

Insurance and reinsurance in Myanmar: overview

by Nwe Oo, and Yuwadee Thean-ngarm, Tilleke & Gibbins

Country Q&A | [Law stated as at 01-Oct-2018](#) | Myanmar

A Q&A guide to insurance and reinsurance in Myanmar*.

The Q&A gives a high level overview of the market trends and regulatory framework in the insurance and reinsurance market; the definitions for a contract of insurance and a contract of reinsurance; the regulation of insurance and reinsurance contracts; the forms of corporate organisation an insurer can take; and the regulation of insurers and reinsurers, including regulation of the transfer of risk. It also covers: operating restrictions for insurance and reinsurance entities; reinsurance monitoring and disclosure requirements; content requirements for policies and implied terms; insurance and reinsurance claims; remedies; insolvency of insurance and reinsurance providers; taxation; dispute resolution; and proposals for reform. Finally, it provides websites and brief details for the main insurance/reinsurance trade organisations in Myanmar.

To compare answers across multiple jurisdictions visit the [Insurance and reinsurance Country Q&A tool](#).

This Q&A is part of the global guide to insurance and reinsurance. For a full list of jurisdictional Q&As visit www.practicallaw.com/insurance-guide.

**The content in the Q&A was accurate as at October 2018*

Market trends and regulatory framework

1. What were the main trends in the insurance and reinsurance markets over the last 12 months?

The insurance businesses in Myanmar is currently dominated by government and domestic private insurance companies as foreign insurance companies are not allowed to operate direct insurance business in the country. However, the Myanmar Insurance Business Regulatory Board (IBRB) has permitted three Japanese insurance business companies, Tokio Marine & Nichido Fire Insurance Co Ltd, Sompo Japan Insurance Inc and Mitsui Sumitomo Insurance Co Ltd, to operate within the Thilawa Special Economic Zone. Other overseas insurance companies are carrying out indirect insurance business in Myanmar by opening representative offices (ROs).

At the end of 2017, there was one state-owned insurance corporation, Myanma Insurance, and 12 privately-owned domestic insurance companies operating insurance business in Myanmar. There are also about 25 overseas insurance companies that have opened ROs in the country.

As of mid-2018, the IBRB has finalised the new Insurance Business Law and is awaiting approval from Ministry of Finance and Planning to submit the bill to parliament. Overseas insurance companies will be able to operate their insurance business in Myanmar once the bill is approved by parliament.

Insurance

State-owned Myanma Insurance is the major player in the Myanmar insurance market and provides about 50 different types of insurance including reinsurance. In contrast, private domestic insurance companies can provide only a few types of insurance cover, such as:

- Life insurance.
- Comprehensive motor insurance.
- Fire insurance.
- Cash-in-safe and cash-in-transit insurance.
- Fidelity insurance.
- Marine cargo insurance.
- Travel insurance.
- Personal accident insurance.
- Marine hull insurance.
- Farmers' life insurance.
- Other classes of insurance permitted by the Ministry of Planning and Finance from time to time with the approval of the government.

Reinsurance

The reinsurance business is currently conducted by state-owned Myanma Insurance through contracting with foreign reinsurers. Domestic private insurance companies cannot provide direct reinsurance.

2. What is the regulatory framework for insurance/reinsurance activities?

Regulatory framework

The two main laws regulating the insurance business in Myanmar are the:

- Myanmar Insurance Law of 1993, which includes the Third Party Liability Insurance Rules for Myanma Insurance.
- Insurance Business Law of 1996, as amended in 2015, for the private insurance sector, which, with its regulations, sets out the following basic regulatory principles:
 - formation of the IBRB;

- establishment and licensing: public or private limited companies must obtain a licence from the IBRB before operation;
- capital, deposit, reserve, and funds requirement;
- restriction on licence transfer;
- approval requirement for policy and premium;
- liabilities of insurers, underwriters, and brokers;
- auditing;
- liquidation;
- administrative actions;
- penalties for non-compliance.

There are also other regulations and directives issued by insurance business authorities.

Regulatory bodies

The two key regulatory bodies that oversee the licensing of insurance businesses and activities both for domestic and overseas insurance companies in Myanmar are the:

- Financial Regulatory Department (FRD) (www.frd.gov.mm) under the Ministry of Finance and Planning (MoFP).
- Insurance Business Regulatory Board (IBRB).

