

**Government of the Republic of the Union of Myanmar****Ministry of Planning and Finance****Notification No. 35 / 2017****The 3<sup>rd</sup> Waxing of Tagu, 1378 ME****( 30<sup>th</sup> March, 2017 )**

In exercise of the power conferred under sub-section (a) of Section 100 of the Republic of the Union of Myanmar Investment Law, the Ministry of Planning and Finance has prescribed these Rules with the approval of Union Government.

**Chapter I****Title and Interpretation of these Rules**

1. These Rules shall be called the Myanmar Investment Rules.
2. The expressions contained in these Rules are to have the same meaning contained in Myanmar Investment Law. Moreover, the following expression shall have the meanings given hereunder:
  - (a) **Law** means the Myanmar Investment Law;
  - (b) **Associate** means:
    - (1) specifically, in relation to a company, means:
      - (i) a director or secretary of the company;
      - (ii) a Related Body Corporate;
      - (iii) a director or secretary of a Related Body Corporate; and
      - (iv) a person who controls the company, or who is controlled by the company;
    - (2) generally, in relation to a person (including a company), means:
      - (i) a person in concert with whom the person is acting, or proposes to act in relation to the relevant matter; or
      - (ii) a person with whom the person is, or proposes to become, associated, whether formally or informally, in any other way in relation to the relevant matter; or
      - (iii) a prescribed person in relation to the relevant matter;
    - (3) but does not in any case include someone who may otherwise be considered an associate under paragraphs (a) or (2) merely because they:
      - (i) give advice to the person, or act on the person's behalf, in the proper performance of the functions attaching to a professional capacity or a business relationship; or

- (ii) have been appointed to as a proxy or representative of a person at a meeting of members, or of a class of members, of a company.
- (c) **Governmental Departments, Governmental Organisation** means any Union level, State or Regional level administrative bodies, Ministries, commissions and committees;
- (d) **EIA Type Project** means the type of project prescribed under the Environmental Conservation Law , Rules and Environmental Impact Assessment Procedures;
- (e) **Foreign Company** has the meaning given in the Myanmar Companies Act or any replacement law;
- (f)  **Holding Company** in relation to a company, means a company of which the first company is a subsidiary;
- (g) **Myanmar Company** is a company incorporated in Myanmar and registered under the Myanmar Companies Act or any replacement law;
- (h) **Small Company** means a company, other than a public company or Subsidiary of a public company, which satisfies the following conditions:
  - (1) it and its Subsidiaries have no more than 30 employees (or such other number as may be prescribed under the Myanmar Companies Act or any replacement law);
  - (2) Subsidiaries had annual revenue in the prior financial year of less than 50,000,000 Kyats in aggregate (or such other amount as may be prescribed under Myanmar Companies Act or any replacement law);
- (i) **Subsidiary** means:
  - (1) a company (“Company B”) in which another company (“Company A”):
    - (i) controls the composition of the board of the Company B;
    - (ii) is in a position to exercise, or control the exercise of, more than one-half the maximum number of votes that can be exercised at a meeting of Company B;
    - (iii) holds more than one-half of the issued shares of Company B, other than shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital; or
    - (iv) is entitled to receive more than one-half of every dividend paid on shares issued by Company B, other than shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital; or
  - (2) a subsidiary of Company B will also be a subsidiary of Company A;
- (j) **HS Code (Harmonized System Code)** means the Harmonized System or Harmonized Tariff Schedule developed by the World Customs Organization as in use by the Union Customs authorities from time to time;
- (k) **Investment Monitoring Division** means the division formed within the Commission Office;

- (l) **Investment Screening Application** means an application submitted to the Commission by the Investor who is desirous to obtain non-binding guidance according to rule 28;
- (m) **Investor Assistance Committee** means the committee formed under rule 165;
- (n) **Prohibited Investment Activities** means an Investment of the kind referred to under section 41 of the Law;
- (o) **Promoted Sectors** means the sectors set out in the notification issued by the Commission in accordance with section 43 of the Law from time to time, including a list of promoted business activities;
- (p) **State or Regional Committee** means a State or Regional Investment Committee established with the approval of the Commission according to rule 151;
- (q) **State or Regional Committee Office** means the state or regional office of the Directorate of Investment and Company Administration which is responsible for carrying out the administrative activities of the relevant State or Regional Committee;
- (r) **Proposal Assessment Team** means the assessment working group established by the Commission under rule 149 in order to support the screening of Proposals;
- (s) **Related Body Corporate of a company** means:
  - (1) a holding company of the company;
  - (2) a Subsidiary of the company; or
  - (3) a Subsidiary of a holding company of the company;
- (t) **Restricted Investment Activities** means an Investment of the kind referred to under section 43 of the Law and as may be notified by the Commission from time to time;
- (u) **Raw materials** mean 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. Raw materials also include unprocessed or natural or ready-to-be-used raw materials.
- (v) **Transition Period** means the period of 24 months commencing on the date that these Rules take effect; and
- (w) **Working Day** means any day (other than a Saturday, Sunday or a public holiday) when the Commission Office is open.
- (x) **Application Fee** means any fees payable by the Investor when submitting the Proposal, Endorsement Application or Application for Land Rights Authorization or Tax Incentives to the Commission or State or Regional Committee;
- (y) **Investment Construction Period or Investment Preparatory Period** means the time period approved by the Commission to implement, extend or prepare the proposed Investment;

## **Chapter II**

### **Types of Investment**

#### ***Investments where a Permit is required***

3. For the purpose of section 36(a) of the Law, an Investment is taken to be strategic to the Union if:
  - (a) it is made in the technology (information, communication, medical, bio or similar technologies), transport infrastructure, energy infrastructure, building urban development infrastructure and new cities, extractive/natural resources or media sectors [and has an expected Investment value exceeding \$[20] million];
  - (b) it is made pursuant to the grant of a concession, agreement or similar authorisation by an Authority [and has an expected Investment value exceeding \$[20] million];
  - (c) it is made in a border region or conflict affected area by Foreign Investors or in case of Myanmar Citizen Investors and has an expected Investment value exceeding \$[1] million;
  - (d) it will be conducted across the national border by Foreign Investors or in case of Myanmar Citizen Investors and has an expected Investment value exceeding \$[1] million;
  - (e) it will be conducted across the States or Regions;
  - (f) it is made for primarily agriculture related purposes and includes rights to occupy or use more than 1000 acres of land; or
  - (g) it is made for primarily non-agricultural related purposes and includes rights to occupy or use 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 purpose of section 36(c) of the Law, an Investment is taken to have a large potential impact on the environment and the local community if:
  - (a) it has been or is likely to be classified as an EIA Type Project;
  - (b) the Investment is located under a designated protected or reserved area or major biodiversity area under the laws in force including the Environmental Conservation Law or areas selected and specified to support the eco system and cultural and natural heritage, cultural commemoration and unspoilt natural areas; or
  - (c) it includes rights to occupy or use land which:
    - (1) has been or is likely to be acquired through expropriation, 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;

- (2) 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;
  - (3) comprises an area of more than 100 acres and which is the subject of a pre-existing bona fide claim or dispute by a person regarding rights to occupy or use such land in a way which would conflict with the proposed Investment; or
  - (4) would otherwise adversely impact the legal right of at least 100 individuals occupying such land to continue to occupy such land.
6. For the purpose of section 36(d) of the Law, an Investment is taken to use state-owned land and buildings if an Authority has the land, building or relevant land rights and is authorised to transfer or deal in such land, building or rights in the capacity of an owner or occupier. It does not include land use rights arising from the grant, alteration or other administration of land rights pursuant to a statutory land administration process within the responsibility of the Authority.
7. The Investor is not required to apply for a Permit under section 36(d) of the Law if:
  - (a) the Investor is leasing or licensing the land or building for a term of 5 years or less; or
  - (b) the Investor sub-leases or licences such state-owned land or buildings from a person who:
    - (1) has previously obtained the right to use the state-owned land or buildings from an Authority in accordance with the laws of the Union (including this Law); and
    - (2) is authorised to sub-lease or sub-licence the state-owned land or buildings in accordance with the rights granted from the Authority.
8. The Investor who sub-leases land and buildings according to section 7 (b) shall use them in a manner permitted under the lease or agreement by which the land rights were granted by the Authority.
9. Any Investor who was not required to obtain a Permit when initially making its Investment who subsequently meets the requirements to obtain the Permit due to a change in its Investment must submit a Proposal and obtain a Permit prior to making such changes.
10. Any reference in rules 3, 4 and 5 to monetary amounts, land areas or numbers of affected individuals will be taken to mean an aggregate amount when looking at the Investment, and any business related to the operation of this Investment, of the Investor and its Associates as a whole.
11. Nothing in these rules limits the Commission from prescribing other forms of Investment which require the Investor to submit a Proposal and acquire a Permit, including under section 36(e) of the Law or the circumstances in which a Proposal will be submitted to the Pyidaungsu Hluttaw for approval under section 46 of the Law and other criteria or conditions which may apply to the assessment of a Proposal or grant of a Permit, including determining a minimum cash investment that must be made as a proportion of the total investment amount.

***Prohibited Investment Activities***

12. With the approval of the Government, the Commission from time to time may issue notifications of Prohibited Investments under section 41 of the Law.

