

Institutions Administering the Grant of Fiscal Incentives in the ASEAN: A Comparative Study*

I. INTRODUCTION

Attracting strategic and quality investment is crucial in attaining economic growth and generating employment. It also provides an avenue for technology and knowledge transfer and promotes international trade and domestic competitiveness. As such, many countries are aiming to enhance their attractiveness as investment destinations. Aside from positive macroeconomic fundamentals, availability of quality infrastructures, and competitive investment policies, investment inflows, whether domestic or foreign, are also determined by the capacities of institutions administering investment promotion and granting fiscal incentives.

In the Association of Southeast Asian Nations (ASEAN), each country has its own institution that administers investment promotion and grants of fiscal incentives. These government institutions play a crucial role in determining competitive investment policies, regulations, and strategies, among others, which directly influence the investment decisions of investors. In the case of the Philippines, investment promotion is vested with the Board of Investments (BOI)¹ and the various investment promotion agencies (IPAs), while the authority to grant incentives is given to the Fiscal Incentives Review Board (FIRB) or the IPAs, under delegated authority from the FIRB. Like the Philippines, ASEAN member states have their own institutions performing the same functions.

This paper provides an overview of these FIRB-like institutions in the ASEAN to get more detailed information on the extent of work these institutions do and how these compare to that of the Philippines' FIRB and IPAs.

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¹ The BOI is an attached agency of the Department of Trade and Industry that is responsible for the development of investments in the country. It leads the promotion of various industries and investment opportunities, and assists Filipino and foreign investors to venture and thrive in vast areas of economic pursuits and acts as a one-stop-shop in doing business in the Philippines.

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II. FUNCTIONS AND ORGANIZATION OF THE FIRB IN THE PHILIPPINES

The FIRB is an inter-agency committee created under Presidential Decree (PD) No. 776, s. 1975 to determine what subsidies and tax exemptions should be modified, withdrawn, revoked, or suspended. Under PD 776, the FIRB shall be composed of the Secretary of Finance as Chairman, the Secretary of Industry, the Director General of the National Economic and Development Authority (NEDA), and the Commissioners of Internal Revenue and Customs as members.

Government-owned and/or -controlled corporations, on account of their socio-economic development objectives, were granted tax exemption privileges in their respective charters or through special laws. Due, however, to the serious tax base erosion caused by such tax privileges, PD 1931, s. 1984, (June 11, 1984) withdrew all tax exemption privileges granted in favor of GOCCs, including their subsidiaries. The decree provided further, that the President and/or the Minister of Finance, upon the recommendation of the FIRB, may restore, partially or totally, the withdrawn exemptions, or otherwise revise the scope and coverage of any applicable tax and duty. PD 1955, s. 1984, on the other hand, withdrew, with some exceptions, all exemptions from or any preferential treatment in the payment of duties, taxes, fees, imposts, and other charges granted to private business enterprises and/or persons engaged in any economic activity. On March 10, 1987, when Executive Order (EO) No. 93, s. 1986 withdrew, on a general basis, the tax and duty exemption of both government and private entities, it likewise instituted a system of subsidy to take care of the tax and duty liabilities of government entities affected thereby for the reason of fiscal transparency. The administration of this subsidy for GOCCs was given to the FIRB and national government agencies, to the Department of Budget and Management.

Through the years, the mandated functions of the FIRB, as well as its membership under PD 776, s. 1975 were expanded. The most recent was through the enactment of Republic Act (RA) No. 11534, otherwise known as the “Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act”.

Prior to the enactment of the CREATE Act, the FIRB was tasked to formulate a complete system for the grant of subsidies to deserving beneficiaries, in lieu of, or combination with, the restoration of tax and duty exemptions or preferential treatment in taxation, indicating the source of funding therefor, eligible beneficiaries, and the terms and conditions for the grant thereof, pursuant to Section 2(e) of EO 93, s. 1986. The institutionalization of the grant of tax subsidy as a more effective system of assistance to deserving government entities in lieu of outright tax and duty exemptions is one of the significant features of EO 93. The tax subsidy system provides funds, withdrawable against the Tax Expenditure Fund (TEF), to qualified beneficiaries to be used by them to settle their tax and duty obligations.

As regards the membership of the FIRB, the Rules and Regulations to Implement the Subsidy Provision under EO 93 provides that the FIRB shall be composed of the Secretary of Finance as Chairman, and the Secretaries of Trade and Industry and Budget Management, Director General of NEDA, Commissioners of Internal Revenue and Customs, and the Director of the National Tax Research Center (NTRC), as members.

