

## Foreign Business Operations Act of 1999: New Ministerial Regulation No 3, B.E. 2560 (2017): Prescription of Service Businesses Not Subject to Application for Permission in Foreign Business Operations

21 June 2017

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Restricted businesses, under the Foreign Business Operations Act B.E. 2542 (1999) (the “Act”), Section 21 (3), are identified as, “other service businesses except those prescribed in Ministerial Regulations”.

### **History of relaxation:**

In 2016, Ministerial Regulation (No.2) allowed relaxation of restrictions for certain financial services which shall not be required to apply for a foreign business license under the Act. Those financial services and activities include:

- (A) Financial institution business and other businesses under the law governing financial institution business, i.e.
  - (i) commercial banking business, or
  - (ii) service business which is a bank representative office.
- (B) Life insurance business under the Life Assurance Act; and
- (C) Insurance against loss business under the Insurance Against Loss Act

### **New Development:**

Effective from 9 June 2017, extension of exemptions was made effective by Ministerial Regulation (No.3). As a result of the Ministerial Regulation No 3, the following service activities shall no longer require a foreign business license under the Act:

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(A) Financial institution business, businesses relating to, or necessary for financial institution business operation, other businesses of the financial institution, and businesses of companies in a financial business group of a financial institution under the law governing financial institution business:

- (i) Commercial banking business;
- (ii) Service business as bank's representative office;
- (iii) Shariah financial service;
- (iv) Acting as agent of a financial institution;
- (v) Provision of service of acceptance of money deposits with a condition for withdrawing money from the account according to the order of customer, and escrow agent business;
- (vi) Private repurchase transaction business;
- (vii) Acting as agent to accept applications and collect insurance premiums or fees for export insurance service or credit insurance for customers;
- (viii) Undertaking the service relating to a financial business for financial institutions, companies in a financial business group, Bank of Thailand and government agencies;
- (ix) Provision of lease of immovable properties;
- (x) Purchase or taking the transfer of loan account receivables;
- (xi) Cash management service;
- (xii) Service related to preparation of documents relating to customer's businesses;
- (xiii) Service agent for settlement of debts or acceptance of applications;
- (xiv) Provision of hire purchase and leasing

- (B) Asset management business under the law on asset management corporations;
- (C) Service business as a representative office of a foreign juristic person in an international trading business under the regulations of the Office of Prime Minister governing establishment of visa and work permit service center, B.E. 2540;
- (D) Service business as a regional office of a foreign juristic person in an international trading business under the regulations of the Office of Prime Minister governing establishment of visa and work permit service center, B.E. 2540;
- (E) Service business having a government authority under the law governing budgetary procedure as a contractual party; and
- (F) Service business having a state enterprise under the law governing budgetary procedure as a contractual party

If a business is exempted under the above list, it is not required to apply for a foreign business license in compliance with the Act. However, it is important to note that the aforementioned businesses must conform and comply with the standards prescribed in the industry's practice. For example, they must follow the specific law governing their respective industry sector.

In addition, although it is not necessary to apply for and obtain a foreign business license, the exempted businesses must still notify the authorities of the place storing the accounts and the supporting documents needed for making accounting entries in order to obtain its juristic person registration number under the Notification of the Department of Business Development. This is relevant to the Direction Pursuing Accounting Law to be Applied with a Juristic Person Established under Foreign Law but Operating a Business in Thailand Prescribed as the Person Charged with the Accounting Duty, B.E. 2559 (2016).

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This publication is intended to highlight an overview of key issues for ease of understanding, and not for the provision of legal advice. If you have any questions about this publication, please contact your regular contact persons at Mori Hamada & Matsumoto or Chandler MHM Limited, or any of the Key Contacts listed to the right.