13. Without limiting the application of any other law, an Investment which is not subject to a notification referred to in rule 12 will not be considered to be a Prohibited Investment under the Law.
14. Any person may not carry out an investment which is a Prohibited Investment.
15. For the purpose of section 41(a) of the Law, hazardous and poisonous waste means all substances listed as being prohibited under the laws in force as prohibited from being imported, exported, stored, traded, manufactured or otherwise produced within the Union. The production or use of such substances in connection with an Investment is prohibited, subject to any express statutory exception or dispensation or approval under the laws.
16. The Commission:
  - (a) may request information from any Investor whom it believes may be engaging in a Prohibited Investment or related activity;
  - (b) may order the suspension or cessation of any Investment if it believes that a Prohibited Investment has occurred; and
  - (c) shall revoke the Permit or Endorsement if it finds out that a Prohibited Investment is carried out according to the inspection results.

***Restricted Investment Activities***

17. With the approval of the Government the Commission from time to time may, according to section 43 of the Law, issue notifications of Restricted Investments under section 42 of the Law and amend these under section 44 of the Law. Any person making an Investment which is a Restricted Investment must do so in accordance with the Law and other applicable laws.
18. Section 45 of the Law does not limit the matters which the Commission may discuss when considering an amendment to a notification referred to in rule 17, nor require any particular form of consultation.
19. With limiting the application of any other law, an Investment which is not subject to a notification referred to in rule 17 will not be considered to be a Restricted Investment under the Law.
20. Investment activities allowed to carry out only by the Union specified under section 42 (a) of the Law may be carried out by the contract executed between the Authority and Investor and the Investor will involve in the Investment according to the extent of the contract.
21. Investment activities specified under section 42(b) of the Law may be carried out by Myanmar Citizen Investors.
22. For the purpose of section 42(c) of the Law, subject to any express exception in the relevant notification, the minimum direct shareholding or interest of a Myanmar Citizen Investor in the joint venture is 20%.

***Restricted Investment Notice***

23. An Investor proposing to make a Restricted Investment under section 42 of the Law must notify the Commission Office or State or Regional Committee Office of its Investment.

24. The notice under rule 23 must be submitted to the Commission Office or State or Regional Committee Office within 3 months from the commencement of implementation of the Investment.
25. Rule 23 does not apply to a Small Company or to an Investor who is submitting a Proposal or Endorsement application in respect of the Investment.

### **Chapter III**

#### **Promoted Investment Sectors**

26. With the approval of the Government, the Commission from time to time may issue notifications of Promoted Investment Sectors and amend these.
27. Without limiting any other power or rule, the Commission may prescribe minimum investment criteria to be satisfied before an Investment is eligible to receive a Tax Incentive and may prescribe a maximum value of Tax Incentives that may be granted to any Investment, Promoted Sector or generally in any period. The eligibility criteria could include a minimum cash investment that must be made as a proportion of the total investment amount.

### **Chapter IV**

#### **Investment Screening Applications and Guidance Issuance**

28. An Investor may submit an Investment Screening application to the Commission for non-binding guidance on whether its proposed Investment is of the kind:
  - (a) Investment activities which required to submit a proposal section 36 of the Law;
  - (b) Investment activities likely to be submitted to the Pyidaungsu Hluttaw for approval under section 46 of the Law prior to the issue of the Permit;
  - (c) Restricted investment activities under section 42 of the Law and any related notification;
  - (d) Investment activities included in Promoted Investment Sectors; or
  - (e) Prohibited Investment Activities under section 41 of the Law.
29. In the Investment Screening Application, the Investor must:
  - (a) fully disclose the nature of the Investment;
  - (b) disclose all information which a reasonable person would consider material to the assessment of the Commission; and
  - (c) did not mislead the Commission or act fraudulently or wilfully conceal any information.
30. Once the Investment Screening application has been submitted and the correct application fee paid, it shall be assessed by the Commission.
31. The Commission:
  - (a) shall assess a complete Investment Screening application within maximum [10] Working Days; and

- (b) may extend the assessment period if the Commission requires additional information from the Investor.
- 32. The Commission shall issue the non-binding guidance after screening the Investment Screening application within the specified period.
- 33. The Investment Screening guidance issued under rule 32 shall be considered as a guidance for the continuation of the Investment according to the Law and will not express a likelihood of an Approval being granted.
- 34. Investment Screening application will lapse if information requested by the Commission is not provided by the Investor within 10 Working Days from the date that it was requested, or such extended timeframe as may be approved by the Commission.
- 35. If the Commission wants to change any information prescribed under rule 29, it may determine at any time the guidance under rule 32 should be amended. It may inform the Investor of such change.

## **Chapter V**

### **Submission for Investment**

- 36. Every Submission must:
  - (a) be in writing;
  - (b) be in Myanmar language or in both Myanmar and English language;
  - (c) where it is a Proposal, include a summary of the proposed Investment in Myanmar language or both in Myanmar and English language;
  - (d) be signed by an applicant;
  - (e) be completed on the prescribed form where applicable;
  - (f) contain the information as specified by the Commission;
  - (g) contain information which is true and complete in all respects and not misleading;
  - (h) be lodged with the Commission Office or relevant State or Regional Committee Office; and
  - (i) be lodged with the relevant Submission fee.
- 37. The Investor must submit the following information to the Commission after obtaining the Permit or Endorsement, and the Commission Office shall submit the copy of such information to the Central Bank of Myanmar:
  - (a) in case where offshore loan is taken out, the loan amount and the repayment schedule including the sum of principal and interest and the timeline; and
  - (b) the receiving bank of capital from abroad and offshore loan and the banking channel for remittance and settlement.



38. A summary of proposed Investment, prepared in accordance with rule 36 (c) shall include information on:
- (a) the Investor, and any other person holding a significant direct or indirect interest in the Investment;
  - (b) the principal location or locations of the Investment;
  - (c) a description of the sector in which the Investment is to be made and the activities and operations to be conducted;
  - (d) the proposed amount of the Investment;
  - (e) a description of the plan for the implementation of the Investment (including expected timetable);
  - (f) the number of employees to be appointed and export earnings from Investment; and
  - (g) such other information as prescribed by the Commission from time to time.
39. If an Investor has not yet been legally established, the party responsible for establishing the Investor may submit the Application on behalf of the Investor. The establishment of the Investor will be a condition of being issued the Approval and will not alter any of the obligations of the Investor under the Law.
40. Without limiting any of its other powers, the Commission may consult with any Authority in considering a Submission, and in relation to any Application may consult with and obtain information which it considers relevant to its determination from other stakeholders and persons affected by the determination. The Commission may, at its sole discretion, decide whether or not to consider such information.

## **Chapter VI**

### **Proposal Submission and Assessment**

41. (a) Subject to sub-section (b), an Investor must submit a Proposal to the Commission if the Investment requires a Permit under section 36 of the Law and make investment only after obtaining the Permit.
- (b) If an Investor makes Investment in other Investor or business entity that holds the Permit, it shall not require to obtain the Permit according to sub-section (a) except for any Investment covered by rule 237.
- (c) The Investor must deposit the application fees for Proposal determined by the Commission.
42. The Investor who has submitted the Proposal to the Commission according to rule 41 must make Investment only after obtaining the Permit and comply with all conditions of the Permit.
43. When submitting the Proposal, the following persons must apply:
- (a) the Investor;
  - (b) the authorized representative of the Investor; or

- (c) a Subsidiary involved in the Investment.
44. The Proposal shall be submitted via the Ministry for any Investment subject to the Permit under section 36 of the Law if the governmental department or governmental organisation:
- (a) holds a significant ownership interest in the Investor;
  - (b) has granted or intends to grant the Investor a concession which forms the basis of the Investment; or
  - (c) is otherwise required or authorised by law to do so.
45. The Commission will, after screening the Proposal, publish a summary of the Proposal within 10 Working Days after the date of receipt for public information before issuing the Permit.
46. A Land Rights Authorisation and / or Tax Incentive application may be submitted concurrently with the Proposal.

***Proposal Assessment Procedure***

47. The Commission Office shall screen a Proposal for eligibility and completeness at the Commission Office (or other place designated by the Commission). If determined that the Proposal is eligible and complete it will be accepted and the Proposal shall undergo substantive assessment by the Proposal Assessment Team and then be submitted to the Commission's meeting.
48. Within [15] Working Days of receipt according to rule 47 the Commission may reject the Proposal if it is considered to be incomplete. If a Proposal is rejected the Commission will give the Investor notice of the rejection and an explanation of the grounds of rejection within a further [5] Working Days. If the Proposal is not rejected it will be deemed to be accepted.
49. If the Proposal is accepted, the Commission will screen it within 60 days from the date of acceptance and, if it approves, it will issue the Permit within 10 Working Days. The copy of the Permit shall be delivered to the relevant Union Ministries and State and Regional Authorities.
50. The Commission may grant the Permit to the Investor or its Subsidiary.
51. Without limiting any other rules, the issuing of a Permit or the Approval of a Tax Incentive may be:
- (a) granted in respect of a proposed or specified Investment;
  - (b) granted in respect of types of investment activities;
  - (c) granted subject to the payment of a bond;
  - (d) granted for a specified duration; or
  - (e) granted in whole or in part.
52. The time period for the assessment of the Proposal under rule 49 can be suspended if:
- (a) the Commission requires additional information from the Investor or another party to make its assessment and determination on the Permit and any related Application; or

