

# ASEAN TODAY

## REGIONAL LEGAL & BUSINESS NEWS

July 2019

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### ASEAN Economic Community News

#### ASEAN-EU Climate Change Dialogue

The High-Level Dialogue on Environment and Climate Change was launched in Bangkok this month between senior officials from ASEAN and the European Union. The Dialogue seeks to continue strengthening the cooperation between ASEAN and the EU on environmental protection and climate change. One highlight of the event was the presentation of the executive summary of a report by the Institute for Global Environmental Strategies on the state of circular economy for plastics in ASEAN. The report's analysis developed a knowledge base for follow-up actions by the EU to assist ASEAN with circular economy approaches to plastic waste issues in the region. The linear economy model is to make, use, and then dispose of plastics. Under the circular model, plastic resources are used as long as possible with maximum value extracted from them. The products and materials are then recovered and regenerated at the end of their service life.

#### Organic Agriculture Standards

The ASEAN Organic Federation (AOF) announced that it plans to introduce new standards to regulate the production of organic agriculture in ASEAN. Currently, the AOF is made up of the organic agricultural associations of Malaysia, Thailand, Indonesia, Vietnam, the Philippines, and Cambodia. Using the same standards for organic crops, livestock, aquaculture, and processed food will lower production costs and improve supply chain management. ASEAN has 1.1 million acres (3 million rai) of organic farmland. At this time, the global organic agriculture market is valued at US\$104 billion with an annual average growth rate of 20%

#### Tax Incentives

Experts believe that tax incentives are becoming less effective in attracting investment into ASEAN, especially for high-tech companies and companies already operating in the region. The average tax rate has also declined across ASEAN over the last 20 years due to strong competition between the member states. According to a survey of 6600 multinational companies that invested into Thailand, Indonesia, Malaysia, the Philippines, and Vietnam from 2000-2016, tax holidays were less important to high-tech companies than ease of doing business, policy continuity, and regulations in investment decisions.

#### Singapore News

##### New Standards

The Singapore Standards Council (SSC) will develop over 40 new standards for new technology and emerging business models including drones, additive manufacturing, and video analytics over the next year. Standards are sets of specifications that serve as guides for best practices that enhance market acceptance innovation, and quality. The SSC says that standardization will help Singapore industry keep up with economic transformation and novel technologies and respond to disruptive developments. While disruptive developments can cause economic shifts, they also provide opportunities for new business models, and the new standards will help businesses to navigate and respond to disruptions.

##### New Arbitration Center

A new arbitration center will open in Singapore in August 2019 that will focus on disputes between parties in China and ASEAN. The Beihai Asia International Arbitration Centre (BAIAC) will provide arbitration and ADR services for disputes arising from cross-border trade and potential disputes arising from the Belt and Road Initiative (BRI) and the ASEAN Economic Community (AEC).

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## Philippines News

### New Tax Incentives for Tourism

A new law will extend tax incentives for Philippine tourism enterprise zones for another 10 years in order to increase yearly tourism arrivals to 12 million by 2020. The incentives include a six-year income tax holiday, duty free imports on capital goods and services, alternative taxation schemes, and tax deductions for cultural heritage activities and environmental protection.

## Myanmar Watch

### Changes in Investment Applications

Myanmar's Ministry of Investment and Foreign Economic Relations announced that it is making a series of changes to the investment proposal form and investment application forms used by the Myanmar Investment Commission and regional and state investment commissions due to transparency failures in the country's investment bodies. Multiple disclosure requirements were not being enforced, materials were not being released prior to approving investment proposals, and key information was found to be missing in published documents. After August 1, 2019, proposal and endorsement forms will ask for more information on the parent company including a summary of the company's services and its technological experience, the amount it can invest, and if the proposed business will benefit the country's production chain.

### Foreign Ownership of Shares

The Securities and Exchange Commission of Myanmar announced that it will allow direct foreign ownership of shares at the Yangon Stock Exchange by the end of 2019. Foreign individuals and locally-registered entities will be allowed to invest in up to 35% of listed shares. Myanmar's new Companies Law which came into force last year also opens the country's stock market to foreign investors. Foreign individuals and entities can hold up to 35% of a Myanmar company without the company losing the domestic registration required to be listed on the stock exchange. However, the law has not been implemented at this time.

## Indonesia Update

### Labor Law Reform

Recently reelected Indonesian President Joko Widodo plans to make sweeping changes to the country's labor rules to help revive factory output and boost jobs. Indonesia's challenging labor laws include a complex minimum wage system and one of the world's most generous severance pay packages. In Jakarta and Surabaya, a worker is eligible for 95 weeks of severance pay after 10 years of work. The rigid labor laws put a cap on production and make the country less competitive than other ASEAN countries. The labor laws also slow down foreign investment and lower Indonesia's ease of doing business scores. The planned reforms include changing severance pay rates and the minimum wage system along with lowering corporate income tax and opening more industries to foreign investors.

## Vietnam News

### IP Valuation

The Intellectual Property Office of Vietnam and the Ho Chi Minh City Department of Science and Technology launched a new program this month, Valuation of Intellectual Property (IP) from Scientific Research Results. Vietnam's IP valuation system can be problematic, especially for scientific-technological research, and the new program will help IP owners and managers to evaluate the current valuation process, identify obstacles and limits, and come up with feasible solutions.

