

THE CORPORATE
IMMIGRATION
REVIEW

EIGHTH EDITION

Editor
Chris Magrath

THE LAWREVIEWS

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CONTENTS

PREFACE.....	vii
<i>Chris Magrath and Ben Sheldrick</i>	
Chapter 1	ANTIGUA AND BARBUDA..... 1
<i>Sir Clare K Roberts QC and Sam M Bayat</i>	
Chapter 2	AUSTRALIA..... 5
<i>Anne O'Donoghue, Tamanna Hashemee and Anwen Price</i>	
Chapter 3	BELGIUM 27
<i>Henry Hachez</i>	
Chapter 4	BRAZIL..... 41
<i>Maria Luisa Soter and Gabriela Lessa</i>	
Chapter 5	DOMINICA..... 52
<i>Colleen Felix-Grant and Sam M Bayat</i>	
Chapter 6	GERMANY..... 56
<i>Gunther Mävers</i>	
Chapter 7	GHANA..... 77
<i>Paa Kwesi Hagan</i>	
Chapter 8	GRENADA..... 87
<i>Sam M Bayat and Margaret Wilkinson</i>	
Chapter 9	HONG KONG 99
<i>Eugene Chow</i>	
Chapter 10	INDIA..... 113
<i>Ranjit Malhotra and Anil Malhotra</i>	

Chapter 11	ISRAEL.....	135
	<i>Tsvi Kan-Tor, Amit Acco and Yoav Noy</i>	
Chapter 12	JAPAN.....	145
	<i>Masabito Nakai</i>	
Chapter 13	KENYA.....	155
	<i>Andreas Krensel</i>	
Chapter 14	LUXEMBOURG.....	168
	<i>Pierre Elvinger and Philippe Hoffmann</i>	
Chapter 15	MALTA.....	184
	<i>Malcolm Mifsud</i>	
Chapter 16	MEXICO.....	194
	<i>Enrique Arellano Rincón</i>	
Chapter 17	MYANMAR.....	206
	<i>Jean-François Harvey and Bastien Trelocat</i>	
Chapter 18	NETHERLANDS.....	215
	<i>Jelle A Kroes</i>	
Chapter 19	NIGERIA.....	226
	<i>Adekemi Sijuwade</i>	
Chapter 20	PANAMA.....	242
	<i>Vivian Holness and Mónica Mendoza</i>	
Chapter 21	PERU.....	249
	<i>Iván Blume Moore</i>	
Chapter 22	ST KITTS AND NEVIS.....	259
	<i>Constance V Mitcham and Sam M Bayat</i>	
Chapter 23	ST LUCIA.....	264
	<i>Jonathan McNamara and Sam M Bayat</i>	
Chapter 24	SINGAPORE.....	267
	<i>Leon Kwong Wing and Lim Zhi Qi</i>	

Chapter 25	SOUTH AFRICA	280
	<i>Andreas Krensel</i>	
Chapter 26	SWITZERLAND	291
	<i>Rayan Houdrouge</i>	
Chapter 27	THAILAND	300
	<i>Jean-François Harvey and Bastien Trelcat</i>	
Chapter 28	UNITED ARAB EMIRATES	308
	<i>Charles S Laubach</i>	
Chapter 29	UNITED KINGDOM	316
	<i>Chris Magrath and Ben Sheldrick</i>	
Chapter 30	UNITED STATES	345
	<i>Stephen J O Maltby and Ellen L Poreda</i>	
Chapter 31	URUGUAY	360
	<i>Federico Formento</i>	
Chapter 32	VIETNAM.....	371
	<i>Jean-François Harvey and Bastien Trelcat</i>	
Chapter 33	ZAMBIA	381
	<i>Andreas Krensel</i>	
Appendix 1	ABOUT THE AUTHORS.....	393
Appendix 2	CONTRIBUTING LAW FIRMS' CONTACT DETAILS.....	409

PREFACE

The politics of immigration continue to dominate headlines worldwide.

