



2018 Year Review

The Lao PDR

While the resources sector, specifically hydropower and mining, have been major drivers of economic growth and substantial further investment in these sectors continues, the Lao PDR is moving towards a more diverse economy. Investments in agricultural projects, including forestry, rubber and coffee as well as agro-processing facilities has seen marked growth in the last few years. The retail and wholesale has also been deregulated, allowing for foreign participation in this sector, and there has been a recent focus on the tourism sector as well as significant investment in large infrastructure. Investment continues from dominant neighboring countries, China, Vietnam and Thailand.



2018 has sent a sweep of key legislative changes being passed or promulgated which are relevant to investors including amendments to the Electricity Law, Minerals Law, Social Security Law, Law on Economic Dispute Resolution, and the Land Law, as well as underlying regulations.

New Data and IT Security Standards applicable to Companies: Are You Compliant?

As the Lao PDR continues to regulate and govern the use of information and communication technology in business, companies should undertake an audit of their systems and processes to ensure compliance with recent regulations issued by the Government of Lao PDR.

Over the last 5 years, the Government of the Lao PDR has enacted a slew of technology and data related laws including: (i) the Law on Electronic Transactions (No. 02/NA, 7 December 2012); (ii) Law on Prevention and Combating of Cyber Crime (No. 61/NA, 15 July 2015); (iii) Law on Information and Communication Technology (No. 02/NA, 7 November 2016); and (iv) Law on the Protection of Electronic Data (No. 25/NA, 12 May 2017).

More recently, the Ministry of Post and Telecommunications has issued the Instruction on Computer Security (No. 3623/MPT, 11 December 2017) (“**Instruction**”) under Law on Prevention and Combating of Cyber Crime. The Instruction outlines the minimum standards to be adhered to by businesses on: (i) setting up and protecting networks; (ii) managing and using networks; (iii) maintaining security standards; (iv) coordination and cooperation with the Computer Emergency Prevention and Solution Center in case of emergencies; and (v) monitoring of cyber threats.

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Ministry of Posts and Telecommunications Guidelines Shed Light and Clarity on the Lao PDR’s Data Protection Regime

In May 2017, the National Assembly of the Lao PDR enacted the Law on the Protection of Electronic Data (No. 25/NA, 12 May 2017) (the “**E-Data Protection Law**”). The E-Data Protection Law was officially published in the Official Gazette of the Ministry of Justice on 5 October 2017, bringing the provisions of the E-Data Protection Law into effect from the 20th of October 2017. In August 2018, to clarify the requirements under the E-Data Protection Law, the Ministry of Posts and Telecommunications (the regulating authority under the E-Data Protection Law) issued the Guidelines on the Implementation of the Law on Electronic Data Protection (No. 2126/MoPTC, 8 August 2018) (the “**E-Data Protection Guidelines**”).

[Read more](#)

Minimum Wage Increase

The Prime Minister’s Office has issued a Notification (№ 560/PMO, 20 April 2018) (“**Notification 560**”) increasing the monthly minimum wage in Lao PDR from 900,000 LAK (USD 108) to 1.1 million LAK (USD 132). The increase took effect 1 May 2018, thereby coinciding with International Labor Day celebrations. Per local media and understanding of the discussions leading up to the announcement, the increase responds to an increased cost of living and a need to improve the livelihoods of workers.

‘Minimum wage’ is not defined under Notification 560, however, according to the previous legislation, Instruction on the Amendment of the Minimum Wage of Employees Working in Business Areas (№ 808/MLSW, 9 Feb 2015) (“**Instruction 808**”), ‘minimum wage’ refers to the minimum amount of salary or wages payable to employees, working up to: 26 days per month; 6 days per week; and 8 hours per day, to guarantee a basic standard of living in Lao PDR. The minimum wage excludes any other payments which may be due to employees including: overtime payments; bonuses; welfare payments; incentives; and food, lodging, or transportation allowances (if any). For employees who earn wages based on production, the amount paid to such employees may not be lower than the minimum wage then in force. [Read more](#)

Fintech Recent Developments

The digital finance services ecosystem in the Lao PDR is still at a nascent stage. At present, only (i) mobile “top-ups”; (ii) utility bill payments through a formal bank account or the internet; and (iii) payments /transfers to vendors and bank accounts, are the predominant digital financial services prevalent in the Lao PDR. The use of credit and debit cards, internet banking and point of sale devices is limited to high volume business transactions predominantly in Vientiane and Luang Prabang but in more recent times has flowed over to smaller cities in and around the Lao PDR. Studies and reports to date suggest that despite widespread use of cash for financial transactions, the business community and the people of the Lao PDR are ready for digital financial services provided that it is convenient, cheap and hassle-free.

Fintech Recent Developments Cont'd

Recent Developments:

- The BOL as the Central Bank of the Lao PDR has taken the initiative to create an enabling regulatory framework to permit banks and non-banks to offer digital financial services.
- BCEL released Lao PDR's first mobile banking application in 2015 allowing customers to transfer funds between accounts, pay utility and phone bills, and pay taxes from their mobile phones. More recently in November 2017, BCEL launched another application called OnePay which allows users to pay anyone, anywhere, directly from their account by simply photographing a QR code. Similar initiatives are also currently being undertaken by other licensed commercial banks in the Lao PDR.
- The Government of the Lao PDR has enacted new laws intended on putting in place a suitable framework to better regulate the realm of information and communication technology, electronic data and electronic transactions. These new laws include: (i) Law on Electronic Transactions (No. 02/NA, 7 December 2012); (ii) Law on Prevention and Combating of Cyber Crime (No. 61/NA, 15 July 2015); (iii) Law on Information and Communication Technology (No. 02/NA, 7 November 2016); (iv) the Law on the Protection of Electronic Data (No. 25/NA, 12 May 2017); and (v) the Draft National Payment System Law (which was passed at the last National Assembly meeting in December 2017 and will be in force upon (i) ratification by the President; and (ii) publishing in the Ministry of Justice's Official Gazette.

