FSWG

MAY 2022

BRITISH CHAMBER OF COMMERCE MYANMAR

“The financial crisis should not become an excuse to raise taxes, which would only undermine the economic growth required to regain our strength.”

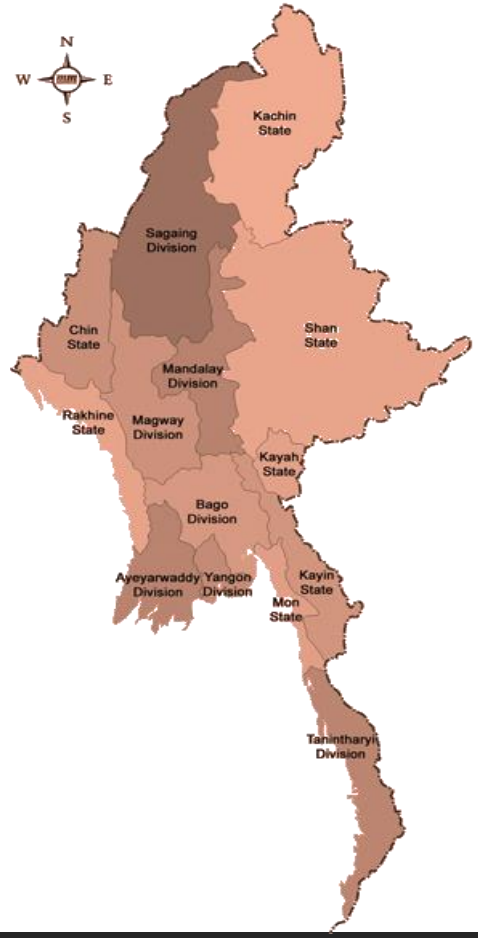
- GEORGE W. BUSH

Overview

Myanmar Political Economy

Key Messages

- Despite the SAC political outlook remaining status-quo, Myanmar's economy is silently recovering with growth rate of 1% in FY '22 (as per World Bank report)
- There are signs that Development Agencies (i.e. WHO, UNICEF, UNDP & NGOs) have resumed their cooperation agreements/MoU with respective line ministries
- The negative reaction/sentiment towards Central Bank of Myanmar (CBM) on 'force dollar conversion' has slowly die-down after Thingyan festival
- Commercial flights have resumed on 18 Apr 2022 with one day quarantine



Population: **55.62bn** (2019)

GDP (nominal): **US$ 76bn** (2021)

GDP (per capita): **US$ 1,366** (2021)

Annual GDP Growth rate: **1%** (2022)

Inflation rate: c.**6.5%** (2022)

Land size: **676,577sq km** (Larger than TH, MY, PH, VN, 2nd largest in ASEAN region)

States & Divisions: **15** (Incl. Nay Pyi Taw)

Nexus between Economic powerhouses: China, India, Thailand

Investment Overview

Approved FDI by Sector

- More than 50% of FDI is concentrated in Energy sector (i.e. Power, Oil & Gas) – though, Oil and gas has been under decline during the NLD government administration
- Majority of Manufacturing sector can be linked to Garment sector – where the country enjoy the European General Scheme of Preference (GSP)
- Real Estate & Construction over the past 3 years have been challenging
- Overall FDI came down during the NLD administration, and further contraction is expected