The tensions between national protectionism, free trade arrangements and the need to attract skilled workers and foreign investors create conflict and inconsistency in many jurisdictions. This can be seen most acutely in the United Kingdom, where the net migration target (the aim to reduce the annual population increase caused by migration to the tens of thousands from a high of nearly 350,000) continues to be the central plank of government immigration policy. The result of the Brexit referendum in June 2016 is beginning to impact on the figures. In the 12 months from June 2016 to June 2017, migration from the EU decreased by over 100,000, causing a significant drop in net migration. Undoubtedly this is the consequence of uncertainty surrounding the United Kingdom as a long-term destination of choice – EU workers find the country less attractive. The referendum result has therefore assisted in the delivery of the overarching policy.

However, this reduction in the supply of workers from the EU has resulted in a spike in demand for workers from the rest of the world. The consequence of this has been friction in the Tier 2 (General) scheme, where demand has exceeded supply of Certificates of Sponsorship for the final four months of the allocation year (April to March). The government imposes a strict limit of 20,700 Certificates of Sponsorship for skilled new hires from abroad across all employers annually, regardless of business needs. This overall annual allocation is broadly equally divided across 12 monthly allocations. The final four months of the year were oversubscribed, causing significant frustrations for the many businesses that cannot sponsor the workers they need. This is unhelpful when added to the general business uncertainty surrounding the United Kingdom's post-Brexit trading arrangements.

The reduction in worker supply dictated by government policy does not appear to have resulted in an 'upskilling' of the local labour market or a reduction in UK unemployment (which in any event remains fairly low). There is a risk that the strict migration policy and uncertainty caused by Brexit will result in a slowdown in the economy, as businesses struggle to fill skilled jobs. Is this really a sensible immigration policy for Britain in the 21st century?

Furthermore, setting aside the overall policy wisdom, a major question mark hangs over whether the Home Office has the operational capacity to handle a registration and settlement scheme on the scale required to manage Brexit. There are approximately three million EU nationals in the United Kingdom and each one of them will have to engage with a new 'light-touch' process between now and the end of the transition period in 2021. We are promised a streamlined digital scheme that will minimise inconvenience and delay, but how can this promise be squared with the need for data integrity and avoidance of

fraud? Apparently 1,200 new caseworkers are being recruited to carry the burden. However, whether they can be recruited and trained in time to ensure a seamless transition to a new set of immigration arrangements remains to be seen.

The future of post-Brexit immigration policy remains opaque. The Migration Advisory Committee (MAC) will not issue its substantive report on EEA nationals and the UK labour market until September, although earlier indications of its thinking are expected. A White Paper and Immigration Bill will then follow. It will be some time before clarity is reached on the new immigration arrangements for 'taking back control'.

The Home Affairs Committee of the House of Commons has been highly critical of the government's Brexit preparedness in the context of immigration. The Committee's report (February 2018) expresses frustration at the lack of administrative preparedness and policy definition, and there is a sense that the government is feeling its way on the issues rather than providing firm leadership. By the time the next edition of *The Corporate Immigration Review* is published, the immigration road map to Brexit should be much clearer.

Donald Trump's 'America First' immigration and trade policies provide an echo of the situation in the United Kingdom. As with Brexit, we see in the United States the long-term effects of populism at the ballot box. The realisation of the President's promise to start building a border wall on 'day one' has proven more elusive in practice than his campaign-trail proclamations suggested. He is learning that the implementation of ideas is more complex in Washington than it is when undertaking more traditional real-estate deals in the private sector (and particularly when Congress controls the budget). However, Trump's hard-line approach to immigration policy is beginning to bite in less symbolic ways. On the ground, applications to the authorities are receiving considerably more scrutiny than was the case under the Obama administration, attracting harsher refusals or calls for additional evidence. US immigration practitioners report significant uncertainty in respect of the outcome of their cases. Paradoxically, this uncertainty results in a spike in business for lawyers, as applicants seek guidance and assistance in navigating a fast-changing legal landscape.

