Myanmar Legal/Regulatory and Investment Newsletter
July 2023

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Legal/regulatory developments

New CBM online forex trading process. On 21 June, the Central Bank of Myanmar (CBM) circulated a letter to banks with foreign exchange licences announcing requirements for notification to the CBM of the details of planned foreign currency transactions between the bank and a customer and between two customers for assessment under a new CBM process and settlement via a new online trading platform established by the CBM. The CBM letter states that this new process is mandatory for foreign currency transactions. The process set out in the letter is:

- Every day between 10am and 11.30am banks must submit a list (online) to the CBM of the forex dealings planned to be transacted between banks and customers, and of companies that want to buy/sell forex, including both trade and non-trade transactions.
- For companies that want to sell forex, the relevant bank must verify and provide details of the relevant companies and their business types, the source of the forex, the date on which it first entered the company's account and the deadline by which it must be sold or used (for companies subject to time limits on their ability to hold forex, such as exporters).
- For companies that want to buy forex, the relevant bank must verify and provide details of the relevant companies and their business types, the amount and currency the company wishes to purchase, the reason/purpose for the forex purchase (including the import licence details if the forex is to be purchased to pay for imports), the company's bid rate and settlement date.

- The CBM then reviews the list of buyers, sellers and requested transactions and coordinates and decides which companies may transact and the corresponding amounts and exchange rates – with the CBM's approved transactions to be provided by 1pm on the same day.
- Approved transactions are to be carried out the following day via the CBM's online trading platform. The lists of daily transactions and the weighted average rate of the transactions will be announced on the CBM's website.

The first day of trading via the new online platform was on 23 June. The CBM published an announcement that day stating that USD4.81 million was transacted on that day at an exchange rate of MMK 2,920/2,922. There does not appear to have been any announcements of trading details for any day since then.

It's possible that this could be quite a positive development in providing more flexible – and potentially faster – forex transactions than the ad hoc matching that banks and their customers have had to carry out under forex restrictions to date. However, further centralizing forex trading could potentially support the imposition of greater restrictions in future.
https://www.gnlm.com.mm/cbm-exchange-rate-determined-on-forex-online-trading-platform/
https://www.lincolnmyanmar.com/wp-content/uploads/2023/06/Central-bank-letter-no.-FE-1-789-with-noticex.pdf

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Sanctions imposed on MFTB, MICB and MoD. On 21 June, the US government imposed sanctions on the Ministry of Defence (**MoD**), Myanmar Foreign Trade Bank (**MFTB**) and Myanma Investment and Commercial Bank (**MICB**). The announcement of the sanctions by the US Department of the Treasury references the following rationale in relation to MFTB and MICB.

> "*Myanma Foreign Trade Bank (MFTB) and Myanma Investment and Commercial Bank (MICB) are state-owned financial institutions in Burma that primarily function as foreign currency exchanges that allow Myanmar's revenue-generating state-owned enterprises, including Myanma Oil and Gas Enterprise (MOGE), access to international markets using offshore accounts and to transact more easily with foreign entities. While MFTB and MICB allow MOGE and other state-owned enterprises access to foreign markets for revenue generation, these financial institutions also enable Burma's Ministry of Defense and other sanctioned military entities to purchase arms and other materials from foreign sources.*"

This rationale is odd given that the US still has not sanctioned MOGE itself (which is welcome, but an obvious omission from the sanctions imposed to date); and given that MOGE earns forex directly, at least some (probably most, maybe all) of which is deposited into overseas accounts. While we don't have any direct knowledge of MOGE's cashflows, it does not seem likely that it needs or uses MFTB's or MICB's assistance with forex. MFTB and/or MICB may well be assisting the MoD, but it presumably can obtain forex services elsewhere.

The US is imposing the new sanctions since the change of government under Executive Order 14014 "Blocking Property with Respect to the Situation in Burma". The primary measures authorised by that order are that:

- "*All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of [sanctioned persons/entities] are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt*";

including:

- "*the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order*"; and
- "*the receipt of any contribution or provision of funds, goods, or services from any such person.*"

These prohibitions do not expressly prohibit banking with MFTB and MICB. However, doing so involves receipt of services from the bank, and usually also provision of funds – in the form of bank fees – to the bank (albeit these might be small amounts in most cases). The scope of the EO could therefore presumably be construed by the US government as prohibiting any banking with MFTB or MICB.

The US Department of Treasury has issued a "general licence" (i.e. an authorization applying to any person as an exception to the sanctions) to allow the winding down of current dealings with MFTB and MICB up until 5 August.
https://home.treasury.gov/news/press-releases/jy1555
https://public-inspection.federalregister.gov/2021-03139.pdf
https://ofac.treasury.gov/media/931936/download?inline

New automatic import licensing scheme already significantly reduced. Back in late April, the Ministry of Commerce (**MoC**) announced the abolition of the importation of any goods without an import licence, and introduced in its place a system of 'automatic licensing' via the online Tradenet 2.0 import/export licensing portal for specified goods. (That is, you could no longer import anything without a licence, but licences would be granted automatically via online application for some goods).