(USD m)	1988-89 to 2010-11	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018 (6 months)	2018-2019	2019-2020	2020-2021	2021 (Til Feb '22)	Total $	Total %
Power	**14,523**	4,344	364	47	40	360	910	406	93	93	1,027	3,121	21	**25,349**	28%
Oil and Gas	**13,815**	248	309	-	3,220	4,818	-	-	-	10	353	-	-	**22,773**	25%
Manufacturing	**1,739**	32	401	1,824	1,502	1,070	1,180	1,769	707	1,348	1,128	286	139	**13,123**	14%
Transport & Communication	**313**	1	-	1,190	1,679	1,931	3,081	902	314	1,538	300	134	46	**11,429**	13%
Real Estate	**1,056**	-	-	441	781	729	748	1,262	280	211	1,116	8	-	**6,631**	7%
Other Services	**24**	-	15	19	357	236	231	1,005	277	651	470	104	206	**3,594**	4%
Hotel and Tourism	**1,065**	-	300	435	358	288	404	177	10	83	53	81	30	**3,284**	4%
Mining	**2,794**	20	15	33	6	29	-	1	6	-	4	-	-	**2,909**	3%
Livestock & Fisheries	**315**	-	6	96	27	8	97	28	33	157	138	20	19	**944**	1%
Industrial Estate	**193**	-	-	-	-	10	-	34	34	48	273	28	-	**622**	1%
Agriculture	**173**	-	10	20	40	7	-	134	11	19	18	10	5	**447**	0%
Construction	**38**	-	-	-	-	-	-	-	-	-	-	-	65	**103**	0%
Total	36,049	4,644	1,419	4,104	8,011	9,486	6,650	5,718	1,765	4,158	4,881	3,791	531	91,208	100%

Source: DICA

<---- During President Thein Sein (quasi-military) ----> <---- During Daw Aung San Suu Kyi's regime (NLD civilian) ------> <---Coup--->

Investment Overview

Approved FDI by Country

- Foreign companies choose Singapore as HoldCo. destination, which make it has as highest FDI contributor
  - For example, UK company choose Singapore as HoldCo. which DICA will record Singapore as FDI contributor, though it is from UK
- Otherwise, China, Thailand and Hong Kong remain highest FDI contributors mainly in Energy and Real Estate sectors
- Overall FDI came down during the NLD administration, and further contraction is expected

(USD m)	1988-89 to 2010-11	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018 (6 months)	2018-2019	2019-2020	2020-2021	2021 (Til Feb '22)	Total $	Total %
Singapore	**1,804**	0	418	2,300	4,297	4,251	3,821	2,164	724	2,410	1,859	429	278	**24,756**	27%
China	**9,597**	4,346	232	56	511	3,324	483	1,395	305	635	553	176	119	**21,731**	24%
Thailand	**9,568**	0	1	529	166	236	423	124	65	221	79	99	7	**11,519**	13%
Hong Kong	**6,308**	0	85	104	626	225	214	252	68	456	1,422	11	64	**9,835**	11%
UK	**2,660**	100	233	157	851	75	54	211	175	23	425	2,507	0	**7,471**	8%
Korea	**2,917**	26	38	81	300	128	66	254	77	89	94	33	45	**4,148**	5%
Vietnam	**23**	18	329	142	175	5	1,386	21	50	15	58	1	0	**2,224**	2%
Malaysia	**975**	52	4	616	7	257	21	22	7	2	5	2	0	**1,971**	2%
Japan	**212**	4	54	56	86	220	60	384	135	43	123	519	1	**1,897**	2%
The Netherlands	**239**	0	10	0	302	438	5	534	0	32	11	0	4	**1,576**	2%
India	**189**	73	12	26	209	224	0	11	20	5	3	1	1	**774**	1%
USA	**244**	0	0	0	2	3	0	129	56	98	44	0	0	**575**	1%
Others	**1,313**	26	3	37	479	100	116	218	83	129	203	13	13	**2,732**	3%
Total	**36,049**	**4,644**	**1,419**	**4,104**	**8,011**	**9,486**	**6,650**	**5,718**	**1,765**	**4,158**	**4,881**	**3,791**	**531**	**91,208**	**100%**

Source: DICA

<---- During President Thein Sein (quasi-military) ----> <---- During Daw Aung San Suu Kyi's regime (NLD civilian) ------> <---Coup--->

Sino-Myanmar

Relationship after 15 months since the Coup

Sino-Myanmar relationship after 15 months of coup is warming up.