It is perhaps the fate of the 'Dreamers' that speaks most eloquently to the shift in approach to immigration policy in the United States. Named after the failed Development, Relief and Education for Alien Minors Act, the Dreamers are migrants who were brought to the United States illegally as children and who applied for renewable two-year work permits under the Deferred Action for Childhood Arrivals (DACA) programme, introduced under Barack Obama in 2012. In 2017, the Trump administration rescinded DACA and announced that, from 5 March 2018, the protection it offered to almost 800,000 people would begin to expire. Since then these individuals have found themselves at the centre of a political impasse that shut down the US federal government for three days. The Democrats had refused to agree to a budget deal that did not offer permanent protection to the Dreamers, but on 22 January they relented, agreeing to a short-term spending package to fund the government until 8 February, in exchange for a pledge by Republicans to address the fate of DACA recipients. At the time of writing, the Dreamers' future remains uncertain. Whether they are provided with a route to citizenship or face deportation will depend on the Democrats' ability to negotiate with a Republican Party dominated by hardliners and an unpredictable president.

Travelling east, we can see the tentacles of protectionism spreading to Singapore, where the Fair Consideration Framework (the Framework) approaches its fourth anniversary. Businesses are witnessing increased scrutiny of foreign manpower profiles, Employment Pass applications and hiring practices.

The Framework was introduced in 2014 as part of the Singapore government's overall strategy to promote fair employment practices and to strengthen the Singaporean core in the local workforce. Since then, the practical measures designed to facilitate this have been increasingly felt by companies and individual foreigners. The Ministry of Manpower (MOM) continues to emphasise that a quota for Employment Passes is not on the agenda, and instead that foreign workforce growth must be moderated to ensure it functions as an enhancement to the local workforce in a sustainable manner. In essence, the measures aim to maintain the delicate equilibrium between protecting and nurturing the local workforce, while also capitalising on available foreign talent to enable the longer-term growth and expansion of the Singapore economy. Development of the local workforce is key, as unemployment rises and net growth in the local economy begins to slow down.

The MOM wishes to see employers actively interpreting the spirit of the Framework in demonstration of their commitment to the overarching policy. The authorities will not shy away from scrutinising a company's hiring practices and curtailing work pass privileges in circumstances where firms are found to have nationality-based or other discriminatory HR practices. Around 300 countries are currently estimated to be on the MOM watch list and are required to work with Singapore's Tripartite Alliance for Fair and Progressive Employment Practices to demonstrate their commitment to improving internal hiring and employment practices. The term 'triple weak' has been used to describe companies found not to be actively nurturing a strong Singaporean core or demonstrating a strong relevance to Singapore's economy and society.

Immigration practitioners, wherever they live, face a constant stream of political scrutiny, policy development and legislative change. Now in its eighth edition, *The Corporate Immigration Review* contains the thinking of the world's leading business immigration lawyers. We are immensely grateful to them all for their contributions.

Chris Magrath and Ben Sheldrick

Magrath Sheldrick LLP

London

May 2018

THAILAND

*Jean-François Harvey and Bastien Trelcat*¹

I INTRODUCTION TO THE IMMIGRATION FRAMEWORK

Thailand is a country of 67 million inhabitants located at the heart of South East Asia. Thailand holds a unique location in the centre of the region and is neighboured by four other countries (Myanmar, Laos, Cambodia and Malaysia), as well as being very close to Vietnam. However, Thailand has never been under the control of any foreign power, even though it is located between countries that were colonised by British and French empires for decades.

Surprisingly, Thailand had no legislation or regulations restricting the movement of immigrants entering and leaving Thailand prior to 1927. However, during the seventh reign of the Bangkok dynasty, under King Rama VII, there were numerous immigrants, consisting of Chinese traders and labourers who entered Thailand during the 18th and 19th centuries.