## Cambodia Bulletin

### Chinese Investment

The World Bank reported that construction, real estate, and tourism accounted for 60% of Cambodia's total approved investment in 2018. Approved residential and commercial development projects brought in US\$4.6 billion, up 14% on 2017, with most of it coming from China. The rapid growth in the country's construction and real estate sectors is directly attributed to China's Belt and Road Initiative. While there are concerns about a possible debt trap, Cambodia needs the foreign investment from China to rebuild its infrastructure that was mostly destroyed in the 1970s.

## **THAILAND LEGAL REVIEW**

### **Business Security Act**

#### **New Ministerial Regulations**

Additional ministerial regulations to Thailand's Secured Transactions Act (The Act) were published earlier this year that prescribe the entities allowed to be securities receivers. The Act came into force in July 2016 and gives small and medium-sized enterprises easier access to credit by allowing them to use inventory, raw materials, and intellectual property as collateral.

Prior to the implementation of the Act, Thailand only recognized a limited class of securities that could be used as collateral under mortgages or pledges under the Civil and Commercial Code. The Act also alleviates financial limitations for entrepreneurs in securing loans to finance and expand their businesses. At present, a business, right of claim, or movable property of the security provider can be used as collateral insofar as any other assets as specified by the Ministerial Regulation.

The Act established a new method of creating security in Thailand, the business security agreement (BSA). The BSA comprises a security provider and a security receiver, and the security provider can be either an individual or juristic person. The security receiver must be a financial institution or any other entity as prescribed by the Ministerial Regulation:

- Ad hoc juristic persons operating a securitization businesses
- Trustees working on behalf of a trust for transactions in the capital market
- Securities companies, mutual funds, or representatives of a debenture holder as per the laws of the Stock Exchange of Thailand
- Juristic persons operating businesses in relation to future and forward contracts
- Asset management companies
- Juristic persons operating factoring services
- The Office of the Permanent Secretary, Ministry of Industry specifically in the case of SME development funds as prescribed by the state

- Foreign commercial banks specifically in the case of loans offered in cooperation with financial institutions
- Juristic persons operating businesses offering hire-purchase and leasing services
- Juristic persons operating businesses offering financial loans

The Act stipulates that a business security agreement must be in writing and registered with the Business Security Registration Office. Certain details such as the secured debt and enforcement event must be included in the registration. In the case of a business security agreement over a business, a security enforcer will be appointed and consent from the security receiver to the security enforcer is required at the time of registration. In addition, the security receiver will be treated as a secured creditor under the Bankruptcy Act upon completion of the registration. Information on the assets, individual, or juristic person subject to the business security agreement can be accessed through an online system.

The enforcement of security under the Act can be performed without court proceedings, unless an opposition arises during the enforcement process. The Act requires the enforcement event to be registered with the Business Security Registration Office. Failure to comply with the provisions set out by the Act may result in failure of the enforcement.

The amendment of the applicable provisions under the Civil and Commercial Code now also covers a security created under the business security agreement as part of the securities to be automatically transferred upon the assignment of underlying claim

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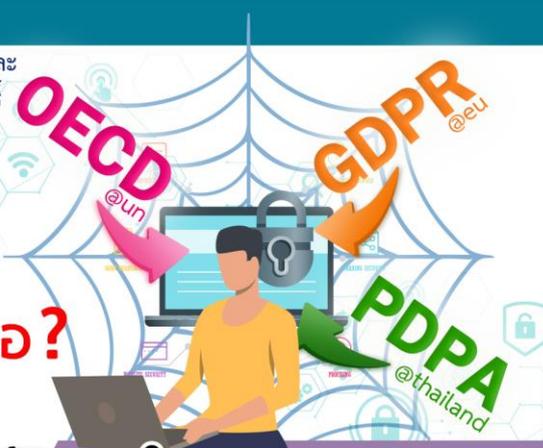


มูลนิธิธรรมภิบาลทางกฎหมาย และ  
ศูนย์วิชาการคณะเดชอุดม ไกรฤทธิ์

# คิดจะทำอะไร !! กับข้อมูลส่วนตัวหรือ?



## โทษปรับ/จำ สูงนะ!!



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การบังคับใช้กฎหมาย

ณ โรงแรมวันนา ถ.สุขุมวิท กรุงเทพมหานคร

ผู้ดำเนินรายการ



ดร.วิเชียร ชูบโรตอง  
รองประธานกรรมการ  
มูลนิธิธรรมภิบาลทางกฎหมาย

วิทยากร



ศ.(พิเศษ)เดชอุดม ไกรฤทธิ์  
"GDPR : ผลกระทบต่อ  
ผู้ประกอบการไทยที่ต้องเก็บ ใช้ และเปิดเผย  
ข้อมูลส่วนบุคคลของคนในบังคับ EU"



อ.ไพบุลย์ อมรริกัญญาเกียรติ  
"PDPA : การเตรียมความพร้อม  
ของผู้ควบคุมข้อมูลและ  
ผู้ประมวลผลข้อมูล"



ดร.ปิยบุตร บุญอร่ามเรือง  
"รายละเอียดของกฎหมายลูก  
และแนวทางปฏิบัติ  
เมื่อกฎหมายมีผลใช้บังคับ"



ดร.พูนเดช ไกรฤทธิ์  
"อะไรคือ BYOD และธนาคาร  
จะแลกเปลี่ยนข้อมูลเครดิตลูกค้าได้หรือไม่?  
(Private Blockchain)"



นายชัชวาลย์ อติแพทย์  
ผู้อำนวยการหลักสูตร



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