- **Top Priority:** Border Security and China Myanmar Economic Coordinator (CMEC – various infra projects linking Yunnan to Myanmar) remains key
- **Investment:** Given political turmoil and security issue, new project finance remains 'on-hold', however, the discussions have already restarted

Currently, Naypyidaw and Beijing are venturing beyond the conventional paradigm of infrastructure-oriented engagement. In particularly, there are the three strategic areas of cooperation that will influence the reorienting of the CMEC and Sino-Myanmar relations in coming months:

Priority 1 Central Bank	Priority 2 Retail Sector	Priority 3 Vaccine Diplomacy
▪ Recent approval of RMB-MMK direct trading indicated that 'a direct settlement between the Digital RMB and the upcoming CBDC Myanmar kyat' is a strategic projection for Naypyidaw ▪ Cross-platform Marchant acquisition is already initiated ▪ Integration of Cross-Border Interbank Payment System (CIPS)	▪ Chinese Alibaba-owned eCommerce platform shop.com.mm has already captured monopolistic market share and sales has increased during the coup ▪ Development of the 'Super-app' is on the way to consolidate the payment sector	▪ Alongside its successful vaccine diplomacy, Beijing has transferred to Myanmar the technology to produce a Chinese COVID-19 vaccine under the brand name Myancopharm ▪ It opens the way for newly established Chinese pharmaceutical companies to invest in Myanmar's generic drugs market, which is still dominated by imports from India

Local Regulations

Governing Laws for FIs/NBFIs

Existing Laws

- Auditor General of Union Law 2010
- Foreign Exchange Management Law 2012
- Amended Foreign Exchange Management Law 2015
- Central Bank of Myanmar Law 2013
- Anti-Money Laundering Law 2014
- Myanmar Accountancy Council Law 2015
- Financial Institution Law 2016
- Myanmar Companies Law 2017
- Union Tax Law 2021

Recent CBM Directives

FX Force Conversion

The following summary below has been prepared for private sector businesses regarding the additional notifications released last night 5 & 20 Apr 2022.

The following USD inward remittances mentioned below are to be converted into Myanmar Kyat ("MMK") within one (1) working day:

1. Export Income
2. Services fees and other income (for companies and individuals)
3. Investment funds (except if approved investment fund by the FEM committee)
4. Investment Loan as per Sec 29 A of Foreign Exchange Law (to be checked CBM whether it has been approved)
5. Other transfers as per Sec 54 and Sec 55 of Foreign Exchange Regulations (to be checked with CBM whether it has been approved)

Any outward remittances, including the following matters as mentioned below, must request approval from the FEM committee:

1. Import (including advance payment)
2. Services fees and others
3. Dividend/repatriate investment funds
4. Overseas investment
5. Loan/interest
6. Other expenses as per Sec 27 of FEM regulations

The following parties mentioned below are exempted from FX force conversion:

1. MIC approved foreign companies
2. Those companies within the Special Economic Zone (SEZ)
3. Embassies, Diplomats and family members
4. UN entities and its employees (laissez-passer)
5. Foreign employees from Development Agencies (such as Red Cross, ILO, NGOs, TICA, JICA, etc.)
6. Local/National Airlines

- All Authorised Dealer (AD) banks will be advised to sell USD (official rate set by CBM) to those who received approval from the FEM committee and an MMK 3 (three kyat) per dollar service fee
- Lastly, we are still waiting for confirmation from the banks if we can complete the overseas salary transfers
- If we can, there will be additional documentation required from the expats (E.g. proof of residing overseas, reason for transfer, etc.)
- The banks will request approval from the FEM committee on our behalf
- Currently, the FX rate will be as per CBM rate. (i.e. USD 1 = MMK 1850 + MMK 3 per USD service charge).

