

## Thailand's Draft Clean Air Act: Possible Impact on M&A Transactions



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### Introduction

Although Thailand's draft Clean Air Act remains under parliamentary discussion, there is clear policy momentum towards establishing a comprehensive legal framework to recognise and protect the right to clean air. This trajectory is broadly consistent with global regulatory trends, where jurisdictions such as the United States, the United Kingdom, the European Union and certain ASEAN countries have introduced more stringent environmental frameworks and enforcement mechanisms to address air quality and broader environmental concerns.

Even if the draft Act is not enacted in its current form, the regulatory direction is evident. Environmental compliance is expected to become an increasingly important consideration for businesses operating in Thailand, as well as foreign investors and multinational businesses considering an investment in the jurisdiction. These developments should therefore be taken into account, including in the context of M&A transactions.

### Enhanced Focus on Environmental Due Diligence

The draft Act introduces a structured framework of rights, obligations, and enforcement mechanisms, including enhanced powers for authorities to inspect operations, request information, and order corrective measures or suspend activities in cases of non-compliance.

In addition, the draft Act recognises the rights of affected persons to seek environmental justice through civil, criminal, and administrative proceedings, as well as collective (class action) mechanisms. This may increase the likelihood of disputes arising from air pollution issues.

In an M&A context, this is particularly relevant for prospective buyers and investors acquiring interests in businesses with operations that may give rise to environmental exposure. The potentially expanded avenues for claims may increase both the probability and the potential scale of liabilities attaching to a target company. Therefore, buyers should place greater emphasis on environmental due diligence as part of their overall risk assessment, including:

- assessing compliance with applicable environmental laws;
- conducting more detailed litigation searches;
- reviewing any past, pending, or threatened environmental claims; and
- evaluating the target's readiness to comply with more stringent regulatory requirements.

### Implications for Valuation and Deal Structuring

The draft Act contemplates stricter emission control standards, the use of economic instruments (including fees and emission-related allocation or trading mechanisms), and measures encouraging or requiring the adoption of pollution control technologies across various sectors.

For businesses operating in pollution-intensive industries, this may result in increased compliance costs and capital expenditure. These factors are likely to be reflected in transaction terms, including:

- purchase price adjustments;
- deferred or contingent consideration (e.g. holdbacks or earn-outs); and
- enhanced contractual protections, including environmental representations and indemnities.

### Opportunities in a Shifting Regulatory Landscape

While the draft Act introduces additional compliance considerations, this may result in increased compliance costs which, in some cases, may be passed through the value chain to end users, customers, or other beneficiaries of the relevant goods or services, potentially affecting pricing and market dynamics. At the same time, heightened regulatory requirements may act as a catalyst for innovation, prompting businesses to invest in cleaner technologies, improve operational efficiencies, and develop more sustainable business models in order to remain competitive. Businesses that are already aligned with higher environmental standards, or that operate in sectors supporting cleaner technologies, may become more attractive to investors.

The draft also envisages the use of economic incentives and support mechanisms to encourage cleaner production and technological transition, which may further influence investment trends.

From an international perspective, this shift may also enhance Thailand's attractiveness as an investment destination for ESG-focused investors, who are increasingly prioritising jurisdictions with clearer environmental standards and enforcement frameworks. Alignment with global environmental practices may therefore support greater cross-border investment and facilitate participation in international supply chains that are subject to stricter environmental requirements.

### Conclusion

In summary, the draft Clean Air Act reflects a clear trajectory towards stricter environmental governance in Thailand. The key consideration for market participants is therefore not only whether the law will be enacted in its current form, but how environmental considerations will increasingly shape transactional practice. Early assessment and integration of these factors into deal planning will be important to manage risks and capture opportunities in an evolving regulatory environment.

*This update is intended solely to provide general information on recent regulatory and enforcement developments in Thailand and does not constitute legal advice or a legal opinion. Specific legal advice should be sought in relation to individual circumstances.*