Accordingly, Thailand implemented its first piece of immigration legislation, the Royal Immigration Act, in 1927 to mitigate the effects of migration into the country.

Since then, Thailand has been a regional hub for investment into neighbouring countries, which were not as open to foreigners as they are now. As such, Thailand has enjoyed a dominant position in attracting foreign staff to be deployed in this region.

Thailand is one of the most attractive economies in South East Asia. The country has actively participated in increased international exchanges of technology, investment, trade and tourism, with a sustained and strong domestic growth and free-market economy.

Nowadays, the migration policies of Thailand aim to attract low-skilled migrants from neighbouring countries to sustain its growing economy, mostly in the agricultural and construction industries, and highly skilled workers in high-value-added technologies.

i Legislation and policy

The Immigration Act BE 2522 (1979) is the main piece of legislation governing the immigration of foreign workers and investors wishing to enter Thailand. Under the Immigration Act BE 2522 (1979), any foreign worker wishing to enter Thailand, whether on a short or long-term basis, must obtain a visa prior to arrival.

In addition, Thailand further enacted the Foreign Business Act BE 2542 (1999) to control the business operations of foreigners in Thailand. Under this Act, some activities are prohibited to foreigners unless a foreign business licence (FBL) is obtained prior to engaging in those restricted businesses. Obtaining the FBL can turn out to be a time-consuming process, although it provides more flexibility and incentives when it comes to hiring a foreign labour force.

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The Alien Working Act, BE 2551 (2008) was also enacted to set out the rights and limitations for companies willing to hire foreign staff. The Regulation of Criteria of Work Permit Issuance of Alien Workers BE 2552 (2009) was implemented under the Alien Working Act BE 2551 (2008), outlining the ratio of foreign workers and the capital of the company that wishes to employ foreign workers.

A further option for foreigners who wish to work in Thailand is to utilise the ASEAN Economic Community framework (AEC). The AEC facilitates the movement of professional workers of nationals of ASEAN countries for specified occupations.

ii The immigration authorities

Immigration in Thailand is under the authority of the Ministry of Foreign Affairs and of local consulates overseas. Foreign nationals wishing to enter Thailand for employment purposes must first obtain a non-immigrant Category B visa (the B visa) at a local consulate overseas or they may obtain such a visa in Thailand.

Applications for any extension of stay in Thailand must be made to the Immigration Bureau and applicants must report in (either personally or online) every 90 days and also inform the authorities of their current address in Thailand, unless they exit the country.

They must then obtain a work permit prior to starting employment. Work permits in Thailand are provided by the Ministry of Labour.

The Thailand Board of Investment (BOI) is a governmental agency whose mission is to promote foreign investment in Thailand by providing information, services and incentives to foreign investors. The BOI operates 14 offices in major world cities, as well as regional offices throughout Thailand, and is authorised to approve certain types of investment and grant more favourable conditions or treatment regarding the employment of foreigners with respect to BOI-eligible investments. Therefore, upon BOI approval, the foreign applicant may apply for a B visa directly with the Immigration Bureau within the BOI One Stop Service Centre.

iii Exemptions and favoured industries

The Immigration Act BE 2522 (1957) fixes a quota of foreign workers at a ratio of four Thai employees per one foreigner, with a maximum of 10 foreigners under certain circumstances.

In spite of the fixed quota under the Immigration Act BE 2522 (1957), this ratio is not applicable for:

- a* a company granted BOI status;
- b* representative offices;
- c* regional offices;
- d* branch offices; and
- e* legal entities under the allowed business scope of the Foreign Business Act BE 2542 (1999) (i.e., the representative office, regional office and branch office), in which case the ratio may be relaxed depending on the type of business conducted in Thailand.