The questions we are asking the banks:

1. Can expatriates' salaries (from those non-MIC companies, but rather DICA Foreign Companies/Local Companies) be transferred overseas (after paying tax)?
2. As per the CBM website, there are 37 Foreign Bank Rep Offices, 7 Foreign Rep Financial Company and 27 NBFIs. All of them are registered and regulated under Financial Institution Law of 2016 (FIL Chapter 6 – Section 20-30) and Foreign Exchange Management Law of 2016 (FEML amended). Does this mean FX Force Conversion on the company USD account is exempted?
3. Can we legally pay USD to purchase air-ticket as the agents are quoting in USD? If yes, how do we get the USD to make the payment?

FocusCore

Local Regulations

Outward Remittance (as of 22 Apr '22)

This new regulation on FX Force Conversation is impacting differently towards Outward FCY Remittance which can be generally split into two– i) Trade Related Payment and ii) Non Trade Related Payment

<table>
<tr><th>Trade Related Payment</th><th>Non-Trade Related Payment</th></tr>
<tr><td>

- Already clarified by CBM and can process ahead
- Companies needs to follow these steps:
  1. As per new regulation, any one of the Board-of-Director (form Client's company) will have to "physically" go to Ministry of Commerce (MOC) for submission and approval process of import license & FCY purchase
  2. At the MOC office, client needs to buy the submission form, complete the form
  3. Within the form, there is a section where client needs to fill up which banks they will be using to buy FCY and do the outward remittance. You can put up to 3 different banks in the form
  4. Company's BOD will then needs to submit the form "physically" at the MOC office, along with any other relevant import documents (requested by MOC)
  5. Once the approval comes, MOC will inform the company along with the approval letter
  6. With this approval letter, you can go to local banks for the FCY purchase and outward remittance
- Local banks will not sell FCY or do the outward remittance without approval letter from MOC

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- Still unclear and cannot do any outward remittance
- This includes Salary, Vendor/Service Payments, Loans Payments, Intercompany charges or any other payments
  - This is the industrial wise issue
  - All local & foreign banks are currently trying to get the clarity from CBM, but yet to receive definitive answers

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Local Regulations
CBM Regulations since the start of the Coup in Feb '21

CBM announced list of directives/regulations with the aim to control capital flow and stability of MMK since the start of the coup in Feb '21: These include:

- **Apr 2022:** Repatriation of foreign currency from foreign countries and conversion into MMK
- **Mar 2022:** THB/MMK direct settlement allowance for designated banks
- **Feb 2022:** Tightening on the Loan Write-off standards for the FIs
- **Nov 2021:** Capping all cash transactions at MMK 200m, where the remainder will have to be done via online/cheque/bank-settlement
- **Nov 2021:** Tightening on export earning where the exporter will be inspected with the foreign earnings 3 months after the sales of goods
- **Sep 2021:** Change of Financial Year (from Oct-Sep to Apr-Mar)
- **Jun 2021:** NBFI to notify change in branch/offices
- **Mar 2021:** Restriction on cash withdrawal limit and promote usage of digital payment

  The CBM issued a letter urging the public and businesses to use digital payments infrastructure on and from 1 March 2021. The letter lists the following instructions and requires banks and NBFIs to follow them:

  1. Cashless payments – payments by way of digital payment platform/account transfer should be prioritized;
  2. Limit on card/card-less withdrawals – maximum amount of up to MMK 500,000 can be withdrawn per day via ATM / POS (including card less withdrawal);
  3. Limit on cash withdrawals – individuals and companies are allowed to withdraw maximum amounts of up to MMK 2,000,000 and MMK 20,000,000, respectively, per week;
  4. Payment of wages/salaries – the banks will permit withdrawals by companies and government department for payment of wages/salaries of their workers after scrutinizing the balance in the account.

  The Government departments and institutions will prioritize cashless payments via CBM-Net system, mobile banking system of private banks and by cheque.