- (b) the Proposal is one which is to be referred to the Pyidaungsu Hluttaw for approval under section 46 of the Law.
53. The time period may be suspended more than once under this rule and the Investor will be notified of the suspension.
54. The time period will resume once the additional information is received according to rule 57 or once the decision of the Pyidaungsu Hluttaw has been communicated to the Commission.
55. The time period for the assessment of the Proposal under rule 49 may be extended if the Secretary of the Commission determines that the complexity or novelty of the Proposal or other circumstances mean that it is beneficial to the interests of the Union to make an extension. The time period may be extended more than once under this rule and the Investor will be notified of the extension.
56. The Commission may require that an Investor or its authorised representative attend meetings of the Proposal Assessment Team or the Commission at which the Proposal is being considered. If required, experts from government departments and entities relevant to the nature of the Investment will be invited to attend.
57. The Commission may require the Investor to provide more information relevant to the Proposal at any stage of the process, including prior to acceptance for substantive consideration or before submitting the Proposal to the Commission for review at the meeting.
58. The Investor must provide more information requested by the Commission within [20] Working Days from the date that it was requested subject to rule 57, or such extended timeframe as may be approved by the Commission.
59. The Commission can reject the Proposal if the Investor failed to provide more information within the timeline prescribed under rule 58.
60. If the Proposal lapses an Investor who still wishes to make the Investment will need to re-submit the Proposal and pay the correct application fee.
61. The Commission will consult with other Authorities as necessary or desirable in the conduct of the assessment of a Proposal, and all such Authorities shall be required to make relevant personnel and other resources available. Where the Investment may be subject to the Law on the Rights of Protection of Ethnic Nationalities 2015, the Commission will consider any specific consultations that may be required with the relevant State or Regional Government or other stakeholders as part of the assessment process or in connection with any conditions to be included in the Permit.
62. The Commission may reject a Proposal at any time if it is not considered to be in compliance with law or is otherwise ineligible for Approval.
63. The Commission may issue further guidelines on the Permit application and assessment procedure.

***Proposal Assessment Criteria***

64. The Commission must assess every Proposal and determine if it is beneficial to the interests of the Union. In making its assessment the Commission will have regard to the objectives, principles, rights and responsibilities in the Law. It shall also consider whether the Investor and/or the Proposal satisfies the following criteria:

- (a) the Investor is acting, and the Investment will be made, in accordance with the laws of the Union;
  - (b) the Investment is one for which a Permit is required;
  - (c) the Proposal is in accordance with the Law;
  - (d) the Investor has demonstrated a commitment to carry out the Investment in a responsible and sustainable manner, including by, as relevant, limiting any potentially adverse environmental and social impacts; In the commitment, it includes without limiting to environmental conservation actions, compliance with environmental conservation policies, human rights and application of effective technology for natural resources and practices of waste management;
  - (e) the Investor or Holding Company or an Associate involved in the management of the Investment have business experience and acumen relevant to the Investment;
  - (f) the Investor, Associate and Holding Company have demonstrated its financial commitment to the Investment;
  - (g) the Investor, Associate and Holding Company are of good character and business reputation; and
  - (h) the Investment is compatible with national development, security, economic, social and cultural policies, taking into consideration development, security, economic, social and cultural policy objectives announced by the Government or the government of any State or Region affected by the Investment.
65. In assessing the Proposal in accordance with rule 64, the Commission:
- (a) must consider all criteria and determine which of the criteria in rules 64 (a) to (c) are most relevant to the Investor and the Proposal (with the criteria in rules 64 (d) to (h) being mandatory criteria); and
  - (b) must determine whether the mandatory criteria are met and the relevant non-mandatory criteria are substantially met.
66. For the purposes of rule 64 (g), in assessing whether the Investor is of good character and business reputation the Commission may consider (without limitation) whether the Investor or any Associate with an involvement or interest in the Investment has committed an offence or other contravention of the law of the Union or another jurisdiction, including any environmental, labour, tax, anti-bribery and corruption or human rights law.

## **Chapter VII**

### **Endorsement Application**

67. In relation to an Investment that does not meet the criterial under section 36 of the Law, the following applicants can submit the application for an Endorsement to the Commission Office or relevant State or Regional Committee Office:
- (a) the Investor;

- (b) its authorized representative; or
  - (c) a Subsidiary involved in the Investment.
68. The investor;
- (a) The relevant Land Rights Authorisation and / or Tax Incentive application should be submitted concurrently with the Endorsement application.
  - (b) The fee for an Endorsement Application determined by the Commission shall be paid.
69. The application must submit all recommendations, approvals, licences, permits and similar authorisations relevant to the initial implementation of the Investment as required by section 38 of the Law with the Endorsement Application, provided that where such a recommendation or authorisation necessarily follows the implementation of the Investment or relates solely to ongoing operational matters then such authorisation shall be obtained after the submission of the Endorsement Application in the ordinary course.
70. The Endorsement application submitted under rule 68 shall be screened for eligibility and completeness at the Commission Office or the relevant State or Regional Committee Office. If determined that the application is eligible and complete the application for Endorsement shall be submitted for review and determination of the Commission or State or Regional Committee.

***Endorsement Application Assessment Procedure***

71. Within 15 Working Days of receipt of the Endorsement application subject to rule 70, the Commission or relevant State or Regional Committee may reject it if it is considered to be incomplete, ineligible for approval or on other relevant grounds. If an application for an Endorsement is rejected the Commission or relevant State or Regional Committee will give the Investor notice of the rejection and an explanation of the grounds of rejection within a further [5] Working Days. If the Endorsement application is not rejected it will be deemed to be accepted.
72. (a) The Commission screens the Endorsement application within 30 days after the date of acceptance and if it decides to approve it after screening, it shall issue the Endorsement within 10 Working Days from the date of decision;
- (b) If the relevant State or Regional Committee screens the Endorsement application within 30 days after the date of acceptance and if it decides to approve it after screening, it shall issue the Endorsement within 10 Working Days from the date of decision; and
- (c) The Commission or State or Regional Committee shall deliver the copy of Endorsement to the relevant Union Ministries and State and Region Governments.
73. The Commission or relevant State or Regional Committee may grant the Endorsement to the Investor or its Subsidiary.
74. The Commission or relevant State or Regional Committee may require the Investor to provide more information relevant to the Endorsement application at any stage of the process.
75. Endorsement applications will lapse if the information requested from the Investor by the Commission or relevant State or Regional Committee is not provided within [20] Working Days from the date that it was requested, or such extended timeframe as may be approved by the Commission. If the Endorsement application lapses an Investor who wishes to apply for

Land Authorizations or Tax Incentive will need to re-submit the Endorsement application and pay the correct Application Fee.

76. The Commission will consult with other Authorities as necessary or desirable in the conduct of the assessment of an Endorsement application, and all such Authorities shall be required to make relevant personnel and other resources available.
77. The Commission may reject an Endorsement application at any time if it is not considered to be in compliance with law or is otherwise ineligible for approval.
78. The Commission may issue further guidelines on the Endorsement application and 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, rights and responsibilities in the Law and applying the following criteria:
  - (a) the Investor is acting, and the Investment will be made, in accordance with the laws of the Union;
  - (b) the Investment needs and Endorsement according to section 37 of the Law;
  - (c) the application for an Endorsement is in accordance with the Law;
  - (d) the application relates to an Investment as defined by the Law; and
  - (e) the Investor is eligible to receive one or both of the Land Rights Authorisations or Tax Incentives applied for with the Endorsement application.

**Chapter VIII**

**Submitting Tax Incentive Applications and Screening**

80. Any Investor who has been issued a Permit or an Endorsement, or who is in the process of applying for a Permit or Endorsement, in relation to the Investment covered by section 75, 77 and 78 of the Law may submit a Tax Incentive Application.
81. If any Investor who has been issued a Permit or an Endorsement or who is in the process of applying for a Permit or Endorsement who make additional Investment in the Union apply for a Tax Incentive, such Tax Incentive shall only be applicable to such additional Investment.
82. Applications for a Tax Incentive may be submitted together with a Proposal or application for an Endorsement. Applications for a Tax Incentives under section 77 and 78 of the Law may also be submitted subsequently to the Permit or Endorsement Application. The Application must specify precise Tax Incentives applied for.
83. Tax Incentive application comprising the income tax exemption under section 75 (a) of the Law must state the Zone in which the Investor proposes that more than 65% of the value of the Investment will be invested or carried out, calculated in accordance with rule 96 and other relevant information.

84. Without limiting other information which may be required, if an Investor is applying for a Tax Incentive comprising a custom duty exemption under section 77(a) and(d) of the Law, the Investor must provide:
- (a) a list of machinery, equipment, instruments, machinery components, spare parts and construction materials to be imported for the construction and implementation of the Investment. The level of detail regarding these items should reflect the HS Code chapter (four-digit HS Code); and
  - (b) a calculation of the total value of all such imports for which the Tax Incentive comprising a custom duty exemption is being desirous to be applied.

***Tax Incentive Application assessment procedure***

85. Upon receipt of the Tax Incentive application subject to rule 80, if the Commission deems that the application is incomplete or it does not meet the criteria or it is not appropriate due to other situations, it may reject the application within 15 Working Days after the date of acceptance. If the Commission rejects the Tax Incentive application, the Commission Office or relevant State or Regional Committee Office shall notify the Investor within 5 Working Days from the date of rejection together with the grounds of rejection. If the application is not rejected it will be deemed to be accepted.
86. The Commission Office may require the Investor to provide more information relevant to the Tax Incentive Application at any stage of the assessment process. The Investor must provide within [20] Working Days from the date that it was requested, or such extended timeframe as may be approved by the Commission. If the Investor fails to submit the information within such timeline, the Commission may reject the Tax Incentive application.
87. If the Commission decides to approve the Tax Incentive Application after screening it within 30 days after the date of acceptance, it shall issue the Tax Incentive within 10 Working Days after the date of decision. The copy of Tax Incentive shall be delivered to the relevant Union Ministries and relevant State or Regional Governments.
88. The Commission may grant Tax Incentive to the Investor or its Subsidiary.
89. Without limiting any other rule, the issuing of a Permit or the Approval of a Tax Incentive may be:
- (a) granted in respect of a proposed or specified Investment;
  - (b) granted subject to the payment of a bond;
  - (b) granted for a specified duration; or
  - (c) granted in whole or in part.
90. The Commission may issue necessary guidelines for the Tax Incentive application and assessment procedures.

