

Unlocking ASEAN Business Opportunities: Key Legal Updates across CLMVT

Presented by:

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Speakers & Agenda



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Discussion Points

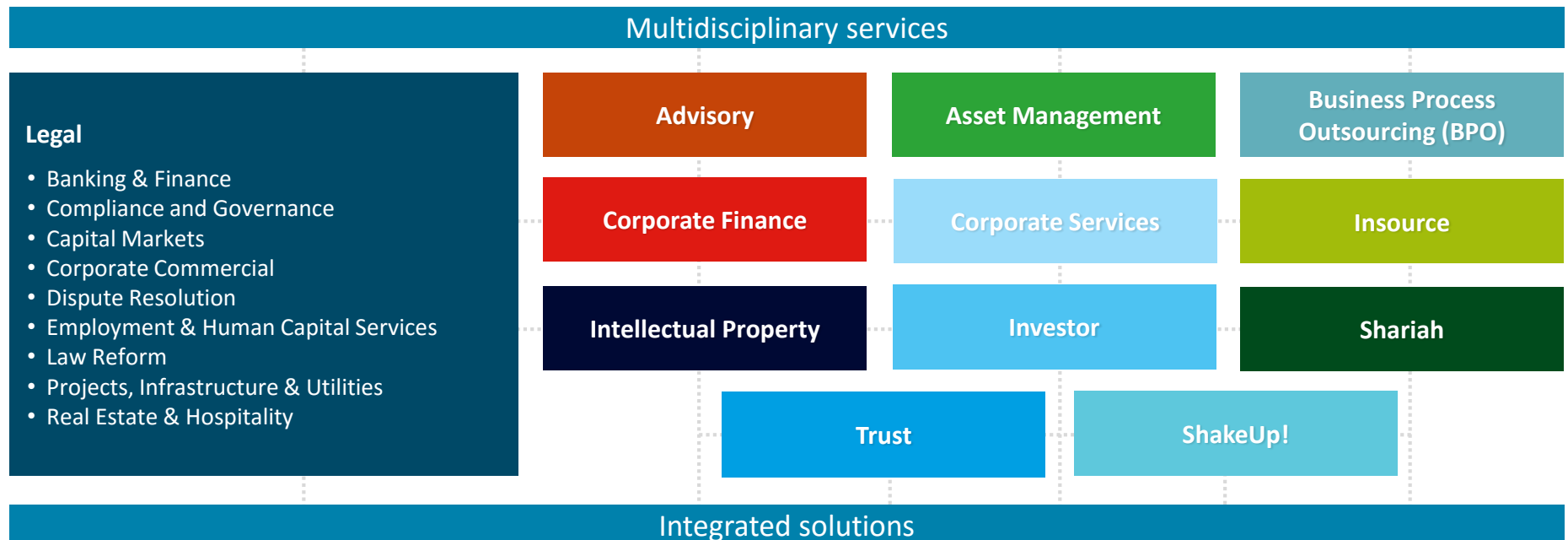
- Investment Incentives
- Foreign Ownership Restrictions
- Operational Considerations
- Dealing with Government & Authorities
- Recent Legal Developments
- Key Success Factors

About ZICO Law •

ASEAN Insiders, by origin and passion

A unique ASEAN integrated services platform

- Origin 1987 > 3 decades as Trusted Business Advisor
- 700 staff
- 400 legal professional & consultants
- 10 countries
- 17 offices in ASEAN
- zico.group | zicolaw.com