The new automatic licensing system commenced on 1 June. The initial list of goods that qualified for automatic import licensing comprised 3,075 lines of goods. On 21 June, the MoC released Export/Import Newsletter 9/2023 which reduces the lines of goods that qualify for automatic licensing down to 1,525. Newsletter 9 also states that automatic licensing is now only available in relation to import by sea – all land border imports will require a non-automatic license. (Importation by air does not seem to be expressly mentioned, but presumably also requires non-automatic licensing). The new restrictions are expressed to have commenced from 22 June (with grace periods applying for importations that are already in train under the automatic licensing system).

Newsletter 9 states that automatic licensing has been disallowed for border trade to facilitate verification of export income and "other income proof". It's not entirely clear why export verifications need to impact import licensing. But it may have to do with allowing more time to monitor recycling of export forex earnings into import purchase funds to allow the government to better combat transfer pricing and fraud in border trade exports (which is no doubt still a big issue). In any case, the fact that the automatic licensing system lasted all of three weeks in its original form is a concerning indication of just how difficult the export/import and forex remittance situation still is.
https://www.commerce.gov.mm/sites/default/files/Bulletin%209-2023%20for%20Import%20Auto%20to%20Non%20Auto.pdf

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Compulsory bank transfers for China border trade payments. In further export/import news, the Ministry of Commerce (**MoC**) has also released Export/Import Newsletter 10/2023, dated 23 June 2023, which requires that all payments for China-Myanmar border trade transactions must be undertaken via bank transfer from 1 August onwards. The same restrictions have been in place for border trade via the Thai border since 1 November 2022.

Without going into details, the requirement for use of bank transfers links to the issue of export/import licences, and allows the MoC – with the assistance of the relevant banks – to better track the source and availability of import purchase funds and the remittance of export forex earnings.

Once again, this kind of change to regulatory requirements looks like an indication that the export/import and forex remittance situation remains problematic.
https://www.commerce.gov.mm/sites/default/files/Buttetin%2010%20for%20Export%20Earing%20to%20Import%20with%20China.pdf

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MoC reduces importer security deposit requirements. The Ministry of Commerce (**MoC**) continued to adjust the import/export regulatory framework with the release of Export/Import Newsletter 11/2023, dated 28 June 2023. The new newsletter provides that border trade exporters no longer need to provide 100% of total export value as a form of advance security deposit in order to obtain an export permit. This prohibitive restriction has been in place in relation to some major export categories for the past 12 months to try to limit fraud and transfer pricing in relation to border trade exports.

From 1 July 2023, companies that have been established for more than three years need to pay 20 per cent of total export value as a deposit to obtain an export licence. Companies that have been established for less than three years need to pay a 35 per cent security deposit as a condition of licensing. The export earnings must be deposited into the company's account within seven working days after the licence is granted in order for the deposit to be released. Failure to deposit export earnings into the exporter's account within the required time will result in the deposit being forfeited and the export licence being cancelled. Exporters must show a payment order evidencing payment of the security at the relevant border trade crossing when making the export.

As we have previously noted, the government is really between a rock and hard place in trying to maintain revenues and forex supply by combatting fraud and transfer pricing and imposing capital controls – while at the same time, restrictive measures to protect against these risks negatively impact on export levels. Hopefully with these changes it is getting closer to a workable balance.
https://www.gnlm.com.mm/trade-dept-to-ease-advanced-telegraphic-transfer-system-for-exports-from-1-july/

FATF six-monthly statement. On 23 June, the Financial Action Taskforce (**FATF**) released a new six-monthly statement on "High-Risk Jurisdictions subject to a Call for Action", that is, 'black-listed' jurisdictions.

The statement on Myanmar provides some acknowledgement of the Myanmar government's recent efforts in increased awareness raising and supervision, but leaves the existing 'enhanced due diligence' call to action in place. FATF identified the following items/actions that it would like Myanmar to work on. (ML = money laundering. LEA = law enforcement agencies. FIU = Financial Intelligence Unit).

- Demonstrating an improved understanding of ML risks in key areas.
- Demonstrating that on-site/offsite inspections are risk-based, and hundi operators are registered and supervised.
- Demonstrating enhanced use of financial intelligence in LEA investigations, and increasing operational analysis and disseminations by the FIU.
- Ensuring that ML is investigated/prosecuted in line with risks.
- Demonstrating investigation of transnational ML cases with international cooperation.
- Demonstrating an increase in the freezing/seizing and confiscation of criminal proceeds, instrumentalities, and/or property of equivalent value.
- Managing seized assets to preserve the value of seized goods until confiscation.

Myanmar is still a million miles from getting off this blacklist….
https://www.fatf-gafi.org/en/publications/Fatfgeneral/Call-for-action-June-2023.html

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IRD Interpretation Statement on housing allowances. On 28 June, the Internal Revenue Department (**IRD**) released Interpretation Statement 1/2023 regarding personal income tax liability for housing allowances. In a nutshell, the Interpretation Statement confirms that if a cash allowance is paid to the employee for housing, this will be treated as salary and will be taxable. But if the employer itself directly pays for the housing (and allows the employee to use it an 'in kind' benefit), without any cash passing to the employee, this will not be taxable. This is not actually news per se – this has been the IRD's position on the issue for many years, which IRD staff readily verbally confirmed in the past. It's still helpful, however, to have it confirmed in a formal document.

