

Legal Update Week 1-2 (1 – 16 January 2022)

Thailand Legal News

Citigroup has announced to sell its retail banking division in Southeast Asia to UOB (14 January 2022)

- On 14 January 2022, Citigroup Inc. announced that it had agreed to sell its retail banking and credit card businesses in Thailand, Indonesia, Vietnam, and Malaysia to UOB, which also includes around 5,000 Citi employees to be transferred to UOB. However, this deal did not include the bank's institutional business in those countries. The acquisition procedure is expected to be completed by 2024 at the latest, depending on the regulatory approval process in all four countries.

The gigantic insurers filed a legal case against the OIC over COVID-19 coverage termination prohibition (14 January 2022)

- Southeast Insurance and Thai Insurance had filed a lawsuit with the Administrative Court against the Secretary-General (Suttipol) of the Office of the Insurance Commission (OIC). Both insurance companies claimed that Suttipol acted illegally by prohibiting insurance firms from terminating COVID-19 insurance policies pursuant to the Registrar Order No.38/2564, requesting the Court to revoke such order (so that they can terminate the COVID-19 insurance policies), as well as petitioning for a temporary injunction

Contact us:

Lorenz & Partners

27th Floor, Bangkok City
Tower, 179, S Sathorn Rd,
Thung Maha Mek, Sathon,
Bangkok 10120

www.lorenz-partners.com

+66 (0) 2 287 1882

to suspend such order. On the other hand, the Secretary-General expressed his concern that in case the Court agrees to temporarily suspend or revoke the order, it will set a false standard for other insurance firms to cancel the COVID-19 policies. Hence it will unavoidably deprive the rights of approx. 10 million insured persons if the insurance companies win the case.

http://www.ratchakitcha.soc.go.th/DATA/PDF/2564/E/249/T_0055.PDF

Thailand to charge THB 300 entry fee for all international visitors (16 January 2022)

- From 1 April 2022, foreign tourists will be charged a THB 300 entry fee, which will be included in the airfare. The government's plan is that the fee of THB 250 will be spent to preserve and improve Thailand's tourist attractions, while the rest is to provide insurance coverage for such travellers during their visit in Thailand.

BOI signed an MOC with JETRO to boost Thai-Japanese investment (16 January 2022)

- The BOI and the Japan External Trade Organization (JETRO) have signed a Memorandum of Cooperation (MOC) to further facilitate the investment of Japanese corporations in Thailand. According to Foreign Direct Investment (FDI) statistics in 2021, Japan has the highest FDI with a total of 178 applications for BOI promotion, totaling more than THB 80 billion. As a result, the MOC aims to foster strong co-operation and encourage Japanese companies to expand their investment in Thailand, especially in the advanced technology and R&D sectors.

Draft Notification of MOC re: Trademark and Copyright-infringing goods prohibited from export, import, and transit through the Kingdom

- The Cabinet approved in principle the Draft Notification as proposed by the Ministry of Commerce (MOC). This Notification shall come into force after being published in the Government Gazette, with the results of the revocation of three Notifications previously issued by the MOC on the export and import of goods into the Kingdom (dated 14 October 1986 and the other two dated 21 April 1992). Additionally, some clauses from the revoked Notification have been adopted into the new Draft Notification. For example, infringing good can be imported, exported, and transited into Thailand, if it is a personal belonging in a reasonable

amount without commercial intention. As a result, the purpose of introducing this Draft is to improve and strengthen Thailand's prohibition on infringement goods to be in compliance with international agreements such as TRIPS and RCEP.

<https://www.thaigov.go.th/news/contents/details/50171> (item no.3)

Draft Notification of MOL re: Extension Period for submission of Contribution Payment Statement Form and E-Payment of Contribution

- Employers will be given an additional 7 working days to submit the statement of contribution payment (SorPorSor.1-10) and make payment via electronic means after the 15th day of the month, following the month of contribution deduction. This extension shall be in force for a period of 24 months, beginning from the month that this Notification is officially published.

<https://www.thaigov.go.th/news/contents/details/50171> (item no.4)

Draft Min. Reg. on Fee Exemption for Machinery Registration

- The fees for registering the machine will be exempted for 1 year (from 22 January 2022 to 23 January 2023). In detail, this comprises the fees of registering machinery ownership, affixing or creating a registration mark on the machinery, and acquiring document duplicates with correct copy certification.

<https://www.thaigov.go.th/news/contents/details/50437> (item no.6)

The Thai Industrial Economy in Q3/2021 dropped by 0.8%

- Due to the ongoing COVID-19 epidemic, the Manufacturing Production Index (MPI) had declined by 0.8% in the third quarter, compared to the previous quarter. Petroleum refining, hard disk drive, and motorcycle manufacturing were the most exposed industries. Nevertheless, the manufacturing sector was projected to expand in Q4 due to the rise in global steel prices, which benefited the Thai steel sector and the expansion of exports of electrical production, regardless of such ongoing outbreak.