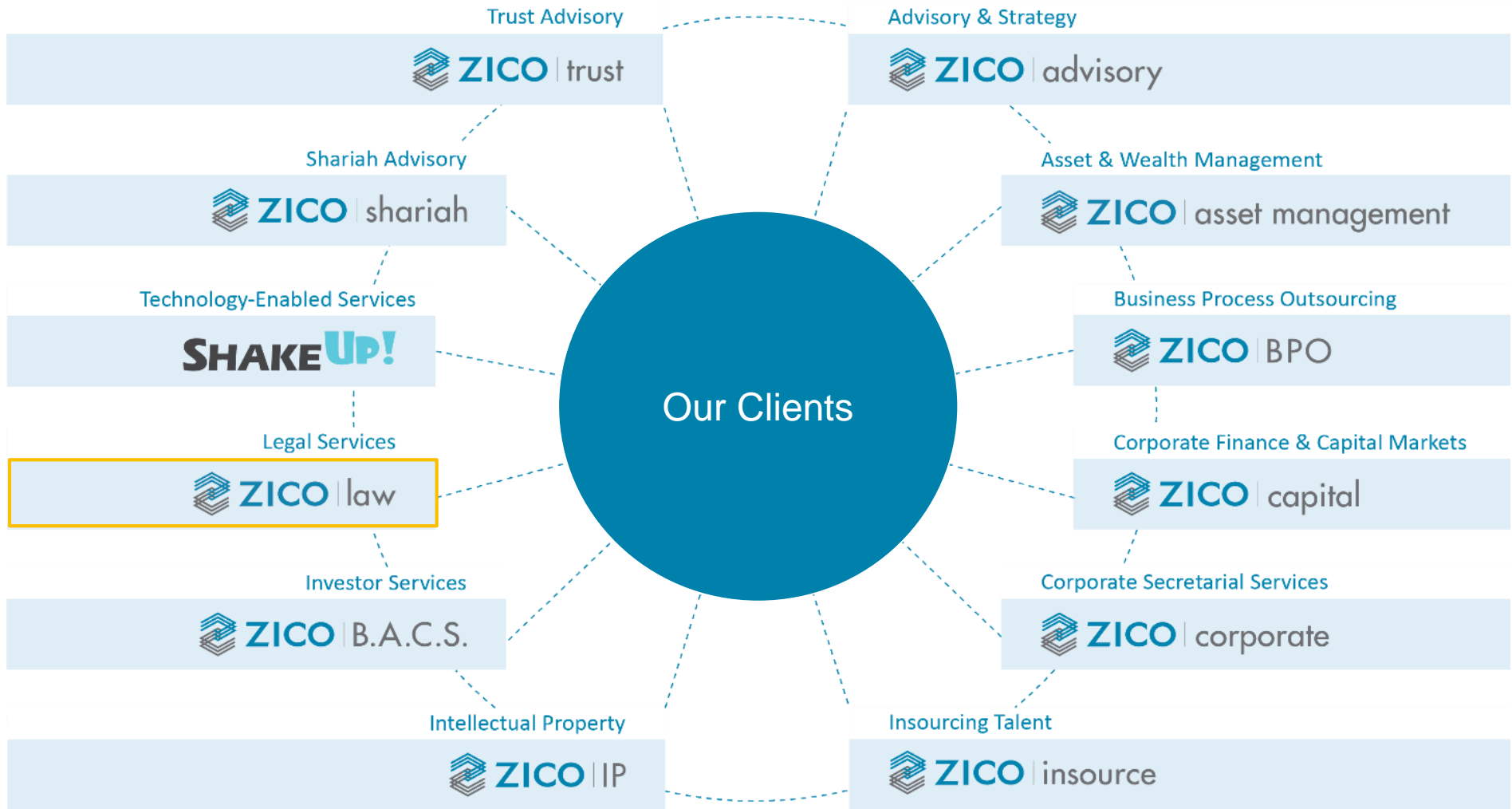
The ZICO Law network



17 offices **10** countries

80 partners **300+** fee earners

● Integration of 'Legal' with other services



Topics for Discussion •

- Investment Incentives
- Foreign Ownership Restrictions
- Operational Considerations
- Dealing with Government & Authorities
- Recent Legal Developments
- Key Success Factors

Investment Incentives and Restrictions



Cambodia

- 100% foreign ownership of companies permitted (except for companies which own land)
- 20% corporate profit tax
- Profit tax exemption for qualified investment project; (Selective): for up to 9 years (up to 6 six years in practice)
- Import duty exemption on set up and production materials
- No restrictions on remitting funds
- Duty free access to Europe
- Special Economic Zones (SEZ) provide for easy facilitation of government licensing, and established infrastructure



Laos

- Promoted investments are eligible for investment incentives such as tax and duty exemptions or reductions
- All incentives are generally welcome except for those which are deemed harmful to national security, environment, public health and culture
- Additional tax incentives for investing in special economic zone
- New investment promotion this year



Myanmar

- Fiscal incentives such as income tax, commercial tax and custom duty exemption, right to deduct capital depreciation from profit, right to carry forward losses to set-off profit etc.
- Non fiscal incentives such as long-term lease, right to transfer foreign currency abroad.
- Recent Myanmar Investment Law 2016 clarifies investments by companies with MIC Permit and companies with MIC Endorsement.



Vietnam

- Wide range of projects eligible for investment incentives
- Reduction in corporate income tax
- Land rental exemption
- Additional incentives for investments in economic zones, industrial zones, export-processing zones, and high tech zones
- Import duty exemption for creation of fixed assets



Thailand

- Foreign Business Act
- Recent removal of some restricted businesses under Foreign Business Act;
- Relaxation of foreign shareholders under BOI, IEAT, AFAS, and Treaty
- Tax holiday under BOI/IEAT/Revenue Department
- Non-tax incentive under BOI ;and IEAT: land ownership , visa ,work permit

Foreign Ownership Restrictions



Cambodia

Foreigners can own 100% of the shares in Cambodian commercial company. There are however, restrictions for foreigners on land ownership. In such a case, 51% of the shares must be held by Cambodia.



Laos

Companies may be wholly owned by foreigners. However, some sectors require equity participation by Lao nationals.



Myanmar

- Foreigners can own 100% of the shares in companies providing services. There are certain negative list of business activities which requires approval.
- Foreign companies cannot engage in trading and distribution activities.
- Foreigners cannot own land in Myanmar but it is possible to obtain long-term leases for MIC Permit and MIC Endorsed companies.



Vietnam

A foreign investor is permitted to own all of the charter capital of an economic organization, except for certain cases in which foreign shareholding is limited (e.g. audiovisual services, electronic games business, theatre, live bands and circus services, services incidental to agriculture, hunting and forestry, container handling services, transportation services, telecommunication services).