The Interpretation Statement, like many IRD documents on the application of tax, sets out some rules/principles, followed by some examples of their application. Possibly helpfully, possibly confusingly, the Interpretation Statement contains one example that actually relates to medical expenses, not to housing allowances. In that example, medical expenses paid for by the employer, as opposed to a cash allowance, are not taxable. However, the Interpretation Statement does not otherwise deal with other types of allowances besides housing. So we are left with the implication

– but no confirmation – that probably medical benefits are treated in the same way as housing allowances, and possibly this treatment will be consistent across all types of employee allowances. It would have been better if this had been expressly clarified though.
https://www.lincolnmyanmar.com/wp-content/uploads/2023/07/Interpretation-Statement-1-2023x.pdf

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CBM reduces compulsory export income conversion to 50%. On 13 July, the Central Bank of Myanmar (**CBM**) released Notification 15/2023 which reduces the percentage of export earnings that exporters are required to immediately convert into MMK (at CBM rates) from the previous level of 65% to 50%.

Although this chance doesn't remove the fundamental issue of the value and utility of the Myanmar Kyat, hopefully it will provide some support for export levels.
https://cdn.myanmarseo.com/file/client-cdn/gnlm/wp-content/uploads/2023/07/14_July_23_gnlm-1.pdf
https://www.gnlm.com.mm/cbm-eases-currency-conversion-rules-for-exporters/

IRD new audit forms. The Internal Revenue Department (**IRD**) has apparently released a raft of new forms relating to IRD audits as Ministry of Planning and Finance (**MoPF**) Notification 107/2023, dated 11 July 2023. We say 'apparently' as we've only seen this in the linked Facebook post, we haven't yet seen any mention of it on the IRD's or MoPF's website or anywhere else for that matter.

As we've previously noted, the tax collection and enforcement situation in Myanmar is woeful and is a huge issue that seriously undermines the public finances – and therefore development – of the nation. The recent introduction of an IRD audit function is therefore a welcome step towards a functioning tax system. However, our own experience with IRD audits indicates that the standard of the audits (or rather the knowledge of the auditors) is, frankly, pathetic. As far as we can see, there are therefore still huge issues with tax audit, collection and enforcement that no amount of forms is going to fix and that need to be meaningfully addressed.
https://www.facebook.com/groups/557170841314393/posts/1945660422465421/

Revised export requirements for gold items. The Ministry of Commerce (**MoC**) released Export/Import Newsletter 12/2023 on 3 July revising the requirements for the export of jewelry, artistic items and other valuable items made from gold. The Newsletter attaches a detailed 'Standard Operating Procedure' (**SOP**) for the export of gold items. The main points of the SOP are:

- Payment for gold item exports can be made via letters of credit or telegraphic transfers.
- Applications for import/export licenses can be submitted via the online Myanmar TradeNet 2.0 system. One requirement for issue of a licence is permission/recommendation from the Department of Mines, a Township Development Committee or (for items containing gemstones) the 'Myanmar gemstone trading industry' (we're not sure what this is).
- The licence applicant must submit details of the quantity, standard, price and value of the items for assessment by a valuation team within the Union of Myanmar Federation of Chambers of Commerce and Industry.
- Temporary export licences (with a 60-day period) for export to an international sales event and re-import if not sold are available.
- Regular export licences have a 40-day validity.

https://www.facebook.com/BETVBusiness/posts/pfbid03kQsLth6wzK7o5FhWJ9dzH4oFqkmU2kxzuHgAJHssMcZWr7dPNbFZ7TKfu1RsvqBl
https://www.commerce.gov.mm/sites/default/files/documents/2023/07/Bulletin%20(12-2023).pdf

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Procedures to seek the assistance of Customs for trade mark protection. On 14 July the Ministry of Planning and Finance (MoPF) issued Notification 50/2023 containing new "Customs regulations relating to the protection of trade mark rights". These regulations provide for the introduction in Myanmar of processes that are typically available under trade mark regulatory frameworks that follow the World Intellectual Property Organization model, such as Myanmar's Trade Mark Law 2019 (TML), and are therefore something could be expected to be introduced as the TML is (finally) implemented. We understand that under the previous paper-based trade mark registration system it was potentially possible – as a matter of practice – to enlist the assistance of Myanmar Customs in relation to seizing counterfeit imports in any case.

The practical effectiveness of these processes remains to be seen, as it depends in part on the proactivity of Customs officers. Also, it has been reported that the Intellectual Property Department (IPD) has stated that, as of the recent full launch of the new trade mark registration system, it had received over 50,000 applications for priority registration of pre-existing trade marks and for registration of new trade marks. Given the extensive delays and notably understated competence displayed by the IPD in making the online application process available, there is little cause for confidence that this backlog – which could have been avoided with adequate planning and somewhat efficient implementation – will be cleared any time soon. If not, this will leave trade mark owners and applicants in an extended period of 'limbo' – uncertain as to whether their marks will be successfully registered or re-registered (as the case may be). It will also mean that the Customs procedures are of limited relevance in the short term if there are few confirmed registered trade marks for imported goods for which the Customs processes could be applied.

