



Legal Alert

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Where legal meets business

Update on the Foreign Business Act (FBA) in Thailand: Increased Scrutiny on Thai Nominee Shareholders in 2024

Following our [legal alert](#) dated 28 June 2023, which addressed the investigation and implications of Thai nominee shareholders under the Foreign Business Act B.E. 2542 (“FBA”), this article provides an update on the ongoing investigations by Ministry of Commerce (“MOC”) and Department of Special Investigation (“DSI”) of Ministry of Justice.

MOC, in collaboration with DSI, has significantly ramped up inspections of companies suspected of using Thai nominee shareholders to bypass foreign ownership restrictions. This year, over 26,000 companies have come under scrutiny for potential nominee shareholding violations, marking a staggering 70% increase in inspections compared to the previous year. The focus of these inspections is currently on high-risk sectors, especially **Hotels and resorts, Real estate, Tourism, and Domestic logistics**. In the next phase, this will expand to online platforms, warehouses, logistics, steel trading, and construction sectors.

In a recent operation, MOC and DSI conducted a major crackdown on accounting firms in Phuket and Chiangmai that were allegedly aiding foreigners in the illegal registration of companies. It resulted in the arrest of over 100 foreigners and the seizure of 1.5 billion baht in assets. Investigations are ongoing, with further legal action expected against clients of the implicated firms.

Enhanced investigation techniques

MOC and DSI have refined their criteria for investigating potential nominee shareholding schemes. Traditionally, they have focused on red flags such as companies with dual classes of shares, where foreign shareholders hold more control than Thai shareholders. They also closely examine the sources of funds used by Thai shareholders, looking for any financial backing from foreigners, which is a strong indicator of nominee activity.

As efforts progress, MOC and DSI have broadened their investigations. They are now also looking into **companies held by the same or similar group of Thai shareholders as other companies, but these companies are not part of the same corporate group or affiliates**. This raises suspicion that these Thai shareholders could be employees of accounting or legal firms acting as Thai nominees for foreign clients. Such arrangements are viewed as violations of the FBA, leading to increased scrutiny of these companies.

After MOC or DSI completes an investigation and files the case with the Thai court, if a Thai shareholder is convicted as a Thai nominee assisting foreigners, both the Thai and foreign parties involved face serious consequences under the penalties outlined in the FBA. These consequences can include significant fines, business dissolution, and restrictions on future business activities in Thailand.

Deloitte's observation

We have observed a significant increase in investigations into Thai nominee shareholdings in 2024. Foreign investors planning to establish companies in Thailand should conduct thorough feasibility studies to ensure regulatory compliance. Existing businesses with Thai shareholders should reassess their company's details to avoid scrutiny from MOC and DSI.

Consulting a reputable legal advisor is highly recommended to ensure regulatory compliance and mitigate potential criminal liabilities. Deloitte is pleased to assist should you have any questions or require further guidance from the regulatory advisory and implementation perspectives.

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