



# WRAPS UP 2022 & LEVELS UP FOR 2023!



# Foreword By

## Hanim Hamzah

ZICO Law Regional Managing Partner



A sustainable recovery and a revolutionary reinvention.

With borders reopening and the world regaining a new normalcy, the ASEAN region is looking forward to the future. The focus has shifted from survival to resilient restoration as countries apply lessons learnt from the pandemic to build on a sustainable recovery.

Businesses face great challenges ahead having to deal with the aftereffects of the global pandemic and the threat of a looming recession. To future proof themselves, businesses in the region have shown their readiness to embrace digitalisation and technological advances as well as beef up their ESG and sustainability practices. Governments are also stepping up to provide legal frameworks and regulatory environments that enable needed change and growth while ensuring checks and balances are in place.

In this publication, we look back and roundup the key trends and developments we have seen in ASEAN in 2022, especially in the areas of ESG and sustainability, the future of work, digitalisation, governance and investment liberalisation.

We are also excited to share that 2023 will be a revolutionary year for the ZICO Law network as it reinvents itself and integrates into a leading global legal services network. Taking place on ZICO Law's 35th anniversary, this expansion of broader legal offerings into global markets builds on our long-standing tradition of innovation in the legal services industry.

We thank our clients and readers for their support. As we embark on this new chapter, we will endeavour to continue providing succinct and valued legal, regulatory and business updates, not only in ASEAN but across the world.

# A LOOK BACK AT 2022

## Introduction

The successful rollout of COVID-19 vaccination programmes allowed many countries to reopen their borders. With the world coming out of the pandemic, focus has shifted from survival during the pandemic to restoration, with major focus on sustainability. Countries are applying lessons learnt during the pandemic to build a resilient recovery.

Sustainability plays a major part in the growth with many organisations looking towards increasing ESG compliance, and countries rolling out sustainable reporting requirements and initiatives to meet their sustainable development goals (SDGs).

The new normal that arose out of the pandemic has led to the acceleration of digitalisation and a new way of thinking. Due to enforced lockdowns, many are prioritising their self-care and mental health which has led to changes for the future workplace. Countries have also embraced lessons learnt from the pandemic with countries introducing regulations on hybrid working and digital nomad visas.

The COVID-19 pandemic has also forced many to embrace digitalisation. Especially with the rise of various payment systems and the “Buy Now, Pay Later” schemes, many have gotten comfortable with digitalisation. This has also led to increased interest in the use of cryptocurrencies and popularity of non-fungible tokens (NFTs) with many countries around the region - and the world – developing regulations to regulate the sector.

With the threat of a recession in 2023, countries are focusing on economic recovery with laws and regulations being introduced to create more favourable business and investment conditions.

In this article, we will review what has transpired in 2022 and look forward to what is in store in 2023.

# Sustainability & ESG

As countries and businesses shift out of pandemic constraints, attention has refocussed on envisioning a more sustainable future. ESG and sustainability have been the main highlight with organisations focusing on their ESG and mandatory reporting. With climate change high on the agenda, many governments, including ASEAN, are stepping up efforts towards decarbonisation and reduction of greenhouse gas emissions.

Climate change laws are snowballing, with many countries having enacted or are in the process of enacting climate change legislation. In 2020, the IPCC Working Group III estimates that up to 56 countries have enacted direct climate laws that regulated 53% of the world's emissions.<sup>1</sup> In the region, [Malaysia is currently drafting a National Climate Change Legal Framework, which will set the foundation for a Climate Change Act](#) while Thailand's draft climate change law has been reported to be completed and set for cabinet submission in 2023.<sup>2</sup> Indonesia has incorporated reduction of greenhouse gas emissions under the Medium-Term National Development Plan 2015-2019, which planned to reduce emissions by 26% by 2020 and increased to 27.3% by 2024.<sup>3</sup>

Across ASEAN, the six largest member states (Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam) have taken the lead by implementing ESG disclosure requirements for listed companies. While previously, sustainability



disclosures focussed mainly on social issues, the new ESG disclosure requirements include more than twice as many environmental reporting provisions as social provisions. International reporting frameworks such as the Global Reporting Initiative (GRI) Standards and Task Force on Climate-related Financial Disclosures (TCFD) have also been incorporated into countries reporting framework and is helping to shape ESG reporting in the region.<sup>4</sup> In line with the increased calls for companies on their ESG disclosures, there has also been increased scrutiny on business leaderships to consider ESG as part of

their decision-making process, as was discussed in our article on the [role of ESG as part of the director's duties](#).

As global sales of electric vehicles (EVs) takes off, ASEAN is focusing on becoming the world's next EV hub. With global efforts to diversify supply chains combined with the drive to adopt green technology, EV production in the region is ripe for taking.<sup>5</sup> In our [Green Publication 2.0](#) we set out how ASEAN is driving the focus on green mobility. According to the International Renewable Energy Agency, 20% of all vehicles in the region will be electric by 2025.

