

# 2021 ASEAN INVESTMENT FACILITATION FRAMEWORK

*Issued on 8 September 2021*

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The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, Member States of the Association of Southeast Asian Nations ("ASEAN"), hereinafter collectively referred to as "Member States" or singularly as "Member State";

**RECALLING** the ASEAN Comprehensive Investment Agreement ("ACIA") signed on 26 February 2009, as amended, which aims to create a liberal, facilitative, transparent and competitive investment environment in ASEAN;

**RECOGNISING** the importance of investment facilitation as an essential pillar of investment that contributes to the retention and growth of investments in a country, through the creation of an enabling environment that facilitates investors in establishing, operating and expanding their investments and businesses;

**RECALLING** the decision made at the ASEAN Economic Ministers–23rd ASEAN Investment Area Council ("AEM-23rd AIAC") meeting held virtually on 25 August 2020 to explore the development of regional initiatives to facilitate investment into ASEAN and prepare for the post-COVID-19 new normal to contribute to ASEAN's comprehensive recovery efforts;

**RECALLING** the ASEAN Comprehensive Recovery Framework ("ACRF") and its Implementation Plan as adopted at the 37th ASEAN Summit on 12 November 2020, which serves as ASEAN's consolidated exit strategy from the COVID-19 crisis, and provides that it is imperative and urgent to have in place initiatives that will further facilitate investment as the region gears up for a post-pandemic environment and in anticipation of the potential brought about by global supply chain restructuring;

**ACKNOWLEDGING** the ASEAN Travel Corridor Arrangement Framework ("ATCAF") which is a concrete contribution to the implementation of the ACRF that aims to facilitate essential business and official travels between and among Member States, while prioritising public health and safety, particularly in preventing and controlling the transmission of COVID-19;

**ALSO RECALLING** the Mid-Term Review of the ASEAN Economic Community ("AEC") Blueprint 2025, which recommended that ASEAN undertakes a regional programme to strengthen investment facilitation; and **DESIRING** to establish this non-legally binding ASEAN Investment Facilitation Framework ("Framework") that each Member State will endeavour to put in place in order to: (i) improve accessibility and transparency of measures of general application and information related to investment conducive to increased investment; (ii) streamline and expedite administrative procedures and requirements for the entry, retention and expansion of investment; and (iii) create favourable conditions for investment and doing business;

**HEREBY RECOGNISE** the following principles and actions regarding facilitation of international investment in ASEAN, which each Member State will endeavour to uphold and implement to the extent practicable and in accordance with its respective domestic laws and regulations, as well as its respective international obligations:

## 1. TRANSPARENCY OF MEASURES AND INFORMATION

- 1.1 Ensure transparency of and make publicly available measures 1 of general application and information related to investments in the respective Member State.

- 1.2 Establish or maintain an appropriate mechanism to answer reasonable enquiries of governments, investors and other interested parties on the matters covered by subparagraph 1.1 above.
- 1.3 This Framework does not require any Member State to provide confidential information, the disclosure of which would impede law enforcement efforts, or would otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular public or private juridical persons.

## **2. STREAMLINING AND SPEEDING UP ADMINISTRATIVE PROCEDURES AND REQUIREMENTS**

- 2.1 Ensure that all measures of general application related to investment are administered in a reasonable, objective and impartial manner.
- 2.2 Ensure that investment procedures do not act as barriers to the ability of investors to invest.
- 2.3 Ensure that investment procedures and documentation requirements are applied in a manner that does not unduly incur more time and cost than necessary to fulfil the respective Member State's policy objectives.
- 2.4 Ascertain, within a reasonable period of time, the completeness of an investment application that is submitted by an applicant.
- 2.5 At the request of the applicant, provide, within a reasonable period of time, information concerning the status of the investment application.
- 2.6 If an investment application is deemed complete by the competent authorities, ensure that, within a reasonable period of time, the processing of the application is completed and the applicant is informed of the decision.
- 2.7 If an investment application is considered incomplete by the competent authorities, the applicant should be—
  - 2.7.1 informed, within a reasonable period of time, that the application is incomplete;
  - 2.7.2 provided with an explanation of why the application is considered incomplete; and
  - 2.7.3 provided with an opportunity to submit the information required to complete the application.
- 2.8 If an investment application is rejected, the competent authority should inform the applicant of, where applicable, the reasons for the rejection and the procedures for resubmission of an application.
- 2.9 Ensure that the administration fees, if any, are reasonable, transparent, published in an easily accessible manner and do not in themselves restrict the investment.
- 2.10 Review, at appropriate intervals, investment procedures and measures of general application related to investment to determine whether specific measures should be modified, streamlined, expanded or repealed so as to make the investment regime more effective in achieving each Member State's policy objectives.