The regulations provide for two potential avenues for trade mark owners, or their authorised representatives, to seek the assistance of Myanmar Customs in protecting against trade mark infringement in relation to imported goods. Those avenues are the following.

(i) Recording a registered trade mark with Myanmar Customs and requesting Customs officers to seize any relevant counterfeit goods they may detect and notify the trade mark owner/representative. Recording of a trade mark will remain valid for two years and may be renewed 30 days before expiry.

(ii) If the trade mark owner/representative become aware of a shipment of counterfeit goods taking place and is able to obtain a court order authorizing suspension and seizure of the shipment, applying to Myanmar Customs to have them carry out the seizure. The trade mark owner/representative will be required to pay a deposit to Myanmar Customs as security for the costs of storage and potential destruction of seized goods.

Where Myanmar Customs seizes goods pursuant to the regulations, the trade mark owner/representative is required to pursue court action to enforce its claims within 15 days.

Certain categories of imports – principally goods that will pass through Myanmar without being distributed within Myanmar (e.g. transshipment cargoes) are exempted from the application of the regulations.
https://www.mlis.gov.mm/mLsView.do?lawordSn=19494&attlistSn=40063

Online sales declared an "essential service". On 4 July, the State Administration Council released Union Government Notification 5/2023 by which the government declared "online sales" to be an essential service under the authority of the Ministry of Commerce (**MoC**) pursuant to section 4(c) Essential Supplies and Services Law 2012 (**ESSL**).

The effect of this declaration is to give the MoC authority "to issue prohibiting orders, regulating orders, and supervision orders" regarding online sales. The ESSL is quite a short law, with the expressed purpose of enabling the safeguard of supplies and services in the interests of the citizens, and enabling the restriction and prohibition of supplies and services which may affect the interests of the citizens. News reports on the decision seem to suggest that the reasoning behind it may be a desire to try to enforce tax collection against e-commerce businesses.
https://www.lincolnmyanmar.com/wp-content/uploads/2023/07/Union-Government-Notification-5-2023.pdf
https://www.gnlm.com.mm/online-businesses-identified-as-important-services/

On 21 July, the MoC released three Notifications constituting its initial implementation of new regulations for online sales. Those Notifications are:

- Notification 49/2023, which designates the Department of Trade (DoT) within the MoC as the department that will administer regulation of online sales.
- Notification 50/2023, which states that within six months after the date of the Notification (i.e. six months after 21 July 2023) all online sales businesses must be registered with the DoT. Any unregistered online sales businesses operating after that time may be liable to prosecution for an offence under section 5 of the ESSL. That section provides for imprisonment for a period of between six months and three years and/or a fine of up to MMK500,000. [Actually, Notification 50/2023 is superfluous as the application of section 5 of the ESSL is also provided for in the subsequent Notification 51/2023 in any case].
- Notification 51/2023, which comprises a new “Online Sales Business Registration Order” setting out the requirements for registration and operation of online sales businesses.

Notification 51/2023 is the key document. No doubt Notification 51 is well-intentioned – there is a case for better regulation of online sales and e-commerce in Myanmar. However, on our initial review, some key aspects of Notification 51 appear to be seriously ill-considered – in the garden variety way that unfortunately undermines so much regulation in Myanmar in consequence of lack of detail, clarity and sufficient consideration of practical application.

In this case, if Notification 51 is reasonably comprehensively enforced on broad reading of its literal provisions – which reading is made possible because of the lack of clarity and definition of those provisions - it could have the potential to kill off a significant amount of e-commerce activity in Myanmar. We do not necessarily think that the Notification will be applied in that way – there are a couple of avenues by which the potential negative effects on the online sector could be reduced in practice. But there are some real inherent shortcomings in provisions of the document, and it should not be the case that we have to hope or assume that regulators will take a narrow view of poorly defined terms to avoid potential stultifying effects on a key business sector.

We have therefore explored some of the key issues with the provisions of Notification 51 in an article as an illustration of the shortcomings we often see in Myanmar regulations and how these can create problematic uncertainty or issues for business operations.

You can find the full article here: https://tinyurl.com/2uzehzkz

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EU expands its Myanmar sanctions list. On 20 July, the European Union announced another round of Myanmar sanctions, pursuant to which it added six individuals and one State-owned corporation to the list of Myanmar persons/entities subject to EU economic sanctions. The newly added persons and entity are as follows.

- Aung Kyaw Min - member of the State Administration Council
- Lieutenant General Kyaw Swar Lin - Quartermaster General of the Myanmar Armed Forces
- Myint Kyaing Union - Minister of Immigration and Population
- Porel Aung Thein - member of State Administration Council
- Pwint San - Union Minister of Labour
- Thet Khaing Win - Union Minister of Health
- No. 2 Mining Enterprise (ME 2) (a State-owned enterprise under the Ministry of Natural Resources and Environmental Conservation).

