) of the section 86 of the Law and shall arrange the necessary activities.
221. Any person who has been imposed with the penalty shall comply with the administrative penalty as final decision.
222. The Commission may remove the investor or associate from the blacklist referred in clause (5) of the subsection (a) of the section 85 of the Law where the Commission believes that there is reasonable ground to be the interests of the Union and that no further breach of the Law and other applicable law is demonstrated by the investor or associate.
223. The Commission may recommend to the relevant government departments and government organizations to prosecute or take action the investor in accordance with the laws of the Union.

Chapter XXV

Transitional and Miscellaneous Provisions

224. The permit issued to the investor under the previous Investment Laws shall continue to be effective until the permit expires in accordance with the provisions of the section 93 of the Law. The investor shall be entitled to continue carrying out the investment and enjoys the benefits of the investment in accord with the terms and conditions of the permit.
225. Although the investor has enjoyed the exemption and relief in accord with the permit under the previous Investment Laws, if he desires to enjoy other benefits, he shall submit the application to obtain the exemption and relief in accordance with the Law.
226. The investor obtained permit under the previous Investment Laws shall be deemed to have been obtained the permit for the purposes of the Myanmar Investment Law and shall comply with the provisions relating to maintenance of the permit.
227. At the date commencing effect of the rules:

- (a) the investor who is operating the investment involved in section 42 of the Law; and
 - (b) the investor, who does not obtain legal permit in respect of an investment, including the types of investment referred in section 93 of the Law, shall take appropriate steps during the transition period to ensure the compliance with the Law and these rules. Provided that, if the investor requires for sending the notice for the restricted investment activity under rule 23, the notice shall be sent only if the investor is the foreign investor.
228. In the calculation of monetary amount described as USD in these rules with Myanmar kyat, it shall be calculated according to the set exchange rate of the Central Bank of Myanmar at that time.
229. In the exercise of powers of the Commission under section 100 of the Law, it may, by notification, amend and prescribe the monetary amount or other quantitative measure prescribed in these rules from time to time.
230. The investor who makes the investment under the Law may import machinery equipment, goods or material relating to the investment, complying with other applicable laws without any specific approval from the Commission.
231. If a license or other approval is required under applicable laws to import under rule 230, relevant government departments and government organizations shall proceed the application of the investor and issue a license if the requirements under applicable laws are met.
232. If suspension of investment is due to the following circumstances, it shall not apply to provisions in section 68 of the Law relating to tax exemptions or relief which had been enjoyed under subsections (a) or (d) of the section 77 of the Law:
- (a) sale or transfer of the investment to other investor who intends to continues the investment; or
 - (b) the investment being abolished involuntarily without his consent.
233. In respect of subsection (b) of the section 48 of the Law:
- (a) if the investor reasonably believes that the Commission made incorrect decision in respect of an application due to omission to undertake in accordance with the stipulations relating to making decision provided in these rules, he may request in writing the explanation to the chairman or authorized person or organization for such matter;
 - (b) in request the explanation under subsection (a), the investor shall request the explanation within 15 working days from the date of decision made by the Commission; and

(c) the chairman or other authorized person or organization shall review the request for explanation of the investor with the cooperation of the Commission and shall notify in writing to the investor referring such matter back to the Commission for reconsideration or he shall proceed according to the decision of the Commission.

234. These rule shall not apply to investors or investments made under the Special Economic Zone Law.

However, if the investor, who has enjoyed or enjoyed the income tax exemption or relief under the permit or endorsement of the Commission, desires to move such investment into the special economic zone, the income tax exemption or relief, which has already been enjoyed, shall set off from income tax exemption or relief to be enjoyed in special economic zone.

235. If the investor investment has already enjoyed tax exemptions or reliefs under this Law, tax exemptions or reliefs shall not be entitled again under this Law.

236. The duty to obtain permit under section 36 of the Law shall not apply to the investor who has obtained all required permits and licenses and has already complied with all requirement under the laws of the Union to commence implementation or operation of investment prior to coming into effect of these rules, including permit under the Foreign Investment Law or the Myanmar Citizens Investment Law.

237. Notwithstanding anything contained in rule 236, if the investor, who has already commenced implementation of the construction or investment before these rules coming into effect, makes any changes to investment and such change which are separately from the original investment and involves in the investment required to obtain permit, the investor shall submit proposal to obtain permit before making such changes to investment.

238. The proposal or endorsement application is not required to be submitted to the Commission in case where Myanmar citizen investment which obtains permit or endorsement is changed into foreign investment or vice versa.

Union Minister
Ministry of Planning and Finance