Furthermore, under Immigration Police Order No. 777/2551 dated 25 November BE 2551 (2008), there is no quota requirement or restriction on foreign workers and volunteers working for non-governmental organisations (NGOs) in Thailand. Hence, an NGO is entitled to employ foreign workers and volunteers without employing a corresponding ratio of Thai employees.

II INTERNATIONAL TREATY OBLIGATIONS

Thailand is a founding member of the Association of South East Asian Nations (ASEAN), which started on 8 August 1967 with five countries: Indonesia, Malaysia, the Philippines, Singapore and Thailand. Subsequently Brunei, Laos, Cambodia and Vietnam joined ASEAN, and Myanmar became a member on 23 July 1997.

Under the regulations of ASEAN, the ASEAN Economic Community (AEC) was established on 31 December 2015, to provide an architecture for integration and economic development.

As the seventh-largest economy in the world, the AEC market now constitutes an essential vehicle for the growth of its developing countries. The Community is based on the elimination and reduction of tariff barriers, as well as the implementation of a free trade zone in which products and services can circulate, facilitating the movement of skilled workers through specific recognition of qualifications.

As a consequence, companies incorporated within ASEAN are able to reduce their costs and increase their competitiveness by importing or exporting goods from and among the ASEAN states.

Freedom of movement for AEC workers under the AEC framework is assisted by mutual recognition agreements (MRAs). The MRAs aim to facilitate the movement of professionals by ensuring that their qualifications are acknowledged and recognised by other AEC country members. Skilled workers within the following occupations are able to work in other ASEAN countries:

- a* engineers;
- b* nurses;
- c* architects;
- d* surveyors;
- e* accountants;
- f* dental practitioners;
- g* medical practitioners; and
- h* tourism professionals.

Although freedom of movement for these professions has theoretically been in force for AEC members since 2016, migration and employment of such skilled professionals in Thailand are still subject to working-visa and work-permit regulations imposed by, as yet unchanged, domestic regulations. However, the government of Thailand is actively working towards making free movement of skilled workers easier.

Notably, in terms of mobility, AEC nationals are now able to travel visa-free for short periods (only a few exceptions still apply) to all AEC member countries to facilitate business meetings and tourism.

III THE YEAR IN REVIEW

Thailand's economy improved surprisingly in 2017. Exportation of agricultural produce, food and beverages and electronic components are having a significant impact on Thailand's economic growth. Furthermore, government policies have seen tourist visa fees waived for 21 countries around the world, which also helps to boost Thailand's economic and cultural development, and the number of foreign travellers coming to Thailand rose in 2017.

However, as in the previous year, domestic investment has grown slowly because of the uncertain political situation and the mourning period following the death in October of the late King Bhumibol Adulyadej, which only ended in the final quarter of 2017.

Nonetheless, in 2017, foreign labour increased steadily in Thailand's labour market, at both professional and blue-collar level. However, despite the increase of legal foreign labour, a significant number of illegal foreign workers remain in Thailand. Therefore, in June 2017, the Royal Decree on Management of Alien Workers BE 2560 (2017) was enacted, replacing the previous Alien Working Act BE 2551 (2008) to provide a better framework for the employment of foreign workers and to better handle illegal employment. This event forced numerous foreign workers who were not complying with the regulations (and hence were not registered with the Immigration Bureau or the Ministry of Labour) to leave Thailand.

To allow time for foreign employers and employees to comply with the new regulations, the Thai government announced that the date of enforcement of this Royal Decree would be extended until 31 January 2018. An increase in lawful foreign employment is therefore to be expected in the near future.

IV EMPLOYER SPONSORSHIP

i Work permits

To secure a work permit in Thailand, a foreign national needs an initial B visa that must be obtained before entering Thailand, at the local Thai consulate where the applicant usually resides. The B visa is usually valid for 90 days. Once the foreigner has a B visa, he or she is entitled to travel to Thailand and apply for a work permit at the Ministry of Labour. The processing time for a work permit is seven business days.