The Directorate of Investment and Company Administration (DICA) under the MoFP acts as a regulator for company registration for all companies operating in Myanmar.

Regulation of insurance and reinsurance contracts

3. What is a contract of insurance for the purposes of the law and regulation? How does it differ from a contract of reinsurance?

Contract of insurance

Under both main laws on insurance, there are no explicit definitions for contracts of insurance. Every contract made in the Myanmar jurisdiction mainly depends on the Contract Act 1872. Under section 2(h) of the Contract Act, any agreement enforceable by law is a contract. However, according to Directive 11/2017 by the IBRB, "insurance policy" means an insurance contract made between the insurer and insured.

The fortuity principle, meaning that an event must be a known risk, is applied in the Contract Act and in practice.

An insurance contract entered into with a party having no insurable interest will be deemed void.

Contract of reinsurance

There is no explicit definition for contracts of reinsurance under Myanmar laws. However, the Myanmar Insurance Law defines the reinsurance business as the insurer of the whole or part of liabilities undertaken by it to another insurer.

4. Are all contracts of insurance/reinsurance regulated?

No insurance/reinsurance contracts are regulated under the Myanmar insurance laws. The IBRB must approve the insurance policies, rules, terms, and premium scales of insurance products before insurers can sell them to the public.

Corporate structure

5. What form of corporate organisation can insurers take?

Private insurance businesses can only be operated by a private or public limited company or by a representative office of an overseas insurer registered under the Directorate of Investment and Company Administration. In all cases, these types of business structures require licences granted by the IBRB, with the approval of the Financial Regulatory Department, MoFP and cabinet, to permit them to operate.

The minimum capital requirement for a life insurance business is MMK6 billion (about USD4.5 million), and the minimum capital requirement for a general insurance business is MMK40 billion (about USD30 million).

Composite insurance is available and the minimum capital requirement is MMK46 billion (about USD34.5 million). Overseas insurance companies operating at the Thilawa Special Economic Zone must have total asset or paid-up capital of at least USD1 billion in Myanmar.

Regulation of insurers and reinsurers

6. Are all insurers and reinsurers regulated? Are they all regulated in the same way?

All private insurers are regulated under the Insurance Business Law, while government-owned insurers are regulated under the Myanmar Insurance Law. There are no regulations for reinsurers, although the Myanmar Insurance Law does define reinsurance (see [Question 3](#)).

7. Can insurers and reinsurers carry on non-insurance business? Are there any restrictions on their business activities?

Private insurance companies must operate only the insurance business specified in their licence, insurance business listed out in the Insurance Business Law, and/or other classes of insurance businesses permitted by the Ministry of Planning and Finance from time to time (see [Question 1](#)).

As a compulsory requirement, an insurer or underwriting agent must purchase in their joint names government treasury bonds worth 30% of their paid-up capital. However, state-owned Myanmar Insurance is permitted to invest in securities, debentures, shares and savings certificates beside their core insurance business. Overseas insurance companies, through ROs, are not allowed to engage in any practical insurance business.

8. Are there any statutory limits or other restrictions on, or requirements relating to, the transfer of risk by insurance or reinsurance companies?

Insurers and underwriters must deposit 10% of their paid-up capital at a government-owned bank by opening an account and purchasing government treasury bonds worth 30% of their paid-up capital under their joint names. Insurers and underwriters are required to establish a Life Insurance Fund, and may be required to establish a Life Assurance Policyholder Protection Fund, by opening a bank account at a government-owned bank.

Insurance brokers are required to hold professional indemnity insurance, and insurers and underwriters must effect reinsurance, if required, by the instruction of the IBRB.

Operating restrictions

Authorisation or licensing

9. Does the entity or person have to be authorised or licensed?

Insurance and reinsurance providers

Any Myanmar person or entity wishing to set up an insurance business in Myanmar must be established as a private or public company with the Directorate of Investment and Company Administration (DICA), before applying for an insurance business licence with the IBRB. They must also:

- Be incorporated as a private or public limited company.
- Apply for a licence with the prescribed application form.
- Meet paid-up capital requirements.
- Pay for deposit fees.
- Pay for licence fees.