<u>IMPORTANT:</u>

The regulation coming out in Myanmar are very much similar to what Russian has done since the start of the Russian - Ukraine incidence. These includes:

- Limiting cash withdrawal
- Limiting the FCY usage
- Increasing interest rate to 20% (reduced to 17% in 2nd week of Apr '22)
- FCY force conversion and limiting transactions

Detail of Russian regulation in appendix section

Local Regulations

Implication towards foreign & local businesses

Negative Implications

- Modern day 'nationalisation' of foreign currency & capital control
    - Loss of 10% within one day
- Widening Black Market FX rate vs CBM reference rate
- Loss of investor confidence in short/medium term investments
- Deepening extreme poverty & wiping off middle-income family savings
- Disruptions of Cross-border payment for more than 3 weeks - causing the GDP contractions
- Disruptions of foreign & local companies' operations due to payment issues
- Disruptions of flights & shipping services as the cross-border payments are unable to settle
- Disruptions in daily economic life of ordinary citizens as the salary, and payments are unable to conduct

So called Positive Points

- Short term stabilisation of MMK and local Gold price
- Immediate FCY/revenue gain for the SAC after the force conversion
- Government mechanisms /chain-of-command became more consolidated

IMPORTANT: Daw Yin Yin Nwe is current the Senior Economic Advisor of the Sr General Min Aung Hlaing. She is an Oxford University graduate, who has previously worked in various countries of the UNICEF, and also long-term rivalry of Daw Aung San Suu Kyi.

Transparency International
Corruption Perceptions Index (CPI)

- On 25 Jan ’22, Transparency International published its annual Corruption Perception Index (CPI) 2021 results. The index, which ranks 180 countries and territories by their perceived levels of public sector corruption according to experts and business-people, uses a scale of 0 to 100, where 0 is highly corrupt and 100 is very clean.

- The 2021 Corruption Perceptions Index shows that corruption levels remain at a standstill worldwide with 86% of countries making little to no progress in last 10 years. The global average remains unchang3ed for the tenth year in a row, at just 43 out of a possible 100 points. Despite multiple commitments, 131 countries have made no significant progress against corruption in the last decades. Two-thirds of countries score below 50, indicating that they have serious corruption problems, while 27 countries are at their lowest score ever.

- For Myanmar – CPI score for 2021 is 28/100, with a country ranking of 140/180 (In 2020, the CPI score was 28/100, with a country ranking of 137/180).

    - Its CPI score has remained the same year-on-year, but the country has fallen several places in the country ranking

Score	Country	Rank
88	Denmark	1
85	Singapore	4
…	… UK / HK / USA …	…
48	Malaysia	62
39	Vietnam	87
38	Indonesia	96
35	Thailand	110
33	Philippines	117
30	Laos	128
28	Myanmar	140
26	Bangladesh	147
23	Cambodia	157
…	…	…
11	South Sudan	180

Source: https://www.transparency.org/en/cpi/2021

Appendix

Appendix
Russian regulation (Page 1 of 4)

Decree No. 126, "On Additional Temporary Economic Measures to Ensure Financial Stability of the Russian Federation in the Sphere of Currency Control," of 18 March further narrows the scope of foreign currency transactions in which Russian residents and nonresidents may engage. The restrictions imposed by Decree No. 126 are to supplement and clarify those restrictions that were enacted by the earlier presidential decrees of 28 February and 1 March 2022.
Importantly, Decree No. 126 continues the trend of granting more powers and more flexibility to Russia's Central Bank in regulating the Russian financial market.