***Tax Incentive assessment criteria***

91. The Commission must assess every Tax Incentive application, and determine if the Investor is eligible for any Tax Incentives applied for, after considering the objectives, principles, rights and responsibilities in the Law and the following criteria:

- (a) the Investor is acting, and the Investment will be made, in accordance with the laws of the Union;
  - (b) the application for Tax Incentives is in accordance with the Law;
  - (c) For income tax exemption, all Investments are made in a Promoted Sector;
  - (d) involves the expenditure of additional funds or application of further capital in the Union of an amount exceeding \$300,000;
  - (e) the Investor holds or is still applying for a Permit or Endorsement in respect of the Investment;
  - (f) in the case of income tax exemption, the Investment is being made in a place designated under a Commission notification as Zone 1, Zone 2 or Zone 3 (or more than one zone);
  - (g) the Investment will assist with the creation of new employment opportunities in the Union and the development of a skilled labour force;
  - (h) the Investment will bring into the Union new or enhanced technology or business skills;
  - (i) the Investment will lead to added market competition, greater efficiency or productivity, or provision of enhanced infrastructure or services, in the Union; and
  - (j) the Investment will increase export receipts for the Union.
92. In assessing the Tax Incentive application the Commission:
- (a) must consider all criteria and determine which of the criteria in rules 91 (f) to (i) are most relevant to the Investor and the Investment (with the criteria in rules 91 (a) to (f) being mandatory criteria);
  - (b) must determine whether the mandatory criteria are met and the relevant non-mandatory criteria are substantially met; and
  - (c) must consider the impact on the State' budget due to the applied tax exemptions and reliefs.
93. (a) The Commission may Approve or refuse some or all of the Tax Incentives applied for by the Investor, and may grant a Tax Incentive in whole or in part subject to conditions.
- (b) If the Commission approves Tax Incentive to the Investor according to section 77 (a) and 77(d) of the Law, it shall notify and approve the Investment Construction Period or Investment Preparatory Period during which Tax Incentive may be applicable.
94. The Commission may refuse to grant a Tax Incentive if the Investor or an Associate has within the previous [3] years discontinued or significantly reduced a prior Investment for which a tax incentive was given under any law or has not complied with applicable tax laws.
95. The Tax Incentive granted will only apply in relation to the portion of the Investment in respect of other Investment activities which have been notified as being eligible for a Tax Incentive, and not to income earned or other actions taken in respect of other activities of the Investor and any Subsidiary in respect of the Investment.
96. Where the Investor makes or undertakes its Investment in more than one Zone,



- (a) the Investment is considered to be made in the Zone in which more than 65% of the value of the Investment is invested or carried out.
  - (b) if more than 65% of the value of the Investment is invested or carried out in:
    - (1) Zone 1 and Zone 2, the Investment is considered to be made in Zone 2;
    - (2) Zone 2 and Zone 3, the Investment is considered to be made in Zone 3; and
    - (3) Zone 1 and Zone 3, the Investment is considered to be made in Zone 3.
97. Tax Incentives comprising customs duty exemptions or relief under section 77(b) of the Law may only be granted if at least 80% of the income expected to be earned from the Investment is in foreign currency from exports, and may be granted on a pro-rata basis based on the percentage of income in excess of this amount expected to be earned from the Investment in foreign currency from exports.
98. Tax Incentives comprising a reimbursement of customs duty under section 77(c) of the Law will be calculated by the Commission on a pro-rata basis of the entire custom duties paid by the Investor based on the proportion of income from the Investment earned in foreign currency from exports. The reimbursement can be applied for at the end of an assessment year for the custom duties paid in the assessment year. The reimbursement may be in the form of a customs duties credit which can be offset against future customs duties to be paid by the Investor.
99. (a) The Commission may grant a Tax Incentive comprising the exemption or relief from income tax if the following additional conditions are met:
- (i) the profits reinvested are from earnings received by the Investor in the assessment year in which the income tax exemption under section 78(a) is being claimed;
  - (ii) the re-investment has occurred in the assessment year following the assessment year in which the income tax exemption under section 78(a) is being claimed; and
  - (iii) all income tax and other taxes due in respect of the assessment year in which the income tax exemption under section 78(a) is being claimed have been duly paid.
- (b) reinvestment is made subject to section 78 (a) of the Law, the payment of operating expenses for capital items is not considered.
- (c) tax exemptions or relief may be granted under section 78(a) to an Investor if it re-invests the profit from the Investment during the Investment Construction Period.
- (d) In considering whether to grant an exemption under section 78(a) the Commission must also have regard to the Investor's compliance with the Law and the conditions of its Permit and/or Tax Incentive Authorisation, including its performance in and impact of any previous reinvestments made with the benefit of an exemption.
- (e) No further exemption or relief may be granted under section 78 (a) of the Law to an Investor if it has failed to make a reinvestment in the relevant years in accordance with its application for and receipt of a previous exemption under section 78(a).
100. The Commission may grant a Tax Incentive to the Investor comprising the right to depreciate its assets at a rate equal to 1.5 times the depreciation rate permitted under the relevant laws of the Union or such other rate as may be notified from time to time.

101. The Commission may grant the Investor a Tax Incentive comprising the right to deduct research and development expenses from its assessable income of maximum 10% under section 78(c) of the Law if:
  - (a) the research and development activity relates solely to the Investment;
  - (b) the research and development is required for or beneficial to the economic development of the Union; and
  - (c) the research and development expenses are recognised as such under the applicable accounting standards in the Union.
102. The Commission may prescribe additional limits or criteria concerning the amount of or procedure for applying or administering the Tax Incentive including the consideration for the right to deduct research and development expenses from assessable income exceeding 10%.

***Other matters relevant to Tax Incentive Applications and Approvals***

103. Where a Tax Incentive comprising the income tax exemption under section 75 (a) of the Law is granted, after three and five years of operation an assessment is to be made of the Zone(s) in which more than 65% of the value of the Investment was made, and if the value of actual Investment in the Zone(s) is different from the way assessed when granting the Tax Incentive, the Commission may amend the Tax Incentive to reflect the Zone in which the actual Investment is made in accordance with the formula in rule 96.

Any re-assessment will be retrospective and if the Investor is found to have received a greater amount of Tax Incentive than it was eligible for based on the re-assessment, it will be deemed to have incurred a tax liability in respect of this amount, which will be payable in its next annual tax assessment. No adjustment will be made if the Investor is found to have received a lesser amount of Tax Incentive than it may have been eligible for based on the re-assessment.
104. Where the Investor increase the volume of Investment or expand the original investment business subject to section 77 (d) of the Law, it shall be deemed that the volume of Investment is expanded only after 80% of the originally proposed investment has been made.
105. The Investor shall import the materials for expansion of the volume of Investment subject to section 77 (d) of the Law within 2 years from the date of exemptions or reliefs. If not, it shall lapse.
106. The import of materials subject to section 77(a) of the Law shall be carried out during the Investment Construction Period or Investment Preparatory Period. If not, the exemptions or reliefs shall be void.
107. The Investment Construction Period or Investment Preparatory Period will come to an end on the commencement date of commercial operation except the cases subject to rule 146(d).
108. Unless prior Approval is granted by the Commission, if the machinery, equipment, instruments, machinery components, spare parts and construction materials covered by the Tax Incentive comprising a customs duty exemption under section 77(a) and(d) are used for any other purpose than the construction or implementation of the Investment, the Investor is required to pay all applicable customs duties which would have been payable but for being granted the Tax Incentive comprising the customs duty exemption. The Commission may impose any administrative penalties prescribed under section 85 of the Law on the Investor.

109. Prior to granting the Tax Incentive comprising a customs duty exemption under section 77(a) and (d) of the Law, the Commission may assess whether the goods imported are to be used in the construction and implementation of the Investment.
110. If a Tax Incentive comprising a custom duty exemption is granted under section 77(b) of the Law and the percentage of income actually earned in foreign currency from exports in an assessment period is less than the expectation stated in the Tax Incentive Application, the customs duty exemption will be reduced to a pro-rata exemption based on the actual earnings from exports in that period, and the Investor will be required to repay any excess customs duties which were incorrectly exempted under the Tax Incentive Approval.
111. If Tax Incentive is granted with the depreciation rate less than the stipulated period under section 78 (b) of the Law, such depreciation rate shall be used starting from the commencement year of commercial operation.
112. If the Investor authorises a person or company to import the materials on behalf for the Investment that holds a Permit or Endorsement and is desirous to enjoy the tax exemptions and reliefs subject to section 77(a) and (d) of the Law, it shall notify the Commission of the name of the relevant company or person for approval.
113. Prior to the Investor being able to benefit from any Tax Incentive under sections 75 and 78 of the Law, the Investor must submit, and the Internal Revenue Department must accept, the tax return for the relevant assessment year.
114. In evaluating a tax return of an Investor benefiting from a Tax Incentive under sections 75 and 78 of the Law the Internal Revenue Department may review whether the Investor is complying with the provisions of the Law relating to the Tax Incentive and any conditions specified in the Tax Incentive granted to the Investor.
115. The Commission may revoke an Approval if in the Commission's reasonable opinion, the Approval has been obtained through fraud or other misleading conduct or the Investment has not been carried out substantially in accordance with the Application. Without limiting the application of other laws, the Investor whose Approval has been revoked must repay all Tax Incentive granted to it.