<sup>1</sup> Olivia Rumble and Andrew Gilder, 'Climate Change Regulation 2022' (Chambers and Partners, 28 July 2022) <<https://practiceguides.chambers.com/practice-guides/climate-change-regulation-2022>> accessed 8 November 2022.

<sup>2</sup> Ratchapat Triteeyaputranonta and Joseph Tomkiewicz, 'Thailand: Thailand's Draft Climate Change Act' Mondaq (31 August 2022) <<https://www.mondaq.com/climate-change/1226252/thailand39s-draft-climate-change-act>> accessed 8 November 2022.

<sup>3</sup> Hening Wikan, 'Warming up Indonesia's climate change policies' (Asia and The Pacific Policy Society Policy Forum, 15 March 2022) <<https://www.policyforum.net/warming-up-indonesias-climate-change-policies/>> accessed 8 November 2022.

<sup>4</sup> Robert Charnock, 'ESG reporting across the ASEAN economies' (RSK Group, 1 April 2022) <<https://rskgroup.com/insights/esg-reporting-across-the-asean-economies/>> accessed 1 April 2022.

<sup>5</sup> Danielle Fallin and Karen Lee, 'Southeast Asia Hopes to Become the World's Next EV Hub' The Diplomat (5 September 2022) <<https://thediplomat.com/2022/09/southeast-asia-hopes-to-become-the-worlds-next-ev-hub/>> accessed 7 November 2022.

# Future of work

In 2021, the ‘Great Resignation’ phenomenon swept across the world. The pandemic served as a major trigger for emotional overload and burnout, causing deep dissatisfaction and reluctance among many employees to return to the previous status quo. With the fundamental shift in work expectations and culture, 2022 saw more businesses pivoting towards digitalisation, and hybrid/flexible working arrangements.

Many businesses are facing difficulty in attracting and retaining talent while employees are focusing more on work-life balance and managing their mental health. The World Health Organisation (WHO) reports that cases of anxiety and depression rose 25% in the first year of the pandemic. Concerns on the potential increase has prompted countries to survey and include mental health and psychosocial support in their COVID-19 response plans.<sup>6</sup> Countries are taking note – Malaysia is planning to introduce a National Mental Health Centre of Excellence as an integrated driving force to ensure the people’s mental well-being.<sup>7</sup>

The normalisation of remote work has led to countries legislating for hybrid/flexible working arrangements. In Malaysia, the [Employment Act was amended to allow employees to apply for Flexible Working Arrangements](#) while Philippines have [implemented rules and regulations for Republic Act No. 11165](#), also known as the Telecommuting Act 2018. It allows employees to work at an “alternative workplace” – any place where work can be done through telecommunications or computer technology.<sup>8</sup> In Singapore, the Ministry of Manpower is encouraging employers to continue offering flexible working arrangements and promote it a permanent feature of the workplace.<sup>9</sup> Some countries in Southeast Asia have also introduced digital nomad visas as a way to pivot themselves as a major remote working hub in the region and boost domestic digital adoption.<sup>10</sup>

<sup>6</sup> WHO, ‘COVID-19 pandemic triggers 25% increase in prevalence of anxiety and depression worldwide’ (2 March 2022) <<https://www.who.int/news/item/02-03-2022-covid-19-pandemic-triggers-25-increase-in-prevalence-of-anxiety-and-depression-worldwide>> accessed 7 November 2022.

<sup>7</sup> Muhammad Yusry, ‘Plan to set up National Mental Health Centre of Excellence lauded’ The Sun (7 November 2022) <<https://www.thesundaily.my/local/plan-to-set-up-national-mental-health-centre-of-excellence-lauded-L110098773>> accessed 7 November 2022.

<sup>8</sup> Jerome Aning, ‘“Work-from-everywhere” covered by telecommute law’ Inquirer (30 September 2022) <<https://newsinfo.inquirer.net/1672958/work-from-everywhere-covered-by-telecommute-law>> accessed 3 November 2022.

<sup>9</sup> Ministry of Manpower, ‘Tripartite Statement on Flexible Work Arrangements’ (22 April 2022) <<https://www.mom.gov.sg/newsroom/press-replies/2022/0422-tripartite-statement-on-flexible-work-arrangements>> accessed 3 November 2022).

<sup>10</sup> Southeast Asian Nations Roll Out Digital Nomad Visa Schemes’ Fintechnews Singapore (28 October 2022) <<https://fintechnews.sg/64521/fintech/southeast-asian-nations-roll-out-digital-nomad-visa-schemes/>> accessed 7 November 2022.



# Digitalisation

The COVID-19 pandemic has forced most businesses to pivot and embrace digitalisation. With more payment systems being accepted online, we have seen the proliferation of cryptocurrencies. Countries like Thailand and Vietnam have emerged as ASEAN crypto trading hot spots, beating Singapore with each country logging over USD100bn transactions in a year.<sup>11</sup> With the Binance and FTX deal rocking the crypto world leading Bitcoin to tumble to the lowest level in two years,<sup>12</sup> investor protection became even more crucial. At present, several countries such as Indonesia,<sup>13</sup> Thailand<sup>14</sup> and Singapore<sup>15</sup> are looking at tightening crypto regulations to better protect investors. Thailand, for instance has made an attempt at [regulating digital platforms](#) and [regulations has been introduced in Indonesia](#) by the Minister of Finance to boost collection from financial technology, crypto assets and virtual-based activities.