Insurance and reinsurance intermediaries

Any Myanmar person or entity wishing to set up an insurance brokerage business in Myanmar must be established as a private or public company with the DICA, and then apply for an insurance business licence with the IBRB. They must also:

- Be incorporated as a private or public limited company.
- Apply for a licence with prescribed application form.
- Meet paid-up capital requirements.
- Pay for licence fees.

Other providers of insurance and reinsurance-related activities

There may be actuaries and insurance agents who provide insurance related activities other than those provided by insurers, underwriters and brokers.

10. What are the main exemptions or exclusions from authorisation or licensing?

There are no particular exemptions or exclusions applicable in the licensing regime.

Restrictions on ownership or control

11. Are there any restrictions on the ownership or control of insurance-related entities?

Insurance and reinsurance providers

Any Myanmar citizens who have reached the age of majority can establish a company and apply for an insurance business licence with the IBRB. The company must be a private or public limited company and must have:

- Private limited companies: at least two and no more than 50 shareholders and two directors,
- Public limited companies: at least seven shareholders and three directors.

At present, foreign entities are not eligible to operate or apply for an insurance business licence and must wait for new law or directive that would allow foreign entities to operate insurance businesses.

Insurance/reinsurance intermediaries

The ownership or control regime for a broker is the same as for an insurer and underwriter.

Other providers of insurance/reinsurance-related activities

The roles of actuaries and insurance agents are not regulated at present.

12. Must owners or controllers be approved by or notified to the relevant authorities before taking, increasing or reducing their control or ownership of the entity?

At present, an insurance business licence is not transferable, and domestic insurance operators are unable to conduct mergers or acquisitions in practice with the IBRB.

Insurers, underwriters, and brokers must notify the IBRB of any changes in shareholding or directors or principal officers, and register these changes with the company regulator, Directorate of Investment and Company Administration (DICA).

Representative officers from ROs must notify and register with the company registrar and the IBRB on changes of representative officers and are required to register with the company registrar on any changes in management of their parent company.

Ongoing requirements for the authorised or licensed entity

13. What are the key ongoing requirements with which the authorised or licensed entity must comply?

Insurance/reinsurance providers

Once the insurance business licence approval is granted by the IBRB, the insurer and underwriter are subject to provide the following requirements:

- **Paid capital.** The insurer and underwriter must pay statutory minimum capital requirements.
- **Deposit.** 10% of paid capital must be deposited at the state-owned Myanma Economic Bank as a deposit.
- **Licence fee.** Fees of MMK3 million must be paid for an insurance business licence. Permit fees for overseas insurance companies operating in the Thilawa SEZ are USD30,000.
- **Bond.** 30% of paid capital shall be invested in government treasury bonds.
- **Fund.** The insurer and underwriter must establish a life insurance fund as well as a life assurance policyholder protection fund.
- **Licence renewal.** Licences must be maintained and renewed on an annual basis, for which licence fees of MMK1 million are payable. Renewal fees for overseas insurance companies operating in the Thilawa SEZ are USD10,000. Annual fees for ROs are USD1,000.
- **Other regulatory requirements.** Before conducting insurance business, approval of the form, proposal, policy, premium rates, and other related documents must be obtained from the IBRB.

Insurance/ reinsurance intermediaries

Once the insurance business licence approval is granted by the IBRB, the insurance broker is subject to the following requirements:

- **Paid capital.** Paid capital must be contributed as set out by the IBRB.
- **Licence fee.** Insurance business licence fees of MMK3 million must be paid.

- **Professional indemnity insurance.** Professional indemnity insurance must be purchased and maintained by the broker.
- **Licence renewal.** Licences must be maintained and renewed on an annual basis, for which licence fees of MMK1 million are payable.

Other providers of insurance/reinsurance-related activities

Insurance agents have to pay licence fees on approval of their agent licence, and have to renew their licence every year by paying renewal fees.

Penalties for non-compliance with legal and regulatory requirements

14. What are the possible consequences of an entity failing to comply with applicable legal and regulatory requirements? What recourse do policyholders have if they have done business with a non-approved entity?

The Insurance Business Law sets out a wide range of penalties for non-compliance, some of which are listed below. There are no specific recourse procedures for policyholders who have done business with a non-approved entity. However, they can complain to the IBRB about their grievances.