## **Chapter IX**

### **Land Rights Authorisation Application**

116. Any Investor who has been issued a Permit or an Endorsement, or who is in the process of applying for a Permit or Endorsement, in relation to the Investment may apply for a Land Rights Authorisation.
117. Without limiting other information which may be required, a Land Rights Authorisation application must state:
  - (a) the area, type and location of the land or buildings;
  - (b) information relating to the landlord(s) of the land or buildings;
  - (c) a recommendation letter or similar document or approval from a State or Regional Government or other governmental department and governmental organisation endorsing any proposed change in use of the land to carry out the Investment;

- (d) whether the Investor's proposed use of the land will require any significant alteration of topography or elevation of the land, as contemplated in section 65(f) of the Law;
- (e) the period of the Land Rights Authorisation proposed; and
- (f) land or buildings lease agreement (draft).

***Land Rights Authorisation Application assessment procedure***

118. The Commission:
- (a) may delegate State or Regional Committee to assess Land Rights Authorization applications; and
  - (b) may delegate its power to any officer whose position is at least Director level at the Commission Office or State or Regional Committee formed for such purpose or Commission's officers to assess Land Rights Authorization applications.
119. Upon receipt of the Land Rights Authorization application subject to rule 118, if the Commission or the relevant State or Region Committee deems that the application is incomplete or it does not meet the criteria or it is not appropriate due to other situations, it may reject the application within 15 Working Days after the date of acceptance. If the Land Rights Authorization application has been rejected, the Commission Office or relevant State or Regional Committee Office shall notify the Investor within 5 Working Days from the date of rejection together with the grounds of rejection. If the application is not rejected it will be deemed to be accepted.
120. (a) If the Commission decides to approve the Land Rights Authorization application after screening it within 30 days after the date of acceptance, it shall issue Land Rights Authorization within 10 Working Days from the date of decision;
- (b) If the relevant State or Regional Committee decides to approve the Land Rights Authorization application after screening it within 30 days after the date of acceptance, it shall issue Land Rights Authorization within 10 Working Days from the date of decision; and
- (c) the copy of Land Rights Authorization shall be delivered to the relevant Union Ministries and State or Region Government Authority.
121. The Commission Office and State or Regional Committee Office can request more information in relation to Land Rights Authorization application from the Investor at any stage of the procedure.
122. Land Rights Authorization applications will lapse if the information requested from the Investor under rule 121 is not provided within [20] Working Days from the date that it was requested, or such extended timeframe as may be approved by the Commission. If the application lapses an Investor who wishes to continue making the Investment will need to re-submit the application.
123. The Commission may grant Land Rights Authorization to the Investor or its Subsidiary.
124. The Commission shall keep the assessment, re-assessment and decision made under rule 126 in accordance with Land Rights Authorization assessment criteria.

125. The Commission may issue necessary guidelines for Land Right Authorization application and assessment procedures.

***Land Rights Authorisation assessment criteria***

126. The Commission must assess every application for a Land Rights Authorisation and determine whether to issue a Land Rights Authorisation after considering the objectives, principles, rights and responsibilities in the Law and the following criteria:
  - (a) the Investor is acting, and the Investment will be made, in accordance with the laws of the Union;
  - (b) the application for Land Rights Authorisation is in accordance with the Law;
  - (c) the Investor holds or is to be granted a Permit or Endorsement in respect of the Investment;
  - (d) the land over which the Investor has applied for a Land Rights Authorisation is able to be used for the purposes contemplated in the Investment under applicable laws, whether presently or following the completion of a change of use or similar statutory procedure; and
  - (e) if the Investor's proposed use of the land will or may be likely to require any significant alteration of topography or elevation of the land, whether such alteration is likely to have a material adverse effect on the environment which cannot be reasonably mitigated.
127. In assessing the Land Rights Authorisation application in accordance with rule 126 the Commission must determine whether the criteria are met.
128. The Commission may grant or refuse a Land Rights Authorisation in whole or in part.

***Other matters relevant to Approval of Land Rights Authorisation Applications***

129. Subject to compliance with any other applicable law and any conditions imposed by the Commission, where the Investor has received a Land Rights Authorisation the Investor will be able to enjoy the rights stated in the Land Rights Authorisation. Each relevant Authority will be required to give effect to this rule.
130. Where the subject of the Land Rights Authorization requires the completion of a change of use or similar statutory procedure to allow it to be used as contemplated in the Investment, the Investor shall be able to implement the change of use procedure in accord with the law.
131. Where land for which the Investor is applying for a Land Rights Authorisation is located in a designated zone, such as industrial zone, hotel zone or trading zone, the Commission is not required to obtain any recommendation or approval in order to issue the Land Rights Authorisation.
132. If the type of land which does not locate in a designed zone, does not match with the primary objective of the proposed Investment, the recommendations of the relevant State or Region Authority shall be obtained. The relevant Region or State Authority deems that it is appropriate to carry out the proposed Investment on such land, it may grant the Investor Land Rights Authorization even though the type of land does not match with the primary objective of the proposed Investment. Such grant shall not be regarded as the exemption from the obligations of the relevant laws.

133. Where the land ownership is revealed with regard to the land to be used for Investment, if the land title is not owned by the Investor or the current owner, the Investor can submit the sound ownership documents. The Commission shall accept the submission of such land ownership documents if it reasonably believes that they are true. If the land to be used for Investment is under the process of land grant application, the evidence shall be submitted.
134. The following investors shall not be required to obtain Land Rights Authorization 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. The Investor proposes to sub-lease land or buildings from other Investor who:
  - (a) has been previously authorised to use land and buildings;
  - (b) has complied with the conditions of land rights authorization; and
  - (c) has the right to sub-lease 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 separate Land Rights Authorization. In that case, the Investor must notify the Commission in the prescribed form and after that can lease land or buildings for long term according to section 50 of the Law and must comply with registration obligations and other applicable laws.

## **Chapter X**

### **Matters relating to Permit, Endorsement, Tax Incentive and Land Rights Authorisation**

136. Without limiting any other rule, the Commission may:
  - (a) vary a Permit, Endorsement, Tax Incentive or Land Rights Authorization granted under the Law with the agreement of the Investor;
  - (b) vary or add any conditions of a Permit, Endorsement, Tax Incentive or Land Rights Authorization with the agreement of the Investor; and
  - (c) revoke a condition of a Permit, Endorsement, Tax Incentive or Land Rights Authorization with the agreement of the Investor.
137. An application for a variation of a Permit, Endorsement, Tax Incentive or Land Rights Authorization or a condition of a Permit, Endorsement, Tax Incentive or Land Rights Authorization may be made by the Investor by written notice to the Commission accompanied by the applicable Application Fee.
138. It is a condition of every a Permit, Endorsement, Tax Incentive or Land Rights Authorization, whether or not it is stated in the Permit, Endorsement, Tax Incentive or Land Rights Authorization, that:
  - (a) the information provided by the Investor to the Commission in connection with the Application must be correct;

- (b) the Investor, and each other applicant where relevant, must comply with the representations and plans submitted in support of the Application, unless compliance shall reasonably be excused; and
- (c) the a Permit, Endorsement, Tax Incentive or Land Rights Authorization is granted subject to continuing compliance with all applicable laws.

## **Chapter XI**

### **Criteria for Applicants who Apply for Tax Incentives**

- 139. The Investment Construction Period or Investment Preparatory Period shall commence from the date of approval by the relevant governmental department and governmental organisation to commence construction or preparation for the Investment. The Investor shall submit the copy of such approval to the Commission within 10 Working Days after 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. The Investor shall, if the construction or preparatory activities are not completed within the stipulated Investment Construction Period or Investment Preparatory Period due to various causes, request for extension of the Investment Construction Period or Investment Preparatory Period at least 30 days in advance before the expiry date of stipulated construction period to the Commission with the explanation for the delay. The Commission may, if the Investor requests for extension of Investment Construction Period or Investment Preparatory Period, after necessary inspections, approve the extension of Investment Construction Period or Investment Preparatory Period not longer than 50 percent of the original construction period upon request of the Investor 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 conditions of force majeure such as natural disasters, instabilities, riots, and strikes, a State of emergency, armed opposition, rebellion, and outbreak of war.
- 143. The Investment Construction Period or Investment Preparatory Period shall be stipulated according to the terms and conditions of the contract 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 Investment Construction Period or Investment Preparatory Period is not completed within the original permitted period or extended one. There is no liability to pay for the reimbursement of remedy, compensation or any other rights or financial terms to the Investor due to withdrawal of the Permit.
- 145. If the extension for Investment Construction Period or Investment Preparatory Period is allowed, the Investor shall complete the Investment Construction Period or Investment Preparation Period within such extended period. The commercial operation shall commence 30 days after the end of the Investment Construction Period or Investment Preparation Period and it shall be notified to the Commission.