The emergence of new financial solutions in the maturing digital landscape has also led the Central Bank of Philippines to adopt a [Regulatory Sandbox Framework](#) to enable an environment for responsible innovation that is complemented by a sound risk management system.

In recent months, we have also seen immense interest and the [rise in popularity of NFTs \(Non-Fungible Tokens\)](#), a digital token that has woven itself into the fabric of our current lifestyle. However, questions remain as to whether NFTs will be regulated as global regulators seem to be distant in navigating the regulations pursuant to NFTs. Thus far, Singapore courts have recognised for the first time that NFTs are protectable digital assets.<sup>16</sup>

<sup>11</sup> 'Thailand and Vietnam emerge as ASEAN crypto trading hot spots' Nikkei Asia (21 September 2022) <<https://asia.nikkei.com/Spotlight/Cryptocurrencies/Thailand-and-Vietnam-emerge-as-ASEAN-crypto-trading-hot-spots>> accessed 11 November 2022.

<sup>12</sup> 'How Binance, FTX deal rocked the Crypto world and later collapsed' Business Standard (10 November 2022) <[https://www.business-standard.com/article/markets/how-binance-ftx-deal-rocked-the-crypto-world-and-later-collapsed-122111000148\\_1.html](https://www.business-standard.com/article/markets/how-binance-ftx-deal-rocked-the-crypto-world-and-later-collapsed-122111000148_1.html)> accessed 11 November 2022.

<sup>13</sup> 'Indonesia plans to tighten oversight of crypto market', Channel News Asia (10 November 2022) <<https://www.channelnewsasia.com/business/indonesia-plans-tighten-oversight-crypto-market-3060146>> accessed 11 November 2022.

<sup>14</sup> 'Thailand tightens rules on crypto advertising', Thailand Business News (5 September 2022) <<https://www.thailand-business-news.com/banking/92446-thailand-tightens-rules-on-crypto-advertising>> accessed 14 November 2022.

<sup>15</sup> 'Singapore tightens crypto regulation', Finance Asia (12 April 2022) <<https://www.financeasia.com/article/singapore-tightens-crypto-regulation/477183>> accessed 14 November 2022.

<sup>16</sup> 'NFTs – a Protectable Digital Asset?', Lexology (3 June 2022) <<https://www.lexology.com/library/detail.aspx?g=fb18971e-063c-4356-a518-78303dcc96cd>> accessed 14 November 2022.

# Governance & Investment Liberalisation

As more countries move into the endemic phase with a focus on economic recovery, several laws have been amended to create more favourable business and investment conditions.

In the Philippines, the [draft amendments to the Foreign Investments Law have been approved](#) by Congress which enables foreign online businesses to be considered as domestic market enterprises. An investment promotion council will also be created as a one-stop shop to respond to specific queries by investors by assigned investment specialists. These well-anticipated [amendments to the Philippines Foreign Investment Act](#) were passed on 2 March 2022, relaxing the longstanding foreign equity restrictions while putting in place stronger safeguards against possible threats to national interest in vital industries.



Furthermore, full foreign ownership of retail trade enterprises with a minimum paid up capital of PHP25 million is now allowed, pursuant to the recent amendments to the Retail Trade Liberalisation Act that is reflected in the recently issued [12th Foreign Investment Negative List](#).

In Vietnam, the government issued [Resolution No.94/NQ-CP](#) where proposals to amend 10 laws were approved to facilitate business and investment activities whilst in Myanmar the Central Bank issued a [directive](#) which allows the establishment of 100% foreign owned non-bank financial institutions.

Governance frameworks have also been strengthened in the Philippines where the [Central Bank amended the Corporate Governance Guidelines for financial institutions](#) to reinforce the governance framework for interlocking directorships and officerships. An e-governance law<sup>17</sup> has also been proposed in the Philippines which aims to unify and streamline the processes of delivering programs and services across all government offices through digitalisation thereby providing the highest level of convenience in transacting with the Philippine government.

<sup>17</sup> 'E-governance 'heart and blood' of new gov't', Philippine News Agency (10 November 2022) <<https://www.pna.gov.ph/articles/1188283>> accessed 15 November 2022.

# Conclusion

Although there has been news of a gloomy economic outlook, rising inflations, the aftereffect of the war in Ukraine, and possible recession in 2023, it is not all doom and gloom.

We believe that in moments of adversity, we have the ability to catapult people and businesses to new heights with constructive growth mindset and resilience. The positive developments we have seen and covered in this article demonstrate that.

As we shift our sights to 2023, we can look forward to an expanded coverage of our newsletter and services beyond ASEAN. We will continue to be your trusted business advisors, keeping you updated on relevant legal, regulatory, business and technology updates throughout the year.



**ASEAN INSIDERS,**  
by origin and passion