



UPDATE ON THE FOREIGN BUSINESS ACT AMENDMENT

Bangkok newspapers headlined the announcement that the draft FBA amendment did not pass its second reading by the National Legislative Assembly (NLA) on August 8. Instead, the NLA called for a more restrictive definition of "alien" by a vote of 76 to 64. The draft, which had been approved by an ad hoc parliamentary committee, contained almost exactly the same provisions as the version earlier proposed by the Ministry of Commerce ("MOC"). Several NLA members justified their decision by pointing out that although the definition of "alien" in the draft had been amended to incorporate the voting right element, it still was not sufficient to close the existing loopholes in the law. The NLA wishes to solve the nominee issue once and for all by instructing the committee to add management control as another criterion in the definition of "alien". The committee is now tasked to go back and make necessary revisions to the draft, for resubmission to the NLA.

In an interview after the NLA's surprise move, the MOC Minister, chairman of the ad-committee who is a staunch supporter of the draft and strongly opposed to the addition of management control as a criterion, said that he now feels the amended FBA may not pass within the term of this temporary government or before the NLA retires as he anticipated. He remained insistent that the draft definition was appropriate and expressed concern that adding management control to the definition will lead to great damage to Thailand in terms of lost foreign investment. He does not yet have any plan as to when to reconvene the next meeting of the committee and also cannot predict how long the reconsideration process will take.



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