<https://www.thaigov.go.th/news/contents/details/50437> (item no.18)

Draft Min. Reg. issued under the Nationality Act

- The Cabinet has given its approval in principle for the Draft Ministerial Regulation on the measures, methods, and forms of request application, naturalization, renunciation, and resumption of Thai nationality, as well as the associated fees. The Draft is introduced to ensure a clear understanding of the location, form,

11 January 2022

and timeframe for submitting Thai-nationality related documents. Initially, the locations to submit the application are:

- The Department of Provincial Administration (individual's name listed in the civil registration of Bangkok);
- The province (individual's name listed in civil registration other than Bangkok);
- The Embassy or Royal-Thai Consulate General (individual holding foreign domicile).

Moreover, the application forms for each applicant are being determined as follows:

- An application for an alien woman who marries a Thai man – “**SorChor.1**” form with supporting documents;
- An application for naturalization as a Thai citizen – “**SorChor.2**” form with supporting documents;
- An application for naturalization as a Thai citizen (minor, incompetent person, and adopted child) – “**SorChor.3**” form with supporting documents.

The time period for considering an application is set at 90 or 120 days (in case submitted at foreign nation), whereby the period can be extended for another 30 days (maximum 2 times) only if necessary. Furthermore, applicants for Thai citizenship are required to **pass a Thai language test**, on top of being able to speak, listen, and have knowledge of Thai language.

Under this new legislation, the fees will be doubled for any applications relating to Thai nationality. The following is the list of new fees:

Applications	Fees
1. Application for naturalization for adult	THB 10,000
2. Application for naturalization for minor	THB 5,000
3. Certificate of naturalization	THB 1,000
4. Application of resumption	THB 2,000

<https://www.thaigov.go.th/news/contents/details/50437> (item no.3)

BOI extends the deadline for SMEs to apply for investment promotion

- The BOI issued Notification No.27/2564 to extend the deadline for SMEs, for the application of investment promotion under the BOI Notification No.4/2563, until the last business day of 2022.

Under this Notification, there is a revision on the scope of hotel activity (7.23.1) for a broader condition that a hotel must have at least 20 rooms but not exceeding 90 rooms (comparing to Notification No.4/2563 which requires at least 50 rooms) and a minimum investment of THB 1 million per room (excluding land cost and working capital).

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/009/T_0039.PDF

BOI announces new incentives measure to encourage Industry 4.0 transformation, both for new investments in Group B activities and for existing businesses

- The BOI approved the incentive package for new investment in Group B activities, excluding the activities with specific policy of no CIT exemption as determined by the BOI. This new measure aims to support adoption of digital technologies and automation systems. The criteria to be eligible under this program are as follows:
 - The investment plan must be proposed to and approved by the NSTDA;
 - The investment capital must not be less than THB 1 million;
 - There must be an investment in machinery, with the amount of investment based solely on automation and network technology, smart operations, and digital technology in production and enterprise processes.

The tax benefits granted under this measure are CIT exemption for 3 years covering 100% of investment, as well as other rights and benefits (as stated in Notification No.2/2557 dated 3 December 2014). The applications can be submitted until the end of 2022.

Another incentive measure is available for the entrepreneurs who have already started business in Thailand, regardless of whether their activity has been promoted by the BOI. The following are the pre-requisites to be eligible for this measure:

- The investment plan must be proposed to and approved by the NSTDA;
- The entrepreneur's activity must be a type of activity that the BOI has announced as activities eligible for investment promotion while applying for investment promotion under this measure;
- The investment capital must not be less than THB 1 million (for SMEs, at least THB 500,000);

- There must be an investment in machinery modification to upgrade production line or existing service, with the amount of investment based solely on automation and network technology, smart operations, and digital technology in production and enterprise processes.

For this measure, the tax benefits are import duty exemption on machinery and CIT exemption for 3 years covering 100% of investment (excluding land cost and working capital in the adjustment of the income receiving from the existing business). The application for this investment promotion can be filed until the end of 2022, and such applicant must complete the upgrading plan within 3 years from the date of receipt of BOI certificate.

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/009/T_0037.PDF

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/009/T_0034.PDF

The Regulation of the DLPW re: the reception and consideration of complaint by the Labour Inspector according to the LPA B.E. 2541 (No.3)

- Under this Regulation, there are 2 essential points that have been added in relation to the action of the Labour Inspector. Primarily, the Labour Inspector must inform the rights to file a labour lawsuit to the employee or the legal heir of the deceased employee, and in case that such employee or legal heir of the deceased employee expressed his/her intention for the Legal Inspector to file a legal case, such inspector is required to take the action at prompt.

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/005/T_0001.PDF

Flexible Plus Program for international investors

- As reported earlier in the Cabinet resolution section, the program is available for high-potential foreigners who hold the Thailand Privilege Card. Non-members can participate in this program by obtaining any of the three Elite cards, i.e. Elite Ultimate Privilege, Elite Superiority Extension, or Elite Privilege Access. The differences of these cards are the fees and validity period. The advantages granted under this program is that the participants, including their legal spouse and children under the age of 20, can apply for a Non-Immigrant Visa (fee of THB 5,000/year) at any time during the investment period, provided there is an investment in Thailand of at least USD 1 million in real estate, limited or public

limited companies, or SET, within 1 year after participating in the program.

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/003/T_0028.PDF

http://www.ratchakitcha.soc.go.th/DATA/PDF/2565/E/003/T_0009.PDF