

SPECIALIZED LEGAL SUPPORT FOR FOREIGN BUSINESSES IN THAILAND

Thailand continues to welcome foreign investment across a wide range of industries. However, certain business activities remain regulated under the **Foreign Business Act B.E. 2542 (1999)** (“FBA”), which aims to balance foreign participation with the protection of national interests, cultural heritage, and natural resources.

For foreign investors and multinational groups, understanding whether a proposed business activity falls within the scope of FBA and what approvals may be required is a critical first step before commencing operations in Thailand.

What Does FBA Regulate?

FBA restricts foreign participation in specific business activities unless the relevant approvals or licenses have been obtained.

- Some activities are strictly prohibited to foreign investors and are reserved exclusively for Thai nationals.
- Other activities are conditionally restricted, particularly those related to national security. Foreign participation in these sectors requires approval from the Minister of Commerce and are subject to heightened regulatory scrutiny.
- Businesses in which Thai nationals are deemed not yet ready to compete require a **Foreign Business License (“FBL”)** from the Department of Business Development. In practice, many foreign-invested businesses in Thailand, particularly in the retail, wholesale, and service sectors, fall within this category and therefore require an FBL before commencing operations.

BOI Promotion and Exemptions

FBA provides a significant exemption for companies promoted by the **Board of Investment (“BOI”)**. BOI-promoted companies may obtain a **Foreign Business Certificate (“FBC”)** in lieu of an FBL, offering a more streamlined and generally less complex approval process. While BOI promotion can provide substantial advantages, it remains subject to strict eligibility criteria and ongoing compliance with BOI conditions.

Nominee Structures and Regulatory Enforcement

In the past, some businesses attempted to circumvent FBA licensing requirements through nominee shareholding arrangements. Thai authorities now actively scrutinize nominee arrangements, and violations may expose both foreign investors and Thai nominees to serious legal penalties. Proper legal structuring from the outset is therefore essential.

Who Must Comply?

FBA applies to foreign businesses, including companies incorporated outside Thailand, as well as Thai-registered companies in which more than 49% of the shareholding is held by non-Thai individuals or entities. Businesses falling within this definition are required to comply with the FBA’s restrictions and obtain the relevant licenses or approvals prior to commencing operations.

Legal Risks and Penalties

Operating a restricted business in Thailand without a valid FBL or FBC may result in severe penalties, including imprisonment for up to 3 years, fines up to 1,000,000 THB, or both; in addition, the authorities may order the business to cease operations, and failure to comply with such order may lead to further daily fines up to 50,000 THB until the business is fully terminated.

Why Knowledge of FBA Matters for Management

FBA compliance is not merely a legal formality, it directly affects business continuity, expansion plans, investment timelines, and reputational risk. Early legal assessment can prevent costly delays, enforcement actions, and structural rework later on.

Why One Asia Lawyers

One Asia Lawyers (“OAL”) provides integrated, end-to-end legal support for foreign investors and multinational businesses operating in Thailand. We assist clients from the initial FBA assessment to licensing and ongoing compliance, ensuring legally sound structures and smooth regulatory approval.

Our Services

1. FBA Advisory & Structuring

We provide comprehensive advisory services under FBA, including an assessment of whether proposed business activities are restricted, strategic advice on eligibility for BOI promotion, and guidance on the most appropriate licensing pathway. Our team also advises on compliant corporate structuring to ensure full regulatory compliance and to avoid prohibited nominee arrangements, helping clients establish and operate their businesses in Thailand with confidence.

2. Licensing and Application Support Services

OAL provides comprehensive support for FBL, BOI promotion, and FBC applications. Our services include the review of all required supporting documents, preparation and confirmation of application documents in Thai, and close coordination with clients to confirm scope and requirements. We manage the submission of applications to the relevant authorities, liaise directly with government agencies, respond to official inquiries, and represent clients in communications and interviews with BOI officers where required. Throughout the process, we provide continuous support to ensure a smooth, efficient, and timely approval process.

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