This takes the number of Myanmar persons/entities sanctioned by the EU up to 99 individuals and 19 entities. Those designated are subject to an asset freeze and a travel ban, which prevents them from entering or transiting through EU territory. In addition, EU persons and entities are prohibited from making funds available to the designated parties. https://www.consilium.europa.eu/en/press/press-releases/2023/07/20/myanmar-burma-eu-imposes-seventh-round-of-sanctions-against-six-individuals-and-one-entity/

MoNREC cracking down on gem trading licence renewals. Myanma Gems Enterprise (MGE), a State-owned company under the Ministry of Natural Resources and Environmental Conservation (MoNREC), has announced that licences for gem trading and for making gemstone products (which are administered by MGE) will be revoked unless they are validly renewed. However, the announcement also urges holders of expired licences to apply to MGE as soon as possible if they wish to have their licences reinstated/renewed, which seems to suggest that the MGE is proposing to allow an informal amnesty on overdue licence renewals at least for the time being.

Licence holders are required to apply for renewal at least three months prior to the expiry of their existing licence. Trading/product-making businesses that are closing down are required to notify MGE at least one month prior to ceasing operations.
https://www.gnlm.com.mm/failing-to-renew-to-cancel-gem-trading-licence/

Investment news

World Bank Economic Monitor for June 2023. The World Bank released the latest instalment of its six-monthly Myanmar Economic Monitor on 27 June. Unsurprisingly, the conclusions look to be not overly positive. The main findings are:

- Economic conditions in Myanmar have stabilized in the first half of 2023, with exchange rates, inflation and food and fuel prices being steady or improved. Overall, economic activity seems to be slowly increasing, albeit from a very low base.
- However, weak household incomes, high prices, shortages from import restrictions, electricity supply issues, weak investment, and declining reported profits in most sectors are constraining the pace of this recovery.
- Policy changes, waning external demand overvalued official exchange rates, exchange conversion requirements, and the higher cost and reduced availability of imported inputs are continuing to create headwinds for exporters. Consequently, exports are declining while imports remain stable, and Myanmar returned to a trade deficit in the six months to March 2023.
- The labor market remains weak, with declining employment rates, especially in conflict-affected areas. Declining productivity and low labor demand have put significant downward pressure on wages, which dropped by an average of 15% in real terms between 2017 and 2022.
- GDP is projected to increase by 3% in the year to September 2023, but will still be around 10% lower than in 2019. The WB now expects moderately stronger growth in the industrial and services sectors, but further contraction in agriculture. Over the next one to two years, the baseline projection is for the economy to continue to expand slowly.
- With the exchange rate and food and fuel prices stabilizing, average inflation is projected to ease to 14% in the twelve months ending September 2023, decline further in the following year, but remain relatively higher over the medium term.
- The fiscal deficit is estimated to have widened to 5.4% of GDP in the year ended April 2023. With declines expected in both spending and revenues, the budget deficit is projected to widen further in the coming year. Total public debt is expected to stabilize at just above 60% of GDP, with high rates of inflation acting to contain the ratio of domestic public debt to GDP.
- Risks around the projections include worsening conflict, a further slump in electricity generation, persistence of inflationary pressure, and further deterioration in the business environment.

https://www.worldbank.org/en/country/myanmar/publication/myanmar-economic-monitor-june-2023-a-fragile-recovery-key-findings

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Pact Global Microfinance Fund closes its doors. Pact Global Microfinance Fund (**PGMF**), the microfinance arm of INGO Pact Myanmar, has announced that it is closing its operations. PGMF is the largest microfinance provider in Myanmar. Like many INGOs, (as we understand it) Pact Myanmar has so far been unable to renew its INGO registration under the new Registration of Associations Law 2022.

PGMF has previously operated as a business unit/project of Pact Myanmar. News reports refer to a statement from PGMF (which we have not seen) regarding its closure that apparently says that the Myanmar government required that PGMF agree to share its revenues with the government and transfer its assets to the government at some point in future as a condition of restructuring and continuing to operate. PGMF has apparently stated that it could not agree to these conditions due to US sanctions on Myanmar. (Pact Myanmar is the Myanmar operating branch of a charitable organization incorporated and registered in the US). PGMF's statement has been reported to also say that it has forgiven more than US$156 million in outstanding loans to 890,000 borrowers and set aside money to repay investors.

Regulatory changes introduced some time ago in Myanmar required that NGOs/INGOs could not operate micro-finance businesses. NGOs/INGOs with existing micro-finance operations – like Pact Myanmar - were required to 'spin out' those operations into a separate commercial entity (and have the microfinance license transferred to that entity) in order to keep operating. This restructuring requirement has apparently been an ongoing issue for PGMF for many years, under both the previous and current governments. The catalyst for the shut-down now seems to be that the

Pact Myanmar INGO's registration has expired without it being able to obtain a new registration, and that PGMF's status was a sticking point in renewal negotiations with the government.

It has been reported that PGMF previously received a substantial grant from the United Nations Development Programme (**UNDP**), which grant underwrote a surge in PGMF's lending and growth into the biggest micro-finance provider in Myanmar. Both past governments and the current government have claimed that the money should have been transferred to the State as it was a form of development aid. This is reportedly the reason why the Myanmar government apparently insisted that PGMF agree to share its revenues with the government and transfer its assets to the government at some point in future as a condition of restructuring and continuing to operate – because it is of the view that some of the benefits of the UNDP grant should ultimately be transferred to the State.