### **3. USE OF DIGITAL AND INTERNET TECHNOLOGIES**

- 3.1 Promote the adoption of digital technologies to improve investment application, approval, renewal and aftercare processes.
- 3.2 Establish or maintain online platforms for the administration of investment applications, renewals and aftercare needs.
- 3.3 Encourage the use of electronic copies of documents that are authenticated in accordance with the respective Member State's domestic laws and regulations, in place of original documents.
- 3.4 Promote the option of using an electronic payment for fees and charges collected by competent authorities for administering investments, including fees and charges for the processing of investment applications, approval, renewal and aftercare services.

### **4. SINGLE DIGITAL PLATFORM**

- 4.1 Encourage the minimisation of the requirement that an applicant approach more than one competent authority for each application for authorisation to invest in the respective Member State's territory.
- 4.2 Encourage the establishment or maintenance of a single digital platform for the submission of all documents required by the agencies or regulatory bodies involved in the admission, establishment, acquisition and expansion of investments.
- 4.3 Encourage the publication of measures adopted or maintained by Member States related to investments through a single digital platform.
- 4.4 Encourage the provision of information on the single digital platform that is sufficiently clear, precise and up-to-date so as to enable an investor to be informed of–
  - 4.4.1 the agencies or regulatory bodies involved in the applications for admission, establishment, acquisition and expansion of any specific investment;
  - 4.4.2 the documents required by each competent authority for any specific investment application; and
  - 4.4.3 the estimated period of time required to process an application associated with any specific investment application.
- 4.5 Encourage the provision of a single digital platform for investors to pay all fees and taxes associated with the admission, establishment, acquisition and expansion of investments.

### **5. ASSISTANCE AND ADVISORY SERVICES TO INVESTORS**

- 5.1 With a view to preventing disputes, assist investors in amicably resolving complaints or grievances with government bodies that have arisen during their investment activities by–
  - 5.1.1 receiving complaints raised by investors relating to government policies and activities impacting their investments and, where appropriate, considering referring such complaints to the competent authorities, or giving due consideration to such complaints; and

5.1.2 providing assistance to investors, to the extent possible, to resolve difficulties experienced by the investors in relation to their investments.

5.2 Consider establishing mechanisms to make recommendations addressing recurrent issues affecting investors to each Member State's competent authorities.

## **6. INDEPENDENCE OF COMPETENT AUTHORITIES**

When authorisation for an investment is required, ensure that the competent authority administers and makes its decision in a manner independent from any enterprise carrying out the economic activity for which authorisation is required.

## **7. TEMPORARY ENTRY AND STAY OF BUSINESS PERSONS FOR INVESTMENT PURPOSES**

Encourage the facilitation of temporary entry and stay of business persons for investment purposes through—

7.1 Publication, online where possible, of information on the current requirements for temporary entry and stay of business persons for investment purposes;

7.2 Establishment or maintenance of contact points to respond to enquiries from interested persons regarding measures relating to the temporary entry and stay of business persons for investment purposes; and

7.3 Expeditious processing of applications concerning the temporary entry and stay of business persons for investment purposes within a reasonable period of time.

## **8. FACILITATION OF INVESTMENT SUPPORTING FACTORS**

Assist investors in identifying investment supporting factors such as labour force, funding sources, domestic suppliers and business matchmaking opportunities.

## **9. CONSULTATIVE MECHANISM FOR INVESTMENT POLICIES**

9.1 Encourage mechanisms for regular consultation and dialogue with interested stakeholders, including investors and private sector bodies, with the view to soliciting updates and inputs on their business and investment facilitation needs and challenges.

9.2 Taking into account the outcomes of subparagraph 9.1 above, encourage mechanisms for the regular evaluation and update of investment measures with the view to ensuring that the investment environment remains conducive and responsive to evolving business practices and needs.

## **10. COOPERATION**

Facilitate communication and cooperation with other Member States on matters relating to investment facilitation, including through the exchange of information on procedural requirements, best practices, technical assistance and capacity building.

## 11. IMPLEMENTATION

Work towards the implementation of this Framework and regularly update the ASEAN Coordinating Committee on Investment (“CCI”).

**ADOPTED** at the ASEAN Economic Ministers–24th ASEAN Investment Area Council (AEM-24th AIAC) Meeting, this 8th day of September in the Year Two Thousand and Twenty-One, in a single original copy in the English Language.