The employer can also apply for the work permit on the behalf of his employee, prior to the employee entering Thailand, whereby the labour department will issue a letter of approval upon completion of documents. After that, the employee must submit the letter of approval to the Thai consulate in his or her country to obtain the B visa.

A company in Thailand is entitled to hire foreign workers at a ratio of 3 million Thai baht in capital per foreign worker, and one such foreign worker per four Thai nationals hired on a full-time basis; not exceeding, however, 10 foreign workers unless the company has obtained a FBL (or is BOI approved). In other situations (i.e., joint ventures where Thai shareholders hold a majority interest), the minimum capital ratio to hire a foreign worker is 2 million Thai baht per foreign worker and one such foreign worker per four Thai nationals hired on a full-time basis; not exceeding, however, 10 foreign workers.

Work permit validity

The work permit issued by the Ministry of Labour is usually granted for a period of up to one year maximum (at the officer's discretion based on the documents submitted and the effective business of the sponsor company). Such permits can be renewed annually as long as the conditions for legal employment are met. Foreign employees of companies meeting applicable size criteria can be granted a work permit valid for two years.

Additionally, when a foreign national is granted a one-year B visa, the visa holder has to report his or her place of residence to the Thai immigration authorities every 90 days (either in person at the immigration offices or online). The 90-day report does not need to be made if the foreigner leaves Thailand before the 90-day period ends.

If a foreign national has to leave Thailand temporarily, a re-entry permit must be applied for prior to any temporary departure, which then allows the foreign national to exit Thailand prior to the expiry of the visa and re-enter Thailand; otherwise the visa may be cancelled if the foreign national exits Thailand without obtaining a re-entry permit.

Work permit exemptions

Business visitors who wish to conduct business for short-term, necessary and urgent work are not required to obtain a work permit but may file a notification letter to the Ministry of Labour, under the Royal Decree on Management of Alien Workers BE 2560 (2017). These permitted short-term business activities are defined by the Department of Employment as urgent works taking place without notice, such as conferences, petroleum-related technical work, machine repairs or installation work, or other areas of work under the consideration of the Director-General of the Department of Employment.

Intra-company transfers

Intra-company assignment does not exist in Thailand and any foreign worker assigned from overseas to a Thai subsidiary is still required to apply for a B visa and a work permit.

Visa and work permit regulations will be flexible for skilled professionals who work with companies that obtain a BOI promotion certificate and have a representative office.

ii Labour market regulation

The employment of both Thai nationals and foreign workers are ruled by Thai labour laws, unless otherwise specified on the visa and work permits. All rights and duties pertaining to employees and employers are according to Thailand labour laws that have been enacted as follows:

- a* The Labour Protection Act BE 2541 (1998) protects the fundamental rights and duties of the employees. This Act outlines working hours, overtime pay, public holidays, welfare and labour standards for the employees.
- b* The Labour Relation Act BE 3518 (1975) outlines rules on how employees and their employers should negotiate their labour disputes to maintain peace in the working environment. The Act aims to maintain and improve a good relationship between employees and employers.
- c* The Workmen's Compensation Act BE 2492 (1994) rules the fundamental rights of employees, who die or injured from conducting their work during the working hours. Employers are required to compensate their employees for any medical expenses, funeral expenses or work rehabilitation expenses as a result of death or injury caused during the course of employment.
- d* The Social Security Act BE 2533 (1990) provides benefits for employees such as low-cost public medical services; compensation for death, injury or sickness; maternity services; and pensions and child welfare.

The employers must register the social security benefits for employees within 30 days of the date of employment. Five per cent of the salary in an amount not exceeding 15,000 Thai baht shall be deducted and paid to the social security fund on a monthly basis. A monthly social security fund to be paid to the Social Security Department is maximum of 750 baht per month.