While pushing PGMF to the point of closing down is perhaps not the most constructive way to deal with this issue (although the government may have felt it had no other choice if PGMF would not compromise), based on this background information we have some sympathy for the government's position. The UNDP should never have sought, and never been permitted, to provide a major development aid grant directly to an individual INGO without the involvement and agreement of the Myanmar government.
https://www.irrawaddy.com/news/burma/myanmar-junta-drives-largest-micro-lender-out-of-business.html
https://www.businesstimes.com.sg/international/asean/myanmars-military-drives-countrys-largest-micro-lender-out-business

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Planning for introduction of warehouse receipt financing. The Ministry of Commerce (**MoC**) and the Myanmar Rice Federation recently held a workshop regarding warehouse receipt financing in Myanmar – which the MoC has said will be implemented in Myanmar for the agricultural sector, including in respect of government-funded loans. Warehouse receipt financing is the use of goods – frequently agricultural produce – that are securely stored in a warehouse as collateral for a loan. Warehouse receipt financing programs will usually depend on the producer of the goods receiving a receipt certifying the deposit of the goods in the warehouse and the quantity, quality and grade of the goods, which receipt the lender will rely on as part of the basis of agreeing to extend a loan. As we understand it, warehouse receipt financing schemes are common in India, and some Indian agriculture sector companies have tried to use these types of schemes in Myanmar in the past, with (to the best of our knowledge) mixed success.

The MoC has stated that warehouse receipt financing is being implemented to assist farmers to develop their businesses and to reduce post-harvest losses and help stabilize rice prices.

Any additional access to finance for Myanmar farmers who are under increasing financial pressure seems like a potential positive. A key factor in whether a warehouse receipt financing system can be introduced that is sufficiently broad to have a meaningful impact will likely be the availability of quality warehousing facilities and reliable inspection and certification systems, in particular in less accessible parts of the country.
https://www.gnlm.com.mm/moc-implements-warehouse-receipt-financing-system/

Potential fertilizer factory investment. The Minister for Cooperatives and Rural Development, U Hla Moe, along with domestic fertilizer industry representatives, reportedly met recently with a delegation led by a representative of Russian State-owned investment fund Roscongress Fund (the linked article calls the fund "Ross Concrete" – that's probably a typo) and the Chairman of a Russian company called "Souznedra" to discuss plans for cooperation in building fertilizer factories in Naypyitaw, Yangon, Ayeyawady and Magway.

The meeting apparently discussed the construction of three small mobile natural fertilizer factories. As far as we know, Myanmar is not endowed with potash deposits (there's seems to be a decent amount of almost every other useful mineral you can think of here). Thailand has deposits, but no-one's digging them up yet, we're not sure why. Natural gas – another requirement for usual commercial fertilizer manufacturing processes – is also in short supply at present (more particularly, there isn't much available natural gas that has not already been committed to something). Growth in domestic fertilizer manufacturing therefore probably needs to be based on alternative methods/inputs, and 'natural' always sounds good, of course.

The identity of the Russian delegation is a little unclear. Some Googling reveals a holding page website for a Russian mining company called "Souznedra", which does not provide any useful information on the company's activities. Roscongress representatives have been coming back and forth to discuss potential projects for a while. It's also not clear to us whether Roscongress is really a fund with capital available to deploy, or more of an investment organization/promotion body that's trying to assist in finding Russian companies interested to invest in Myanmar.

In any case, with Myanmar's farmers under increasing pressure in current economic conditions, including rising prices for fertilizer (amongst other inputs), any initiatives for meaningful domestic production of import substitute agricultural inputs is welcome.
https://elevenmyanmar.com/news/myanmar-and-russia-discuss-plans-to-build-fertilizer-factories-in-nay-pyi-taw-yangon-ayeyawady

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MAI bank accounts closed. As many readers would have seen already, news has leaked out – courtesy of an announcement circulated by Myanmar Airways International (**MAI**) to its suppliers – that United Overseas Bank (**UOB**) in Singapore informed MAI in late June that it will be closing all of MAI's accounts. MAI's announcement includes an excerpt of an email from UOB confirming that UOB will stop processing receipts into MAI's accounts from 1 July, stop processing transfers out of MAI's account from 21 July, and close the accounts altogether on 15 August.

MAI's announcement states that it is in the process of opening new accounts with banks in a number of jurisdictions. We understand that to date MAI's only overseas accounts were the ones it held with UOB in Singapore, so this decision affects its entire overseas business.

No reason is given by UOB (at least none that is referred to in MAI's announcement) for the account closure. However, while this may be the most high-profile instance of UOB ceasing to provide banking services to Myanmar-based companies, we are aware of other prior instances. Interestingly, out of the big Singapore banks UOB is - by reputation - the one with the deepest and longest-standing ties with Myanmar. We are also aware of principals and executives at the highest levels of UOB having previously personally invested in projects in Myanmar (we do not know whether those persons are still involved in those projects).