Thailand

- Companies may be wholly owned by a foreigner.
- However, Companies with foreign owned equity of 50% or more operating in prescribed sectors will be subject to the provisions of the Foreign Business Act B.E. 2542 ("FBA").

Operational Considerations



Cambodia

- Presence of “non-transparent” practices (may slow up processing)
- Anti-Corruption law outlaws facilitation fees
- Frequent labor & productivity issues (developing union movement)
- Poor infrastructure for manufacturing and commerce (roads, power, government services - although improving)
- Customs procedures are outdated (although current moves to improve with online applications)
- High cost of Port processing for import/export
- Newly revised, enhanced and evolving tax registration and filing system
- Low level of productivity of workers (manufacturing)
- Low skilled middle management
- Need for in house training due to lack of local training
- 20% corporate tax (low tax)
- High cost of electricity



Laos

- Labour skills
- Discretion of authority for approval process
- Language barrier
- Implementation gap



Myanmar

- Employment issues
- Work permit and stay permit
- Trading activities and nominee structure
- Land ownership
- Foreign loans
- Difficulties in dealing with government officials
- Holding foreign bank account



Vietnam

- Employee centric labour requirements
- Role of legal representatives
- Voting thresholds – LLC vs JSC
- Work permits
- Trade union
- Government red tape
- Competition law compliance
- Implementation gap
- Bureaucracy



Thailand

- Illegal nominee structure
- Discretion of authority for approval process
- Employment law
- Minimum wage requirements
- Language Barrier
- Minimum capital injection
- Required D/E ratio

● Dealing with Government & Authorities



Cambodia

- Relatively easy access to government officials
- Government / private sector working groups in 10 strategic sectors:
- Facilitation fees still remain an issue
- The interpretation of rules sometimes may be different in practice.
- Some government officials are not knowledgeable about the law.



Laos

- Government officials welcome investments in promoted sectors which includes but not limited to hydropower, tourism, agriculture, manufacturing, processing
- Reforming legislation to be investor friendly and streamlining the license processing
- Conduct public private sector discussion groups to discuss key issues



Myanmar

- The implementation and execution of laws and rules may differ in practice.
- There are progressive government departments such as the Myanmar Investment Commission (MIC) under the Ministry of Planning & Finance . MIC will assist investors in resolving issues with other government agencies.
- Continuous improvement and upgrading of processes.



Vietnam

- Act within the authority granted;
- Understand the roles and functions of government authority;
- Comply with the specific requirements of the local authorities;
- Obtain all necessary permits/approval



Thailand

- Clear guidelines and regulations
- Timeframe and process for any approval from relevant authorities controlled by the Act on Facilitation for Consideration of Approvals from the Government Agencies, B.E. 2558.

● Significant, recent legal developments



Cambodia

- Civil Code (applied since 2011): concept of hypothec and pledge
- Law on Providing Foreigners with Ownership Rights in Private Units of Co-Owned Buildings: granting ownership of condominium to foreigners
- strict tax registration for companies
- Online registration of companies
- Enforcement of work permits



Laos

- Law on investment promotion has been approved by the National Assembly with the promulgated law to be issued soon
- Tax Law and Labor has been amended to address key issues
- Working on having a Civil Code



Myanmar

- Myanmar Investment Law 2016 (“MIL 2016”) enacted and in force since October 2016.
- The supporting rules to the MIL 2016 have been released on 30 March 2017 which clarify the MIL 2016.
- Clear guidelines and liberalization of Myanmar’s investment law which has been a priority across the political spectrum since the change to the civilian government (NLD).



Vietnam

- Reduction in corporate income tax
- Foreign ownership of residential houses
- Reduction in conditional & prohibited business lines
- Simplified procedures for M&A transactions



Thailand

- Relaxation of foreign ownership ratio for ASEAN investors
- Facilitating the company to file financial statement by electronic filing system
- Banking and Insurance businesses proposed by the Department of Business Development to be removed from the negative lists of the Foreign Business Act
- The Business Collateral Act B.E. 2558.

● Key Success Factors



Cambodia

- No restrictions of foreign investment in any sector
- 100% foreign owned businesses
- No restrictions on remitting funds in and out of country
- Relatively low wages
- Easy company set up processes
- Stable government
- Dollarized economy
- 100% foreign owned investments.
- Low capital requirements
- Young population
- Increasing middle class
- Easy work permit and visa requirements
- Strong GDP growth (7%)
- Untapped resources (particularly agriculture)



Laos

- Political stability
- Abundant natural resources
- Low labour cost
- Strategic geographic location



Myanmar

- Emerging market
- Low labour cost
- Rich natural resources
- Strategic geographic location



Vietnam

- Political stability
- Abundant low cost labour
- Large domestic market
- Low electricity tariffs
- Free trade agreements
- Proximity to China



Thailand

- Ideal location - easy access and being a hub of ASEAN
- Extensive transportation/Supportive infrastructure/Skilled labour
- Many supporting investment policies and incentives
- No restriction on remitting fund in and out of Thailand
- Act on Facilitation for Consideration of Approvals from the Government Agencies

Question & Answers •

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Thank you! •

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