146. The commencement date of commercial operation of any manufacturing or service business is determined as follows:
- (a) the date specified on the documents used 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 construction period;
  - (b) the date of the income first-derived from the local sales of the manufacturing business, such date shall not exceed 90 days from the date of completion of the construction period;
  - (c) the date which commence of service business, such date shall not exceed 90 days from the date of completion of the construction period; and
  - (d) if the Investment earns income during the Investment Construction Period or 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 the Investor has received a Tax Incentive, the Investor shall retain all accounts, receipts, records, books, other documents, computer records and other trading electronic records shall be kept and maintained for:
- (a) 7 years; or
  - (b) the period required by any other applicable law,
- following the assessment year in which the Investor benefited from the Tax Incentive.

## **Chapter XII**

### **Commission Reporting**

148. The Commission shall annually report the situation of investment businesses to the Pyidaungsu Hluttaw through the Union Government in accordance with the section 24 (g) of the Law. Within 20 Working Days of submitting the annual investment report to the Pyidaungsu Hluttaw the annual investment report in both Myanmar and English must be published by the Commission on its website. The annual investment report shall include the following information:
- (a) investment trends;
  - (b) the principal activities of the Commission, including a summary of the activities of the Investment Monitoring Division, Investor Assistance Committee and One Stop Services;
  - (c) a summary of Investor grievances; and
  - (d) a list of all administrative penalties issued to Investors.



### **Chapter XIII**

#### **Proposal Assessment Team**

149. A Proposal Assessment Team shall be formed by notification to assist the Commission to review Proposals comprising officers from the Ministry or any other Authority.
150. The Secretary or Deputy Director General of Directorate of Investment and Companies Administration shall act as a leader of the Proposal Assessment Team. The Team may issue the guidelines for the efficient operation of the Proposal Assessment Team.

### **Chapter XIV**

#### **State or Regional Committee**

151. The Commission shall form State or Regional Committee with the approval of the Government and will consist of up to 7 members and shall have odd number:
  - (a) the Chief Minister of the State or Region, who will be appointed as the Chairman;
  - (b) the head of the State or Regional Committee Office, who will be appointed as the State or Regional Secretary; and
  - (c) further members appointed by the Chairman of the State or Regional Committee, who shall be suitably qualified persons from State or Regional Ministries or other Authorities, and provided that the State or Regional Committee shall always have an odd number of members.
152. The Commission shall issue the assessment procedures to assess the Investments made in States or Regions.
153. State or Regional Committee shall comply with the Law, rules and procedures issued under rule 152 when assessing Investments in its State or Region.
154. If the Chairman of the State or Regional Committee resigns from their position voluntarily during their tenure, they may resign with approval of the Chairman of the Commission.
155. The duties and powers of the State or Regional Committee are as follows for any Investments with the threshold specified by the Commission by notification:
  - (a) assessing the Proposal according to proposal assessment procedure and recommending whether or not the Proposal should be approved;
  - (b) assessing the Endorsement application according to Endorsement application assessment procedure and recommending whether or not the application should be approved; and
  - (c) monitoring Investments according to laws, rules and regulations after approving the Permit or Endorsement.

156. The Proposal or Endorsement Application shall only be assessed by the Commission in the following conditions:
- (a) investing in more than one State or Region; and
  - (b) investing in the Investment Activities that needs approval from the relevant Ministries out of Restricted Investment Activities specified by notification according to section 42 (d) of the Law and rule 17.
157. The Investor may also submit an Endorsement application to the Commission apart from State or Region Committee for any Investments that can be approved by State or Regional Committees according to rule 155.
158. The Commission:
- (a) may assign duties to a State or Regional Committee in order to assess the Endorsement and Land Rights Authorization applications; and
  - (b) may delegate its powers of assessing Land Rights Authorization applications to any officers whose minimum level is director or State or Regional Committee formed for such purpose or Commission's officers.

## **Chapter XV**

### **Use of third party service providers**

159. Pursuant but without limitation to section 25(j) of the Law, the Commission may engage an independent contractor, advisor or other third party service provider to assist it in performing its duties and functions under the Law and these Rules. This rule does not permit the Commission to delegate any of its powers or authorities to such an independent contractor, advisor or other third party service provider.

## **Chapter XVI**

### **Providing One Stop Service**

160. A One Stop Service will be carried out by comprising the relevant departments to:
- (a) provide guidance to Investors on the implementation of their Investments;
  - (b) accept on behalf of Authorities who have assigned officers to the One Stop Service Centre applications and submissions as may be required under an applicable law;
  - (c) accept requests for information as may be made under section 48(a) of the Law on any measures or decisions taken by any Authority;
  - (d) assist the Investor Assistance Committee to resolve grievances and provide assistance to Investors; and
  - (e) assist the Investment Monitoring Committee.

161. Any application or other submission made for One Stop Service will be considered duly submitted if all the conditions specified in the relevant application or other submission process have been satisfied. The relevant Authority may decide not to accept, or may subsequently reject, any application or other submission:
  - (a) which requires the payment of a fee or the granting of other type of security to the relevant Authority;
  - (b) if the applicable application or submission requirements have not been met; or
  - (c) if officers from the relevant Authority authorised to assess the application or submission have not been appointed.
162. The department that render One Stop Service may request a governmental department or governmental organisation in writing to provide information requested by the Investor subject to rule 160 (c) and the relevant Authority shall respond in writing within [15] Working Days.
163. One Stop Service shall be carried out by officers from the following governmental department and governmental organisation (or any its successor):
  - (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) Fisheries Department ;
  - (g) Department of Agriculture ;
  - (h) Environmental Conservation Department ;
  - (i) Department of Mines;
  - (j) Department of Immigration ;
  - (k) Directorate of Labour;
  - (l) Directorate of Industrial Supervision and Inspection ;
  - (m) Department of Urban and Housing Development ;
  - (n) Department of Hotels and Tourism;
  - (o) Yangon Electric Power Supply Corporation; and
  - (p) Other Departments determined by the Commission from time to time.
164. The Secretary will appoint a Deputy Director General to oversee the operations of the One Stop Service and may issue such other orders and guidance as may be necessary for its efficient operation.

## Chapter XVII

### Investor Assistance Committee

165. Subject to these Rules, Commission shall establish an Investor Assistance Committee pursuant to section 27 of the Law to:
- (a) coordinate with other governmental department and government organisation to promote the efficient implementation of Investments in accordance with applicable laws;
  - (b) receive notices under rule 170;
  - (c) receive Investors' grievances for Investments made under the Commission's Permit;
  - (d) conciliate among the people who made grievances for Investments made under the Commission's Permit, other aggrieved parties, stakeholders and Investors;
  - (e) notify Investment Monitoring Division and the relevant governmental department and governmental organisation for grievances made under sub-section (c); and
  - (f) assist with the establishment and administration of a grievance and dispute resolution mechanism pursuant to sections 25(n), 82 and 83 of the Law.
166. In performing its duties the Investor Assistance Committee is authorised to:
- (a) request such information from the Investor concerning the grievance or dispute as it may consider necessary;
  - (b) the Investor Assistance Committee may suspend or discontinue its involvement in the grievance or dispute pending receipt of such information subject to sub-section (a);
  - (c) request support from the departments that render One Stop Service;
  - (d) consult with any governmental department and governmental organisation following receipt of a Submission from an Investor , including by outlining the nature of the grievance or dispute and suggesting a course of action to ensure the efficient resolution of the matter in accordance with applicable laws;
  - (e) request that officials from the relevant governmental department and governmental organisation to meet with the Investor to seek the efficient resolution of the grievance or dispute;
  - (f) propose that the Chairman to consult with the Minister responsible for the relevant Authority where this may be necessary to efficiently resolve the grievance or dispute, including in cases where proceedings may be threatened under section 83 of the Law; and
  - (g) obtain advice on the matters the subject of the grievance or dispute from the Union Attorney General's Office or third party professional advisor.
167. Prior to the end of the Transition Period the Commission will establish detail procedures for the handling of disputes which may be brought:
- (a) Conducting inquiries under section 55 of the Law and the determination of compensation which may be payable under sections 52 and 53; ~~or~~

- (b) in relation to any other disputes incurred between the Union and Investor or among Investors in connection with an Investment, and all disputing parties shall use due attempts to settle the dispute amicably in accordance with section 83 of the Law.
168. The Government shall not be required to determine any claims brought under chapter XIV pending the establishment of these procedures according to rule 167.
169. In implementing a grievance mechanism pursuant to section 82 of the Law, the Commission may replace the Investor Assistance Committee after establishing another body responsible for the managing of disputes under section 83 of the Law.

## **Chapter XVIII**

### **Investor Disputes**

170. An Investor may submit notice of their grievance or dispute to the Investor Assistance Committee who believes in good faith that:
- (a) a decision of governmental department or governmental organisation in respect of their Investment was incorrectly made;
  - (b) that an application for a permit, licence, registration or approval was incorrectly refused by governmental department or governmental organisation; or
  - (c) that any right, protection or Approval benefiting them under the Law has been frustrated.
171. The notices submitted under rule 170 must be:
- (a) in writing;
  - (b) in Myanmar language or both in Myanmar and English language.
  - (c) signed by the applicant;
  - (d) lodged with the application fees; and
  - (e) attached with the required documents.
172. The Investor Assistance Committee may reject to accept the notice that does not meet the criteria and notify the Investor in that case.

173. In accordance with section 83 of the Law, no court or arbitral proceedings in respect of a dispute in relation to an Investment may be brought by the Investor unless:
- (a) a notice under rule 170 has been provided; and
  - (b) the steps to be taken under these Rules and any applicable notification for the settlement of the dispute amicably.
174. Where a dispute is between Investors, Investors are encouraged to settle their disputes amicably and in accordance with the terms of any agreement between them. If not, they may bring it to the court or arbitral proceedings.