Insurance/reinsurance providers

The Insurance Business Law imposes a range of penalties on insurers and underwriters, including:

- Cancellation of business licence.
- Any of the following administrative actions:
 - requiring a fine to be paid;
 - temporary suspension of the business operated under the business licence;
 - permitting the business to continue after a fine is paid;
 - cancelling the business licence;
 - putting the company on a blacklist.
- Criminal penalties:
 - a prison term of up to five years or a fine of up to MMK500,000, or both if the insurer or underwriter operates the insurance business without a licence;
 - a prison term of up to one year or a fine of up to MMK100,000, or both if the responsible person of the company intentionally refuses an inspection by the IBRB;

- a fine of up to MMK10,000 if the responsible person of the company fails to submit a report to IBRB.

Insurance/reinsurance intermediaries

The Insurance Business Law impose penalties on brokers, including:

- Cancellation of business licence.
- Any of the following administrative actions:
 - requiring a fine to be paid;
 - temporary suspension of the business operated under the business licence;
 - permitting the business to continue after a fine is paid;
 - cancelling the business licence;
 - putting the company on a blacklist.
- Criminal penalties:
 - a prison term of up to three years or a fine of up to MMK300,000 or both if the broker operates the business without a licence;
 - a prison term of up to one year or a fine of up to MMK100,000 or both if the responsible person of the company intentionally refuses an inspection by the IBRB;
 - a fine of up to MMK10,000 if the responsible person of the company fails to submit a report to the IBRB.

Other providers of insurance/reinsurance-related activities

There are no specific regulations for other providers of insurance-related activities.

Restrictions on persons to whom services can be marketed or sold

15. Are there any restrictions on the persons to whom insurance/reinsurance services and contracts can be marketed or sold?

The restrictions on the persons to whom insurance services and contracts can be marketed or sold are:

- Insurance buyers must have reached the age of majority (must be 18 or older).
- Minors, between 10 and 18 years of age, can engage in an insurance contract with the written approval of their parents or lawful guardian.

- Insurance buyers must have an insurable interest in the coverage.

Reinsurance monitoring and disclosure requirements

16. To what extent can/must a reinsurance company monitor the claims, settlements and underwriting of the cedant company?

The entitlement of a reinsurer to monitor claims, settlements, and underwriting of its cedant company depends entirely on the agreed terms of the applicable reinsurance contract. There are no mandatory legal provisions in relation to reinsurance contracts that would regulate this monitoring.

17. What disclosure/notification obligations does the cedant company have to the reinsurance company?

There are no mandatory legal provisions in Myanmar imposing any particular disclosure or notification obligations on a cedant.

Insurance and reinsurance policies

Content requirements and commonly found clauses

18. What are the main general form and content requirements for insurance policies? What are the most commonly found clauses?

Form and content requirements

Insurance policies must be made in writing. In addition, the IBRB must approve the rules, terms, and premium scales of insurance products before those products can be sold to the public.

Commonly found clauses

Commonly found clauses in insurance policies, which are generally approved by the IBRB, include:

- Type of insurance policy.
- Name or trade name of the insurer.
- Name or trade name of the insured.
- Name of the beneficiary, if any.
- Date of the contract of insurance.
- Place and date when the policy was made.
- Sum insured, or value of the insured property for property insurance.
- Insurance scope, conditions, and terms.
- Terms on exclusion of insured liability.
- Insurance duration.
- Premium rate and mode of premium payment.
- Time limit and mode for paying insurance monies or indemnity.

19. Is facultative or treaty reinsurance more common? What are the most commonly found clauses in reinsurance policies?

There are no statistics on this since these types of reinsurance are not common in Myanmar.

Implied terms

20. Are there any terms that are implied by law or regulation (even if not included in the insurance or reinsurance contract)?

Under Myanmar laws, especially in the Contract Act, general duties of good faith and fair dealing apply to all contracts.

Customer protections

21. How do customer protections in the general law affect insurance contracts? What customer protections are generally included in insurance policies to supplement this?

General law

All contracts in Myanmar, including insurance policies, are generally covered under the Contract Act and a civil suit can be taken for any breach of contract in accordance with the Specific Relief Act. There is no specific definition for insurance/reinsurance contracts under the Insurance Business Law.

There is a Consumer Protection Law 2014 in Myanmar. However, this law mainly focuses on goods, and claims made in the service sector, especially for insurance businesses, have yet to be tested.