The minimum rate of salary of foreign workers is also prescribed by the Order of Royal Police Office No. 327/2557 as follows:

- a* Canada, Japan, the United States, Europe (except Russia) and Australasia: 50,000 baht per month;
- b* South Korea, Singapore, Taiwan and Hong Kong: 45,000 baht per month;
- c* South America, eastern Europe (according to the categorisation of the United Nations geoscheme for Europe), Central America, Mexico, Russia, South Africa and the Asian continent (except Cambodia, Myanmar, Laos and Vietnam): 35,000 baht per month; and
- d* Cambodia, Myanmar, Laos, Vietnam and Africa (except South Africa): 25,000 baht month.

For instance, a foreign worker who holds Canadian nationality earning a salary of 50,000 baht per month shall pay social security at a maximum rate equivalent to 750 baht per month.

The Act establishing the Labour Court and Labour Court Procedure BE 2522 (1979) outlines the procedures of the Labour Court as well as detailing the jurisdiction for each labour matter.

Labour officers and social security officers are entitled to issue in writing enquiries or summonses requiring any person to give explanations on any facts and furnish documents or evidence necessary for factual examination, and immigration police perform random inspections at workplaces at their discretion, in relation to both domestic and foreign labour.

All employers must ensure that their foreign employees work within the scope of work specifically referred to under the relevant work permit or FBL and that they hold a valid visa. All employers must also provide a report on investment and work progress to the Department of Business Development.

For the renewal of the FBL and visa of each foreign employee, foreign employers must provide confirmation to an Immigration Officer and to the Department of Business Development that their employee continues to comply with the immigration requirements.

iii Rights and duties of sponsored employees

When it comes to employment issues, quality of working life is key. Thai labour laws provide that employees shall receive wages or a salary in the form of money and not less than the minimum wage rate and as agreed in the employment agreement between the employee and the employer, unless they are foreign workers. Foreign employees shall obtain a salary at a rate prescribed by the immigration laws of Thailand and the rate varies according to nationality. Transportation costs and benefits shall also be paid to employees in the event that the employee works outside the workplace.

Working contracts are divided into two categories, hire of services and hire of work. In the event that employees work under hire of services agreements and receive a salary continuously on a monthly basis, for the purpose of the health of the employees, working hours must not exceed eight hours per day and 42 hours a week. Besides, during normal working hours, employees are entitled to a one-hour rest per day and one day's holiday per week.

Furthermore, a holiday of no less than 13 days of traditional holidays, including national Labour Day, per calendar year, shall be provided by employers. Other than traditional holidays, employees are entitled to annual holiday determined by employers.

Under the employment agreements, employees are obligated to work for the employer during the period of employment, pay social security contributions to the Social Security Office and pay personal income tax to the Thai Revenue Department, according to Thai tax laws. Foreign workers who reside in Thailand or stay in Thailand for 180 days or more are also required to comply with Thai tax laws.

V INVESTORS, SKILLED MIGRANTS AND ENTREPRENEURS

i Business visitors and directors

As mentioned in Section IV.i, business visitors who wish to conduct necessary and urgent business for a short time in Thailand are not required to obtain a work permit. Nevertheless, such business visitors must obtain a letter of approval from the Labour Department prior to conducting the urgent business. A period of stay in Thailand for conducting necessary and urgent work cannot exceed 15 days.

Directors of companies incorporated in Thailand are required to hold a B visa and work permit to hold board meetings and to sign any document or act on behalf of the company (including being a signatory on the bank accounts of the company).

ii Investors and entrepreneurs

Thailand does not grant any visa related to investments made into the country, other than under the BOI scheme (investment is only taken into consideration when application for permanent residency is lodged).

iii Skilled migrants

Immigration Bureau Order No. 327/255 defines 'skilled occupations' as corresponding to different types of visa, such as: a teacher, educational professor or expert in government or private education; a medical practitioner who imparts medical knowledge to Thai nationals; or a person who performs installations or repairs to aircraft or ocean vessels.