## **Chapter XIX**

### **The Investment Monitoring Division**

175. An Investment Monitoring Division is responsible to:
- (a) receive Submissions for amendments to the Permit, Endorsement, Tax Incentive or Land Rights Authorization;
  - (b) receive Submissions for additional Approvals from an Investor in relation to an existing Permit or Endorsement;
  - (c) receive reports submitted by investor;
  - (d) receive the complaint letters submitted by the local community via the Investor Assistance Committee who have been effected by Investments under the Commission's Permit.
  - (e) check whether the investor follow the Law;
  - (f) arrange and conduct inspections whether the investor carry out its duties pursuant to section 65 of the Law;
  - (g) advise to the Commission regarding any administrative penalties which should be imposed under section 85 of the Law;
  - (h) assist other governmental department and governmental organisations requiring information on Investors; and
  - (i) receive any information that the investor does not follow the Law.
176. The Investment Monitoring Division's role in inspecting Investor and Investment to ensuring that the Investor complies with its obligations under the Law and any Approval that it has received.
177. Applications for amending Approvals and for additional related Approvals must follow the procedures and be subject to the criteria as specified in the Law and these Rules.
178. When recommending to the Commission that an administrative penalty be imposed on an Investor under section 85 of the Law, the Investment Monitoring Division shall provide to the Commission a report on:

- (a) the act or absence of the Investor which constituted the breach of the Law or the conditions of the Approval;
  - (b) the steps taken by the Investor Assistance Committee to investigate the breach of the Law or the conditions of the Approval;
  - (c) whether the Investor has been informed of the breach of the Law or the conditions of the Approval;
  - (d) whether any request has been made to the Investor to remedy the breach of the Law or the conditions of the Approval;
  - (e) whether the Investor has previously breached the Law or the conditions of the Approval and if an administrative penalty was issued;
  - (f) any actions taken by the Investor to remedy the breach of the Law;
  - (g) an explanation that the recommended administrative penalty is proportionate to the breach in the circumstances; and
  - (h) a confirmation whether the administrative penalty is consistent with other administrative penalties issued in similar circumstances.
179. The duties of the Investment Monitoring Division in order to impose administrative penalties by the Commission will not derogate from the powers of any other governmental department and governmental organisation to act in response to a contravention of any applicable law. The relevant governmental department and governmental organisation shall give effect of the Laws of the Union to which it is responsible. The relevant governmental department and governmental organisation can share any information of the Investor with the Commission for regulation and compliance.
180. In assisting governmental department and governmental organisation pursuant to rule 175(h), the Investment Monitoring Division may provide any information available from an Investor or Investment. It may also request additional information from an Investor for this purpose in accordance with rule 175.
181. The Investment Monitoring Division may request support One Stop Service departments including support in carrying out site inspections. The relevant Authority shall provide the necessary information and support.
182. The Investment Monitoring Division may request additional information from the Investor and may carry out site inspections to monitor the Investment.
183. In performing its duties the Investment Monitoring Committee may require an Authority to provide information on any measure or decision in accordance with section 48(a) of the Law. The request for information shall be made in writing to the relevant Authority and the relevant Authority shall respond in writing within [15] Working Days.
184. The Investment Monitoring Division may, by notice in writing, request an Investor to provide such information or certifications as it believes is reasonably necessary for the purpose of:
- (a) monitoring whether compliance with the Law and the conditions of any Approval;

- (b) confirming that the information provided in a Submission, including information contained in any accompanying documents, is correct; and
  - (c) compiling statistical information relating to investment in the Union.
185. Requests for information under rule 184 shall be limited to information it is authorised to request in accordance with the Law and Rules and to the extent to carry out the duties of the Commission. An Investor may not require to disclose unnecessary information, but must promptly submit such information within the time line specified by the Commission.

## **Chapter XX**

### **Investor Responsibilities**

186. The requirement to keep records and information under section 65(h) of the Law relates to financial records and information shall keep under applicable company and tax laws of the Union and in accordance with the standards prescribed by them.
187. The Commission's right to undertake an inspection under section 65(p) of the Law includes a right to inspect records relating to the Investment and to interview any director, manager or employee of the Investor.
188. Reasonable notice of such inspection subject to rule 187 shall be given, which may be immediately prior to an inspection if the Commission reasonably believes that a serious contravention of the Law has occurred.
189. The Investor must, after obtaining the Permit, submit the status of performing environmental and social impact assessment to the Commission during the course of doing business.
190. An Investor to whom section 65(q) of the Law applies shall Submit confirmation of its compliance with the applicable requirements of the Environmental Conservation Law, rules and environmental impact assessment procedures to undertake, obtain and implement an initial environmental examination, assessment, certificate and management plan as those requirements are met. The approval of the Commission for continuation of the Investment shall base on its compliance.
191. It is a condition of every Permit that the Commission's prior Approval is required if a transfer (or series of transfers) of shares or business referred to in section 72 would result in a person who is not a Related Body Corporate of the Investor acquiring:
- (a) majority ownership or control of the Investor; and
  - (b) more than 50% of the assets of the Investor.
192. The proposed transferee under rule 191 shall not carry out other activities except the Investment activities subject to the Permit in relation to the proposed acquisition.
193. An Investor to whom rule 191 applies must seek the Commission's Approval by lodging a Submission containing all relevant information concerning the proposed transaction, including information concerning the proposed transferee's commitment to compliance with the conditions of the Permit and rule 64 (d), (e), (f) and (g).



194. The Commission will give its Approval if it is satisfied that these requirements under rule 193 are met or if it is otherwise satisfied that the transfer is not contrary to the interests of the Union.
195. In considering the Investor's Submission the Commission may consult and share information with any other relevant Authority.
196. An Investor who has been issued a Permit or Tax Incentive Approval must within 3 months of the end of the financial year submit an annual report in the prescribed form to the Commission in the prescribed form which gives details of:
  - (a) its progress in implementing the Investment;
  - (b) any material variations to the Investment as implemented from the description presented in the Application, including, as relevant:
    - (i) the amount of the Investment and any changes in capital invested;
    - (ii) any change in shareholders or parties with an interest in the investor;
    - (iii) the employment performance of the Investment;
    - (iv) the impact of the Investment on the environment and local community; and
    - (v) the land used in the Investment and changes to land or land uses;
  - (c) how the Investor and the Investment are supporting the relevant objectives of the Law, as set out in section 3 of the Law;
  - (d) the Investor's compliance with the conditions of the Approval and any instances of non-compliance, including non-compliance with other applicable laws;
  - (e) the material operating licences, permits and approvals obtained by the Investor since the Approval or date of the previous annual report; and
  - (f) in the case of an Investor with a Permit, how it has demonstrated its commitment to carry out the Investment in a responsible and sustainable manner;
  - (g) in the case of an Investor with a Tax Incentive Approval:
    - (vi) the estimated value of the Tax Incentives that the Investor has claimed or benefited from in the year and a breakdown of these by type of incentive;
    - (vii) any recalculation and reimbursement of Tax Incentives required due to the operation of these Rules or confirmation that no such recalculation and reimbursement is required;
    - (viii) confirmation of the applicable Zone of the Investment if the Investor benefits from an exemption in accordance with section 75 of the Law;
    - (ix) the export earnings of the Investment;
  - (h) the audited financial statements of the Investor; and
  - (i) such other matters as may be prescribed by the Commission.

197. The Investor must, during the operation period under the Permit of the Commission, submit its operating report quarterly in the prescribed form.
198. The Investor must include any sub-lease or mortgage of a Land Rights Authorization or share transfer or business transfer subject to section 72 of the Law in its operating report.
199. A summary of the report submitted under rule 196 must be published by the Investor on its website or the Commission's website within 3 days from the date of submission. If it is published on the Investor's website, the website address shall be notified to the Commission.
200. An Investor who has been issued a Land Rights Authorisation shall:
  - (a) entering into a land or building lease agreement covered by the Land Rights Authorisation, submit details of such to the Commission;
  - (b) extending the term of a land or building lease agreement covered by the Land Rights Authorisation, submit details of such to the Commission; and
  - (c) obtaining an approval of a change of land use covered by the Land Rights Authorisation, submit a copy of the relevant document to the Commission.
201. The Commission may prescribe other periodic or ad hoc reporting requirements as it considers necessary or desirable, any may apply these generally to all Investors or to only certain classes of Investors in relation to Investments in a particular sector or a particular type.
202. The Investor must comply with the conditions of the Permit and other applicable laws when making an Investment.
203. The Investor shall fully assist while negotiating with the Authority for settling the grievances of the local community that have been effected due to Investments.
204. Save as expressly provided in these or any subsequent Rules or notifications, the obligations of the Investor apply only to the extent that they are obligations pursuant to the laws of the Union. These provisions do not seek to derogate from these laws nor impose additional obligations.
205. Sections 69 and 70 of the Law apply to contracts that require the Investor to obtain a Permit or Endorsement before they can be performed, and not contracts which may be entered into in the ordinary course of the development or operation of an Investment.

Contracts to which those sections of the Law apply may be entered into subject to receipt of the Permit, Endorsement or Approval of extension or amendment.
206. If the Investor is desirous to appoint a foreigner as senior management, technician expert or consultant according to section 51 (a) of the Law, it shall submit such foreigner's passport, expertise evidence or degree and profile to the Commission Office for approval.