Insurance policies

No specific customer protection clauses are included in insurance policies in Myanmar. However, these policies must be approved by the IBRB, and the insured or beneficiary who is dissatisfied with insurance companies can file a complaint with the IBRB.

Standard policies or terms

22. What are the main standard policies or terms produced by trade associations or relevant authorities?

There are no standard policies or terms produced by trade associations or the authorities, but all policy wordings must be approved by the IBRB.

Insurance and reinsurance policy claims

Establishing an insurance claim

23. What must be established to trigger coverage under an insurance policy?

The insured or beneficiary must inform the insurance company as soon as possible, or according to their policy terms when loss or damages occurred. However, there are no statutory provisions on notice requirement. Failure to notify promptly may prejudice the claim, such as for fire, hull or machinery insurance, although the insurance company cannot deny coverage due to late notification by the insured.

Third party insurance claims

24. What are the circumstances in which third parties can claim under an insurance policy?

Generally, only a person named as the insured or a beneficiary in the insurance policy can make a claim against the insurer. Under the Third Party Liability Insurance Rules for motor vehicles, the third-party victim can claim directly to Myanma Insurance for indemnity.

The Insurance Business Law provides third-party claims procedures for death claims on life insurance. If the beneficiary is a minor, the claim will be paid to his or her natural or adoptive parents or lawful guardian. Where the beneficiary dies before the assured and the assured has not transferred the title of benefits, the claim will be paid in the following order:

- Husband or wife.
- Children.
- Grandchildren.
- Brothers and sisters.
- Parents.

Time limits

25. Is there a time limit outside of which the insured/reinsured is barred from making a claim?

Under the Limitation Act, the insured can claim within three years of when proof of the death or loss is given or received by the insurer, by the claimant or any other person.

Enforcement

26. Can the original policyholder or other third party enforce the reinsurance contract against a reinsurer?

The original policyholder or other third party can enforce the reinsurance contract against a reinsurer by submitting an enforcement proposal for the approval of the IBRB.

Remedies

27. What remedies are available for breach of an insurance policy?

Breaches by the insurer

Insurance companies have the common obligation of paying any sum or return of premium to an insured or beneficiary under an insurance policy, although there are no written provisions under the Insurance Business Law and its regulations on the mode of payment.

The IBRB can revoke an insurance business licence if the insurer or underwriter or broker operates their business in a manner detrimental to the interests of the policyholder. A bad faith claim can cause breach of the insurance policy and the insurance company can terminate the policy by forfeiting the premium and can file for criminal action in court if the insured or beneficiary opens false claims in bad faith.

The insured or beneficiary under an insurance policy can file a petition to the IBRB or court if the insurance company, without sufficient cause or reason, refuses to pay amounts due to an insured or beneficiary under an insurance policy, or if the insurance company acts in bad faith.

Punitive damage claims

28. Are punitive damages insurable? Can punitive damages be reinsured if they are covered by an underlying policy?

There are no provisions on the concept of punitive damages under Myanmar's insurance laws. However, the concept of punitive damages exists under the Contract Act. The maximum amount of penalty depends on the nature of the contract. Such coverage has not yet been seen in the market as Myanmar's insurance market is in an early stage.

Insolvency of insurance and reinsurance providers

29. What is the regulatory framework for dealing with distressed or insolvent insurance or reinsurance companies, or other persons or entities providing insurance or reinsurance related services? What regulatory and/or other protections exist for policyholders if the insurance company is insolvent?

The main regulatory framework for this matter is the Insurance Business Law and its regulations, the Myanmar Insolvency Act and the Myanmar Companies Act and its rules.

Where an insurance licence is revoked, the IBRB must assign a liquidator to obtain the sanction of the court to liquidate the company concerned by invoking provisions of the Myanmar Companies Act. An insurance company can liquidate by special or extraordinary resolution in accordance with the provisions of the Myanmar Companies Act.

If liquidation proceedings have begun for an insurer, the policyholders are considered priority creditors of that insurer and the liability to pay the policyholders will be given priority over other liabilities except preferential payments mentioned in Section 230 of the Myanmar Companies Act which include:

- Revenue, taxes and rates payable to government or local authority.
- Unpaid payments to employees.
- Compensation payable under the Workmen's Compensation Act.
- Sums due to any employee from a provident fund, a pension fund, a gratuity fund, or any other fund for the welfare of the employees maintained by the company.