[Read more](#)

New Representatives Office Regulations

The new decision on the establishment and operation of representative offices came into effect on 20 August 2018 and we set out below some comments on the new regime:

Authorized Activities:

A representative office is permitted to conduct the following limited range of activities:

- Co-ordinate with relevant sectors and organizations at the central and local levels;
- Collect data and undertake feasibility studies for investment in the Lao PDR;
- Co-ordinate with subsidiaries or branches of its parent company;
- Co-ordinate with the public and private sectors in accordance with a memorandum of understanding or agreement signed between its parent company and the Government; and
- Hire Lao and foreign employees, but priority must be given to Lao citizens and only two foreign employees are permitted to be based in the Lao PDR.

Prohibited Activities

A representative office is prohibited under the Representative Office Decision from conducting the following activities:

- Carrying on business or commercial activities which generate income and profits;
- Undertaking advertising and promotion of goods, services or products; and
- Issuing invoices or receipts for income or revenue.

Term

A representative office is limited to an initial four year period, with a license to be issued annually by the Investment Promotion Department (the "IPD"). After the initial four year period, if an additional term is required an application can be made to the One Stop Service Office of the IPD for a further 3 year period, subject to issuance of annual licenses. Renewals for further 3 year periods (subject to the issuance of annual licenses) is possible, subject to approval of the Investment Promotion and Management Committee.

Minimum registered capital

The Representative Office Decision requires a representative office to have a minimum registered capital of USD 50,000. Registered capital must be fully paid within 60 working days from the date of a representative office license.

Amendments to the Lao Minerals Law Promulgated 21 June 2018, Effective 5 July 2018

The amendments to the previous Minerals Law (No. 02/NA, 20 December 2011) passed by the National Assembly in its November 2017 session were promulgated on 21 June 2018 and have been in effect since 5 July 2018.

The amended law (No. 063/NA, 3 November 2017) has key changes which investors should consider when looking to the Lao PDR, notably:

- Government to development create national and provincial mineral development plans;
- Reduction in area authorised for prospecting down to 200km²;
- Removal of the requirement for a concession agreement during the prospecting and exploration stage;
- Mandatory relinquishment during prospecting and exploration;
- New requirements restricting joint ventures during the exploration stage;
- Introduction of an auctioning regime post exploration;
- Removal of requirement for pre-feasibility studies;
- New timeframes for negotiation of mineral development agreement;
- Requirement for a security deposit in the form of a bank guarantee or other financial instrument from a Lao registered bank;
- A government shareholding of up to 25%;
- Opening up of exploitation of large-scale industrial minerals to foreign investors;
- Grandfathering of existing concessions.

LAO PDR TAX REVIEW

Tax Department Clarifies New Excise Tax Rates for 2018

The Tax Department of the Ministry of Finance in the Lao PDR has issued a new regulation No. 169/TD dated 11 January 2018 on implementing new excise tax rates on fuel, alcohol, tobacco and certain entertainment categories like dancing hall, discotheque and karaoke for 2018 in the Lao PDR. [Read more](#)

The new terms for activities are:

Phase	Maximum Initial license period	Extension
Prospecting	2 years	1 year
Exploration	3 years	1 year
Feasibility Study	2 years	1 year
Mining (including mine closure)	20 years	10 years per time

There is still a moratorium on the granting of a new prospecting and exploration licenses/concessions. This suspension will continue until 31 December 2020, with some stated exceptions which are set out in a new Order No. 08/PM issued by the Prime Minister's Office on 2 July 2018.

New Amended Law on VAT

The Amended Law on Value Added Tax Law (No. 48/NA, dated 20 June 2018) ("**Amended Law on VAT**") was posted on the Lao Official Gazette on 4 December 2018 and is effective from 18 December 2018.

[Read more](#)

Draft Decree on Safety at the Workplace

The **draft Decree on Safety at the Workplace** has been going through a review process and is currently waiting to be signed into law by the Prime Minister. The Decree is expected to enter into force in the coming weeks, though a draft has not yet been made publicly available. The amended Law on Social Security has been approved by the National Assembly and is pending publication in the Lao Official Gazette. Once the final law is passed, we will provide an update on any significant changes from the former law.

[Read more](#)

Business Competition Authority Established

The Law on Business Competition (№ 60/NA, 14 July 2015) (“Competition Law”) was passed on 14 July 2015 and came into effect on 9 December 2015. In October 2018 an additional regulation was passed formalizing the establishment of the regulatory authority (the “Competition Authority”).

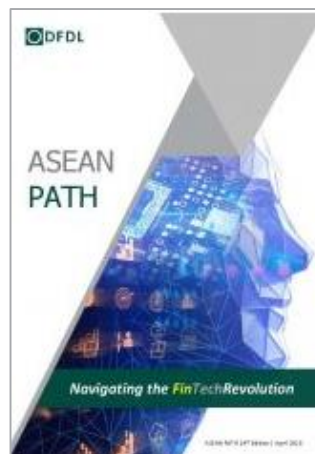
With the establishment of the Competition Authority we expect to see further regulatory developments in this area in 2019. In anticipation of implementation of the Competition Law we set out below some threshold comments on the mergers regime.

The Competition Law prohibits mergers that result in:

- a market share over a level which is yet to be defined;
- an effect on access to the market or that limit technological development; and
- an effect on consumers, other businesses and the development of national socio-economy. [Read more](#)



ASEAN Path #15 GDPR



ASEAN Path #14 FINTECH
REVOLUTION

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