## **Chapter XXI**

### **Transfer of funds**

207. Save as expressly provided in these or any subsequent Rules or notifications, the obligations of the Investor under sections 57 and sections 59 to 61 of the Law apply only to the extent that they are obligations pursuant to the other applicable laws of the Union. These provisions do not seek to derogate from these laws nor impose additional obligations.

208. The remittance of dividends is also included in the rights enjoyable by Myanmar Citizen Investors for transferring funds according to section 58 of the Law.
209. Without limiting section 59 of the Law, where a Foreign Investor:
- (a) proposes to transfer funds of the type referred to in section 56(c), (e) and (f) of the Law; and
  - (b) has any outstanding tax obligations, or any contingent or disputed obligations, within the Union,
- it must seek the Commission's Approval by lodging a Submission containing all relevant information concerning the proposed transfer, including information concerning the tax obligations and the proposed manner of dealing with these.
210. The Commission will give its Approval if it is satisfied that the transfer is not contrary to the interests of the Union according to rule 209. In considering the Investor's Submission the Commission may consult and share information with any other relevant Authority.
211. The reference to legal permits under section 60 of the Law shall be interpreted to mean any authorisation issued by an Authority which permits the person to earn income or conduct business within the Union.

## **Chapter XXII**

### **Insurance**

212. Every Investor that holds the Permit or Tax Incentives must have taken out the relevant insurance out of the following types of insurance at any insurance business that holds the license in the Union based on the nature of the business:
- (a) Property and Business Interruption Insurance ;
  - (b) Engineering Insurance ;
  - (c) Professional Liability Insurance;
  - (d) Professional Accident Insurance;
  - (e) Marine Insurance; and
  - (f) Workmen Compensation Insurance.
213. This rule does not limit the obligation of the Investor to take out any other insurance policy required under any other applicable law.

## **Chapter XXIII**

### **Determining Service Fees**

214. Pursuant to section 26 of the law the Commission may prescribe fees to be charged to Investors for the performance of relevant functions including Application and fees for the Permit, Endorsement, Tax Incentive and Land Rights Authorization. In connection with this the Commission must ensure that:

- (a) a schedule of all current fees is published in Myanmar and English on a website used by the Commission;
  - (b) a schedule of all current fees is displayed at any prominent places of the Commission Office;
  - (c) no fees are charged other than those listed or provided for in the published schedule of fees;
  - (d) subject to rule 215, fees are charged on a non-discriminatory basis and are not discretionary; and
  - (e) receipts are issued upon the payment of the applicable fee.
215. The Commission may provide differential service fees or relief from services fees based on the type and size of Investment.

## **Chapter XXIV**

### **Administrative penalties**

216. Any administrative penalties imposed under section 85 of the Law must be proportionate to the breach in the circumstances, and shall be consistent with administrative penalties imposed on other Investors in similar circumstances.
217. Prior to imposing any administrative penalty the Commission must:
- (a) consider the report prepared by the Investment Monitoring Committee under rule 178;
  - (b) decide on the proposed administrative penalty;
  - (c) in accordance with section 85(b) of the Law, issue the Investor with a written notice outlining:
    - (i) the act or omission of the Investor which constitutes the breach of the Law or the conditions of the Permit or Endorsement or Tax Incentive or Land Rights Authorization;
    - (ii) the proposed administrative penalty; and
    - (iii) the reasons for this decision;
  - (d) if the Commission reasonably believes that the contravention is capable of remedy by the Investor, include in the notice the steps which the Investor may take to remedy the contravention and a timeframe in which to complete such steps;
  - (e) if the proposed administrative penalty is a temporary suspension under sections 85(a)(ii) or (iii) of the Law, include in the notice the conditions which need to be met for the temporary suspension to be revoked;
  - (f) include in the notice the names of any Associate or other person to whom the Commission intends to extend the administrative penalty because of their role in the contravention or another reason, including any proposed inclusion of the Associate or person on the blacklist referred to in section 85(a)(v) of the Law; and

- (g) provide the Investor with not less than 10 Working Days to respond to the notice and the proposed administrative penalty as required by section 85(b) of the Law, provided that a shorter period may be given where the Commission reasonably believes that more immediate action is required to deal with the effect of the contravention.
- 218. The Investor may lodge a Submission with the Commission in response to the notice issued under rule 217 within the time period set out in the notice setting out their views on the extent of contravention and justification of the proposed administrative penalty, or undertaking to meet the steps set out by the Commission to cure the contravention.
- 219. Following consideration of the Submission made by the Investor under rule 218 or the expiry of the time period set out in the notice if no Submission is made, the Commission will notify the Investor of its final decision to either impose an administrative penalty which may be different to the administrative penalty initially proposed or take no further action.
- 220. The notice referred under rule 219 will state the day on which the penalty will be applied. The Commission shall notify the Investor, any other named party and any relevant Authority once the final decision is received under section 86 (b) of the Law and rule 219 and take the necessary actions in response.
- 221. Any person who has been imposed with the penalty must comply with the terms of the administrative penalty as finally determined.
- 222. The Commission may remove an Investor, Associate or other named person from the blacklist referred to in section 85(a)(v) if the Commission believes it is in the interests of the Union to do so and the Investor, Associate or other named person (as applicable) has demonstrated to the reasonable satisfaction of the Commission that a further contravention and any other significant breach of the Law is unlikely to occur.
- 223. The Commission may recommend to a relevant Authority that it prosecute or take other relevant action in respect of an Investor in accordance with the laws of the Union.

## **Chapter XXV**

### **Transitional and Miscellaneous Provisions**

- 224. In accordance with section 93 of the Law, any permit issued to an Investor under a previous investment law shall remain effective until the permit expires. The Investor shall be entitled to continue carrying out the Investment and enjoy the benefits in accord with the terms of the Permit.
- 225. Notwithstanding that an Investor continues to hold the benefits of incentives in accordance with a permit granted under a previous investment law, to the extent that the Investor wishes to benefit from any additional or discretionary incentives available under this Law, the Investor shall apply for such incentives in accordance with the Law.
- 226. An Investor granted a permit under a previous investment law shall be considered to be holding a Permit for the purposes of the Law and will comply with the provisions of the Law applicable to the maintenance and holding of a Permit.
- 227. Any Investor who at the date of commencement of these Rules:
  - (a) holds an Investment to which section 42 of the Law applies; and

- (b) does not hold a valid authorisation or approval in respect of that Investment (including of the type referred to in section 93 of the Law),
- must during the Transition Period take the necessary steps to ensure compliance with the Law and these Rules; provided that the requirement to send the notice subject to rule 22 for a Restricted Investment must only apply to Foreign Investors.
228. Any monetary amount in USD referred in these Rules shall be calculated according to the exchange rate of the Central Bank of Myanmar incurred at that time.
229. In the exercise of its powers under section 100 of the Law the Commission may update any monetary amount or other quantitative measure expressed in these Rules.
230. Without limiting any applicable law, an Investor making an Investment under this Law may import any equipment, goods or materials relevant to the Investment without requiring any specific Approval from the Commission.
231. Where any licence or other approval is required under an applicable law to proceed with such an import subject to rule 226, the Investor will be entitled to apply to the relevant Authority for and the relevant Authority must issue such a licence if the relevant legal requirements are met.
232. The requirement under section 68 of the Law for an Investor to repay the benefit of relevant tax exemptions or relief related to section 77 (a) or 77 (d) does not apply where the discontinuation of Investments results from either:
- (a) the sale or transfer of the Investment to another Investor who intends to continue the Investment; or
  - (b) the involuntary winding up of the Investor.
233. In connection with section 48(b) of the Law:
- (a) if an Investor reasonably believes that the Commission has made an incorrect decision in respect of an Application due to a failure to apply the decision making criteria set out in these Rules or which otherwise may apply, it may request an explanation in writing to the Chairman or such other person or entity as may be prescribed setting out the grounds for this belief;
  - (b) the request for explanation under sub-section (a) must be made within 15 Working Days after the date of the Commission's decision; and
  - (c) the Chairman or other prescribed person or entity will review the Investor's request for explanation with the cooperation of the Commission and inform the Investor in writing whether it will refer the matter back to the Commission for reconsideration or uphold the terms of the Commission's decision.
234. The Law and these Rules do not apply to Investments made under the Special Economic Zone Law, or to Investors in respect of such Investments. However, if an Investor who has or is enjoying the Tax Incentives under the Permit or Endorsement of the Commission is desirous to move its Investment into the Special Economic Zone, the Tax Incentives that have already been enjoyed by the Investor must be set off.
235. If the Investor or Investment has already enjoyed tax exemptions or reliefs under the Law, it shall not be entitled to enjoy them again under this Law.

236. The duty to obtain a Permit under section 36 of the Law does not apply in respect of an Investment for which the Investor has obtained all required permits, licences and has satisfied all other requirements under the Laws of the Union to commence implementation or operation of their Investment prior to these Rules becoming effective, including a permit under the Foreign Investment Law or Myanmar Citizens Investment Law.
237. Notwithstanding rule 236, if an Investor who has commenced implementation or operation of their Investment prior to these Rules coming into effect makes any changes to their Investment and any such changes considered separately from the original Investment would require the Investor to submit a Proposal, then the Investor shall submit a Proposal to the Commission Office to obtain a Permit prior to making such changes to their Investment.
238. The Proposal or Endorsement application is not required to be submitted to the Commission in case where Myanmar Citizen investment is changed into Foreign investment or vice versa.