The insurer or underwriter must apportion their assets to all the policyholders if adjudicated to be insolvent or if unable to meet liabilities.

30. Can excess insurance policies "drop down" to provide coverage if the primary insurer goes into insolvency?

There are no specific provisions requiring an excess policy to drop down in the event of insolvency. However, the Insurance Business Rules provide that the insurer or underwriting agent must replenish its assets, in accordance with the order of the court, when undergoing liquidation, to meet its liabilities fully.

31. Is a right to set-off mutual debts and credits recognised in an insolvency proceeding involving an insurer or reinsurer?

A right to set-off mutual debts and credits is recognised under the Myanmar Insolvency Act, and the insurer or reinsurer must follow these proceedings when they apply for liquidation under the Myanmar Companies Act. However, these claims must be made with an official liquidator after the court has issued bankruptcy proceedings against the insurer.

Taxation of insurance and reinsurance providers

32. What is the tax treatment for insurers, reinsurers, and other persons or entities providing insurance and reinsurance-related services?

Insurers in Myanmar are subject to corporate income tax (CIT) and commercial tax (CT) at the following rates:

- 25% CIT on profits.
- Exemption of CT for life insurance businesses, and 5% CT for other insurance services.

Insurance and reinsurance dispute resolution

33. Are there special procedures or venues for dealing with insurance or reinsurance complaints or disputes?

There are no special procedures or venues for insurance-related disputes. Civil-related claims must follow provisions under the Civil Procedure Code.

34. Are arbitration clauses in insurance and reinsurance agreements enforceable?

Arbitration clauses are enforceable if they comply with the requirements of the Arbitration Law 2016 of Myanmar. In 2013, Myanmar acceded to the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards 1958 and therefore foreign arbitration awards from signatory nations are enforceable in Myanmar.

35. Are choice of forum, venue and applicable law clauses in an insurance or reinsurance contract recognised and enforced?

There are no legal provisions on requirements for forum, venue, and applicable clause in an insurance or reinsurance contract but these clauses can be recognised and enforced in Myanmar. However, due to enforcement issues, it is advisable that Myanmar forum, venue, and governing law is used if parties to the contract are a domestic individual or entity, and a foreign forum, venue, and governing law should be used if parties or one party to the contract is a foreign individual or entity.

Reform

36. What proposals are there for reform of the law, regulation or rules relating to the provision of insurance or reinsurance services?

The IBRB is currently preparing a new draft of the Insurance Business Law to reform the Myanmar insurance market for greater liberalisation, and **[it is envisaged that]** foreign insurance companies would be allowed to operate **[once the bill becomes law]**.

This bill is now pending approval from the Union Government to be submitted to parliament. The bill is expected to receive approval for submission some time in 2018. Based on sources at the IBRB, foreign insurance companies seeking to operate an insurance business in Myanmar would require an existing RO in Myanmar. Therefore, most of the international insurance companies are opening ROs in Myanmar and have started recruiting local employees in preparation for meeting expected requirements.

Main insurance/reinsurance trade organisations

Myanmar Insurance Association

Main activities. The Myanmar Insurance Association is the representative body of domestic insurers in Myanmar that was officially opened on 15 January 2018. There is no website available for the association and it can only be reached by email at mia.office001@gmail.com.

Contributor profiles

Yuwadee Thean-ngarm, Director, Myanmar

Tilleke & Gibbins

T +95 1 255 208

F +95 1 255 207

E yuwadee.t@tilleke.com

W www.tilleke.com

Professional qualifications. Patent agent; notarial services attorney; Attorney-at-law, Bar Council of Thailand, Lawyers Council of Thailand.

Areas of practice. Insurance; commercial transactions and M&A; IP; regulatory affairs; corporate services; dispute resolution and litigation.

Non-professional qualifications. MA, Chulalongkorn University; LLB, Thammasat University.

Nwe Oo, Attorney-at-law

Tilleke & Gibbins

T +95 1 255 208

F +95 1 255 207

E nweoo@tilleke.com

W www.tilleke.com

Professional qualifications. Attorney-at-law, Bar Council of Myanmar, 1997.

Areas of practice. Insurance; corporate services; commercial transactions and M&A; dispute resolution and litigation.

Non-professional qualifications. MBA, Yangon Institute of Economics; LLB University of Yangon; ADBA, Thames Management Center; DBL, Yangon University

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