THRESHOLDS FOR CERTAIN TRANSACTIONS

Under Decree No. 126, the following transactions are only permitted within the thresholds to be set forth by the Central Bank's board of directors not later than 28 March 2022:

- Any preliminary payment or advance payment by a Russian resident (other than any natural person, any credit institution, or VEB.RF) to a nonresident (whether a natural person or legal entity) under certain types of contracts, the list of which is yet to be identified by the Central Bank's board of directors.
- Debiting a Russian bank account of a non-Russian resident (whether a natural person or legal entity) from an "unfriendly state" toward making any transfer in any currency to a non-Russian resident registered in a country that is not on the list of "unfriendly states" (a "suitable state")
- Debiting a Russian bank account of a non-Russian resident (whether a natural person or legal entity) registered in a suitable state toward making any transfer in any currency to any bank account opened in an "unfriendly state"
- Epayments (without opening bank accounts, including electronic money transfers) by a foreign person (whether a natural person or legal entity) from "unfriendly states" to a non-Russian resident registered in a suitable state or by the latter to any bank or other financial institution in any "unfriendly state"
- Purchase of foreign currency on the Russian market by any legal entity that is a non-Russian resident

Any transaction from the above list that is in excess of the threshold to be set forth by the Central Bank requires approval of the Government Commission for Foreign Investment Control (the Government Commission).

Appendix
Russian regulation (Page 2 of 4)

CENTRAL BANK'S PRIOR CONSENT

Until 31 December 2022, the following transactions require the prior consent of the Central Bank:

- Payment by a Russian resident for any participation interest, share, or unit comprising equity of a nonresident entity or unit fund. According to the clarification made by the Central Bank on 18 March 2022, the consent requirement does not cover listed financial instruments that a Russian resident may buy through a stock exchange (such transactions, however, might require the Government Commission's approval if the counterparty is a non-Russian resident (see our LawFlash)), and only targets equity capital of limited liability companies, other private companies, and unit funds.
- Transfer of funds by a Russian resident to a non-Russian resident toward payment of any investment contribution under a partnership agreement or investment into an unincorporated partnership.

The Central Bank is likely to adopt implementing regulations by 28 March 2022.

Appendix
Russian regulation (Page 3 of 4)

FURTHER ENHANCEMENT TO MANDATORY SALE OF FX PROCEEDS

Decree No. 126 also gives further powers and discretion to the Central Bank in enforcing various currency control measures enacted earlier. In particular, the Central Bank may issue authorizations to certain Russian residents allowing them to:

- Divert from the three-business-day term for mandatory sale of 80% of their foreign currency proceeds and allow for a different term for such sale.
- Exclude certain foreign currency proceeds from the mandatory sale in such amounts that are necessary to service their foreign currency nominated debt with Russian credit institutions (including principal debt, accrued interest, and penalties).

Separately, Russian residents may apply to the Government Commission to change (i.e., lower) the percentage of the foreign currency proceeds subject to mandatory sale. The implementing regulation is expected to be enacted by 28 March 2022.

Furthermore, the Central Bank is expressly authorized to make official clarifications on the enforcement of Decree No. 126. This is not customary under Russian law, as typically authorities would avoid giving any official clarifications on regulatory norms or enforcement practices and the final interpretation would be given by court in case there is a dispute.

Appendix
Russian regulation (Page 4 of 4)

SCRUTINY OVER WIRE TRANSFERS

On 16 March 2022, the Central Bank issued a letter to banks and other financial institutions (regulated institutions) urging them to pay additional attention to transactions of natural persons and legal entities related to transfers of funds and assets by nonresidents from "unfriendly states" abroad that may be attempting to circumvent the imposed restrictions.

According to the letter, any transactions that are not typical for a client or are a change in the structure of the client's spending may be signs of such circumvention. Further, a series of repeated transactions of the same type that was not ordinary for a client earlier may indicate that the client is acquiring goods for "follow-on re-sale," is engaged in transferring funds abroad, or is dealing with cryptocurrencies. Upon identifying any such signs, a regulated institution must perform enhanced checks on the client and consider refusing to process the client’s instruction by reference to the Russian anti-money laundering laws.

Given the above, even pending the adoption of implementing regulations envisaged by Decree No. 126, one may expect that the transactions covered by Decree No. 126 will be subject to heightened scrutiny by Russian regulated institutions.

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