To work in Thailand, skilled migrants must first obtain a non-immigrant visa (either a Category B business visa for work, a Category B-A business-approved visa, or a Category IB investment and business visa) and must be granted a work permit prior to starting work.

Nevertheless, requirements for skilled migrants engaged in BOI-eligible activity or companies may be relaxed depending on the type of business conducted in Thailand under BOI status. Some types of FBL (i.e., a representative office or regional office) may allow skilled migrants to conduct the permitted business without employing four full-time Thai employees.

In addition, according to BOI Announcement No. Por 4/2516 under Section 13 of the Investment Promotion Act BE 2520 (1977), foreign skilled workers (foreign experts, executives, entrepreneurs and investors) earning more than 200,000 Thai baht per month and working within one of the 10 targeted Eastern Economic Corridor (EEC) industries will be eligible to apply for the Smart Visa. The new Smart Visa will entitle qualified foreign workers to a four-year stay in Thailand, instead of a general one-year stay, as well as the right to work in Thailand without any additional work permit required. The 10 targeted EEC sectors are (1) next-generation automotive industry, (2) smart electronics, (3) affluent, medical and wellness tourism, (4) agriculture and biotechnology, (5) food for the future, (6) robotics,

(7) aviation and logistics, (8) biofuels and biochemicals, (9) digital and (10) ‘medical hub’-related industries. Furthermore, the Smart Visa holder’s legal dependents – hence spouse and dependent children – will be entitled to live, study and work in Thailand too.

iv Permanent residency

Foreigners may submit an application to become a Thai permanent resident after holding, among other criteria, the same Thai non-immigrant visa type (employment, business etc.) for at least three years prior to the submission of the application. However, a Thai permanent resident still needs to apply for a work permit if employment is needed.

A Thai permanent resident can then apply for citizenship under certain conditions (for example, the ability to speak Thai) in which case, a work permit will no longer be required to legally work, invest or administer a company in Thailand.

VI OUTLOOK AND CONCLUSIONS

Following a year-long mourning period for King Bhumibol Adulyadej, in 2018, the outlook for Thailand’s economy is promising again, with the Thai government expressing optimism for the current year and growth forecast.

In addition, exports and major investment projects are progressively increasing, particularly in the infrastructure sector. A considerable increase is also notable in the number of projects within the EEC investment zone, covering all three provinces of Rayong, Chonburi and Chachoengsao.

The government is expected to promote significant investment in Thailand, focusing on the emergent EEC and the above-mentioned 10 industry sectors targeted for growth, with a view to establishing the country as ASEAN’s investment hub. Prime Minister General Prayut Chan-o-Cha, with his government, made a cabinet resolution in early 2018 aiming to push the ‘smart city’ concept in the EEC to attract and encourage foreign talent and investors to invest in these targeted industries in Thailand.

The government further aims to enhance Thailand’s competitiveness in these sectors by offering exclusive investment incentives and amending numerous Thai laws and regulations, such as the limited terms for land lease and ownership, the restrictions on foreign business activities, and the types of visas granted for skilled workers (see Section V.iii, on the Smart Visa).

Furthermore, as mentioned above, under the Smart Visa scheme, skilled foreign workers wishing to enter Thailand to work or invest in the EEC targeted industries will be granted a four-year visa with eligibility to work in Thailand with no requirement for an additional work permit or re-entry permit. Those policies are, of course, expected to increase the flow, as well as the quality, of foreign workers into Thailand.

In the near future, the application requirements for the Smart Visa are expected to be widened and become more flexible to facilitate bringing foreign investors and skilled workers to Thailand.

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Jean-François Harvey founded Harvey Law Group (HLG) in Montreal, Quebec in 1992. He completed his Bachelor of Laws degree at the University of Ottawa and was appointed to the Quebec Bar in 1992, and is a member in good standing of both the Quebec and Canadian Bar Associations.

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