There is no legal requirement for UOB to cease providing banking services to any non-sanctioned Myanmar businesses. MAI is not sanctioned (nor were the other businesses we are aware of whose accounts have previously been closed by UOB). However, in MAI's case, the fact that it has been publicly reported on numerous occasions that the Myanmar government and the Tatmadaw (including sanctioned individuals) have used MAI for flights to Russia to attend meetings and conferences would be unhelpful. (It's odd, and seemingly naïve, that the Global New Light of Myanmar insists on including that unnecessary detail in its articles. It would not be difficult to find out who the government is flying with, but why publicise this?)

MAI's announcement states that it is in the process of opening new accounts with DBS Bank in Singapore, Kasikorn Bank in Thailand, and Emirates NDB Bank in Dubai. Assuming that the named banks have all agreed to open accounts for MAI, it's interesting that DBS, as a Singapore bank, is willing to provide services to MAI where UOB is not. As we understand it, DBS is wholly-owned by the Singapore government, which may give it a different internal position on risk management regarding Myanmar. (It's also possible that UOB's history with Myanmar has in fact made it more vulnerable to pressure on continued dealings with Myanmar countries, rather than less).

Thailand is a natural jurisdiction for Myanmar companies to turn to for banking as an alternative to Singapore, and many Myanmar companies have already done so. The United Arab Emirates holds an enviable position of being (apparently) somewhat relaxed about issues like sanctions and AML, but at the same time still generally enjoying a large degree acceptance and openness from other jurisdictions regarding the UAE's banking services (underlying geopolitical considerations no doubt have much to do with this). While a little more effort – and travel time – may be required to open a bank account in Dubai or other business centres within the UAE, it may be the case that this becomes a more common option for Myanmar companies as financial restrictions against the company continue to tighten.
https://myanmar-now.org/en/news/major-singapore-bank-halts-financial-services-for-myanmar-airline/

ETC sells out of Golden City. Following a long-running campaign of persecution by the shadowy and secretive 'Justice For Myanmar' (**JFM**), SGX-listed Emerging Towns & Cities (**ETC**) has sold its interest in the Golden City mixed use real estate project in Myanmar. JFM's gripe with this project is that it's built on land leased from the Tatmadaw, with land use premiums and rental fees being paid to the Tatmadaw. At the time Golden City (and a number of other major real estate developments in Yangon) was conceived, most of the best-situated, large, unused blocks in Yangon were military-owned for historic reasons. Prospective real estate developers therefore generally had few options available if they did not consider dealing with the military.

In any case, JFM is still not happy as ETC has sold out to a private Singapore-incorporated company that is owned by three shareholders of ETC. JFM's leverage over ETC had much to do with ETC being a listed company with a share price that is therefore susceptible to negative publicity. The most likely logical conclusion of JFM's pressure campaign was therefore always the sale of ETC's interests in the project to a private buyer. If the ownership of the buyer raises related party transaction issues, Singapore has detailed company law provisions that include mechanisms for approving such transactions (as does Myanmar). If applicable, Singapore regulators will have made sure that those mechanisms were complied with. End of story.
https://myanmar-now.org/en/news/singapore-based-developer-divests-from-myanmar-real-estate-project/

India and Myanmar discuss cross-border power transmission. During a meeting on 10 July between Myanmar's Minister of Foreign Affairs and the Indian Ambassador the prospect of cross-border electricity supply from India to Myanmar was discussed. Reports on the meeting stated that India has been negotiating regarding the potential supply of electricity to Myanmar since the beginning of this year and that India plans to send a team to Myanmar to make technological assessments. It seems that India is viewing the prospect of connecting to Myanmar for electricity supply as part of the "One World One Sun One Grid" (OSOWOG) program of the International Solar Alliance, see: https://isolaralliance.org/. [We had never heard of it either]. Apparently, under the OSOWOG program India has designs on connecting its power grid to the Middle East, South Asia and Southeast Asia. In Myanmar's current circumstances, every bit of interest from a neighbouring country in supplying electricity is a plus…
https://www.facebook.com/BETVBusiness/posts/pfbid02gAkfWuWssv7eZHtoKFCNVGDGYRhQgeuEFFBVzkyMnr5Q4Dpic9T1sSoddfUZ723hl

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CBM promotes its digital payment credentials. The Central Bank of Myanmar (CBM) released an announcement on 15 July stating that it will accelerate the adoption of digital payment systems in Myanmar.

The announcement noted the CBM's role and efforts in improving the digital transaction platforms of payment service providers to provide more secure digital payments and reduce the use of cash. The CBM also launched a QR code payment specification in January 2019 for the operation of payment systems between financial institutions via QR codes. A National Payment System Governing Committee comprising representatives of the CBM and other relevant Ministries has been formed to promote meeting the goals set out in the National Payment Strategy (2020-2025).

The announcement states that the digital payment sector comprised MMK31.666 billion in 2022, being a 47 per cent increase from 2021. [It's not entirely clear what this figure is – presumably the value of the transactions processed via domestic digital payment platforms]. Since May 2023, the CBM has been implementing digital salary payments to government personnel in Naypyitaw, and is pursuing a goal of turning Naypyitaw into a digital city.
https://www.gnlm.com.mm/cbm-eyes-digital-payment-growth/
https://www.cbm.gov.mm/content/8107

India provides an update on IMT Trilateral Highway. Around a month ago we posted about Minister of Commerce U Aung Naing Oo stating at a meeting in Kolkata that the Myanmar government has recommenced work on the Myanmar section of the India-Myanmar-Thailand Trilateral Highway and it is likely to be completed in three years.

