

10 March 2016

FINANCIAL INSTITUTIONS LAW NO. 20/2016, 25 JANUARY 2016 [“FIL”]

The FIL replaces the Financial Institutions of Myanmar Law (“FIML”), Law No. 16/90, 4 July 1990. That law applied to Financial Institutions:

- Commercial banks
- Investment or development banks
- Finance companies.
- Credit societies.

It is provided for Central Bank of Myanmar (“CBM”) to have regulatory powers. Financial institutions required prior approval of the CBM.

Financial institutions could engage in 16 types of activities listed in Section 25 of FIML, subject to the approval of the CBM.

The following financial institutions were deemed to have been established under the FIML:

- Myanmar Economic Bank (“MEB”).
- Myanmar Foreign Trade Bank (“MFTB”)
- Myanmar Investment and Commercial Bank (“MICB”)

The FIML included 91 sections. Rules under the FIML were published in 1991; Regulations were published in 1992.

Initially, only the MEB, MFTB and MICB were permitted to deal in foreign exchange.

The Central Bank of Myanmar Law was enacted in 1990. The latest CBM Law was enacted in 2013.

As of the 8 March 2016:

- There were 24 private banks, of which 14 had permission to deal in foreign exchange.
- There were 9 branches of foreign banks,
- There were 48 representative offices of foreign banks.
- ATM machines are found in many locations in the country.
- Modern methods of administration are being introduced in private banks.

In December 2015, CBM announced a second round of bidding for branches of foreign banks. On 4th March 2016, the Licensing Committee decided to grant preliminary approval to four foreign banks (BIDV, E.SUN Commercial Bank, Shinhan Bank and State Bank of India).

Until 2011 very few individuals had bank accounts, estimated around 1% only. Salaries of most employees were paid in cash. Accessing the banking structure in Myanmar was difficult; the current laws were antiquated, government sources failed to provide access to amendments and rules, there were few or no computer-based records.

The new Financial Institutions Law No. 20/2016 (“**FIL**”) provides for far more comprehensive regulation of financial sector activities, under the regulatory authority of the CBM. Under the FIL:

“**Financial Institutions**” mean banks, non-bank financial institutions and scheduled institutions.

“**Banks**” means banks licensed by the CBM to carry on banking business, and includes commercial banks, development banks and licensed branches of a foreign bank.

“**Non-Bank Financial Institutions**” (“**NBFI**”) mean entities registered under Section 20 to carry on one or more of the following businesses:

1. Finance company;
2. Leasing.
3. Factoring
4. Credit token
5. Money services
6. Others as prescribed by the CBM

“**Scheduled Institutions**” mean institutions established under another law that provide financial services for a specific group, e.g. Rural Development Bank, Agricultural Bank, micro finance institutions licensed under the Microfinance Law, credit securities, and Postal Savings Bank.

The duties and powers of the CBM are prescribed in Chapter 4.

The process for applying for banking licenses is described in Chapter 5.

The process for applying for NBFIs and foreign bank representative offices is described in Chapter 6.

Section 23 provides that NBFIs may engage in:

- Finance company business
- Leasing business (including hire-purchase)
- Factoring business (financing accounts receivable)
- Credit card business
- Money services
- Other credit services the CBM may prescribe
- Other activities allowed by the CBM.

Subsequent chapters of the FIL deal with the following subjects:

- Chapter 7: Restrictions relating to acceptance and solicitation of deposits
- Chapter 8: Capital, reserves and significant ownership
- Chapter 9: Permitted Banking Activities
- Chapter 10: Board of Directors, Chief Executive
- Chapter 11: Accounts, audit and financial statements
- Chapter 12: Inspection and Supervision
- Chapter 13: Corrective Action and Bank Resolution Measures
- Chapter 14: Administratorship
- Chapter 15: Rehabilitation of Bank
- Chapter 16: Rehabilitation of NBFIs and Scheduled Institution
- Chapter 17: Liquidation of Banks, prior approval for voluntary winding-up and liquidation.
- Chapter 18: Electronic money, electronic banking and mobile banking.
- Chapter 19: Oversight of Payment and Settlement System
- Chapter 20: Credit Information
- Chapter 21: Power to exempt, recovery of fees, bank holidays and judicial review
- Chapter 22: Electronic Evidence
- Chapter 23: Particulars of unclaimed moneys or dormant accounts
- Chapter 24: Taking Administrative Actions
- Chapter 25: Prohibitions
- Chapter 26: Offence and Punishments
- Chapter 27: Miscellaneous

There are a total of 185 Sections in the FIL. No rules or regulations have been published yet under Section 184.

Note: “An unofficial English translation of the new Financial Institutions Law appears in the website of CBM. It is pending approval of the Office of Attorney General.”