What is no doubt a more accurate update on the Myanmar section of the project was given by the Indian Minister of External Affairs, S. Jaishankar, during a meeting in Thailand on 15 July. Minister Jaishankar was reported as stating that "[the trilateral highway] has been a very difficult project mainly because of the situation in Myanmar. And one of our priorities today is to find ways of how to resume this project, how to unlock it, and how to make it because large parts of the project have been built".

It has also been reported that around 70 percent of the 1,360 km India–Myanmar–Thailand Trilateral Highway has been completed. The outstanding 30% is presumably largely or entirely the Myanmar section. However, it was reported that it is still expected that the highway will be operational within the next four years.

The India-Myanmar-Thailand link is then expected to further connect to Cambodia, Laos and Vietnam. Bangladesh expressed official interest in joining the project in December 2020 to provide connectivity with Dhaka. It is estimated that once the full highway connectivity is operational it will generate US$70 billion in incremental GDP per annum and 20 million incremental jobs.
https://www.mizzima.com/article/india-attempts-resume-india-myanmar-thailand-trilateral-highway

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MMK50 billion allocated for edible oil loans. The CEO of Myanmar Agricultural Development Bank (MADB) has stated that the MADB has received MMK50 billion in funds allocated from the Union Government's National Economic Development Fund for low interest rate (5%) loans for the upgrading and development of edible oil processing facilities. Of this amount, nearly MMK800 million has already been lent to eight edible oil processing businesses from five States/Regions up to early July.
https://www.facebook.com/BETVBusiness/posts/pfbid09Sn5YnSZLd74sLaUEMJavdE2BKhnjXoJ1BF13W915WbuN3zoDaAnajWAFgV4WWyPl

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MIC-approved investments tick upwards in July. The Myanmar Investment Commission (MIC) has announced that it approved ten investment proposals, with a combined investment value of US$446.58 million and K254,951.442 million, in its recent meeting on 24 July. The MIC no longer publishes details of approved proposals – due to the negative publicity that typically directed towards government permitting these days (and possibly also the domestic terrorism threat). Reports describe the approved proposals as ranging across industries including electricity generation, hospitality, tourism, and livestock and fishery. Much of the total approved investment amount is likely destined for the solar power sector.
https://www.gnlm.com.mm/power-sector-leads-fdi-surge/

F&N doubles down on the Myanmar beer market. Singapore-listed Fraser & Neave Limited (F&N) announced on 20 July that it is moving towards completion of conditions for establishment of a new beer brewery in Myanmar in joint venture with Myanmar conglomerate Win Brothers Group. F&N previously operated in Myanmar as the foreign joint venture partner of Union of Myanmar Economic Holdings Limited (UMEHL) in the Myanmar Brewery joint venture. F&N sold out of its stake in Myanmar Brewery in 2015 following a legal dispute with MEHL. It re-entered the Myanmar market in 2019 when F&N established a joint venture with a subsidiary of the Shwe Thanlwin group to set up Emerald Brewery in Yangon to produce Chang beer. It's new brewery joint venture with Win Brothers, called Sapphire Brewery Myanmar, will therefore be F&N's second brewery in the country.

While it is SGX-listed, F&N is controlled by ThaiBev Public Company Limited, the Thai beverage manufacturer best known for making Chang beer. ThaiBev is the majority owner of Grand Royal Group, the maker of Grand Royal whiskey (amongst other beverages) in Myanmar.

F&N's announcement states that the new joint venture has completed acquisition of the brewing licence and will now proceed with obtaining regulatory approvals for conversion of land type and long-term leasing of the intended brewery site.
https://fraserandneave.com/docs/default-source/newsroom/2023/quarter-3/20jul23-acquisition-of-alcohol-licences-and-land-use-rights-in-myanmar.pdf?sfvrsn=ee5a92b_4
https://www.irrawaddy.com/business/thai-beer-titan-to-invest-us14m-in-another-brewery-in-myanmar.html
https://www.bangkokpost.com/business/general/2618886/thaibev-unit-expanding-in-myanmar

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YRIC approves hotel investment in Yangon. The Yangon Region Investment Committee (YRIC) is talking up the approval of a new Myanmar citizen investment project in the hotel sector during its recent meeting on 26 July. The investment value is MMK5,970,239,000. Depending on what exchange rate you use, that's only around USD2 million, so it's not exactly big. The YRIC has reported that the project will create 1,802 new job openings as the it progresses – presumably that means adding up all the construction jobs etc., created for relevant temporary periods while the project is being developed.

But, to be fair, with the anti-government press proclaiming the death of the hotel sector in Yangon, the Yangon Region government can hardly be blamed for trying to milk some good news to redress the balance of the rhetoric a little….
https://www.gnlm.com.mm/yric-approves-k5-bln-worth-of-new-hotel-investment-project/