The FIRB structure under the CREATE Act ensures that relevant agencies grant and properly monitor tax incentives apart from tax subsidies. The FIRB shall exercise policy-making and oversight functions on the administration and grant of tax incentives by IPA and other government agencies (OGAs) administering tax incentives. Section 297 of the National Internal Revenue Code (NIRC) of 1997, as amended by the CREATE Act, provides for the following functions, among others, of the FIRB:

- a. Exercise policy-making and oversight functions on the administration and grant of tax incentives by the IPAs and OGAs administering tax incentives;
- b. Approve or disapprove the grant of tax incentives to the extent of the registered project or activity upon the recommendation of the IPA, provided, that the FIRB may delegate the grant of tax incentives to the Technical Committee (TC) of the FIRB or the concerned IPA;
- c. Approve applications for tax subsidies to GOCCS, government instrumentalities (GIs), government commissaries, and state universities and colleges (SUCs);
- d. Cancel, suspend, or withdraw the enjoyment of fiscal incentives of concerned RBEs for violations of any of the conditions imposed in the grant of fiscal incentives; and
- e. Cancel, suspend, or withdraw the enjoyment of tax subsidy of concerned GOCCs, GIs, government commissaries, and SUCs, among others.

As to membership, the CREATE Act reconstituted the composition of the FIRB and its TC, which shall serve as its main support unit and perform functions as may be assigned. The FIRB is still chaired by the Secretary of Finance, with the Secretary of Trade and Industry as Co-Chairman, and Executive Secretary of the Office of the President, Secretary of Budget and Management, and Director General of NEDA, as members. The TC of the FIRB is assigned to perform functions pertinent to tax incentives pursuant to FIRB Resolution Nos. 04-21 and 10-21, as follows:

- a. To review the Secretariat's evaluation of the application for tax incentives;
- b. To recommend to the Board the approval, disapproval, suspension, or withdrawal of tax incentives; and
- c. To decide on tax incentives applications with investment capital of more than P1,000,000,000.00 but not more than P3,000,000,000.00, subject to the confirmation of the Board, until the end of 2022.

With the expanded functions of the FIRB, the CREATE Act also mandated the NTRC to support the Board and serve as its Secretariat. The Fiscal Incentives Management, Monitoring and Evaluation, and Legal Groups were thus created in the NTRC to evaluate tax incentives applications endorsed by IPAs and monitor registered business enterprises (RBEs) availing tax incentives in the country.

III. FIRB-LIKE INSTITUTIONS IN THE ASEAN

Similar to the Philippines, other member states of the ASEAN also have their institutions administering the grant of fiscal incentives. In addition, most of these institutions are mandated to promote public and private investments and serve as policy-making bodies regarding investments and incentives. In the case, however, of the Foreign Investment Agency of Vietnam and the Ministry of Investment [Badan Koordinasi Penanaman Modal (BKPM)] of Indonesia, they have another unique function to facilitate the foreign investment activities of their country that are situated in other countries.

All institutions are empowered to perform their functions through laws and other issuances. They are also under the supervision of higher agencies or ministries. The organizational structure of each institution differs, although there are similarities regarding organizational divisions concerning investment promotion, evaluation, and supervision. Countries like the Philippines, Brunei, Malaysia, and Singapore are managed by a Board or Executive Committee. The details of the composition and mandate/functions of these institutions are presented in Table 1.

Table 1

FIRB-like Institutions in the ASEAN

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
Brunei Darussalam	Brunei Economic Development Board (BEDB)	<p>The BEDB is composed of the following:</p> <p>Chairman Minister at the Prime Minister's Office and Minister of Finance and Economy II</p> <p>Deputy Co-Chairman Two - Deputy Minister of Finance and Deputy Minister of Economy</p> <p>Members 1. Deputy Minister Energy Department, Prime Minister's Office 2. Permanent Secretary (Economy, Trade and Industry), Ministry of Finance and Economy 3. Sabli Group of Companies 4. Principal Architect, Eco Bumi Arkitek 5. Director, LVK Group of Companies 6. Chief Executive Officer, BEDB</p>	<p>The BEDB acts as a frontline agency for facilitating foreign investments in Brunei Darussalam and works closely with investors to understand their business needs.</p> <p>The BEDB also provides information on the local investment climate, developmental requirements, laws and regulations, cost of doing business, and project-specific information.</p>

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
Cambodia	Council for the Development of Cambodia (CDC)	<p>The CDC Management is composed of the following:</p> <p>Secretary General</p> <p>Deputy Secretary General (3)</p> <p>Department Directors</p> <ol style="list-style-type: none"> 1. Director of the Department of Public Relations and Promotion of Private Investment 2. Director of Department of Investment Project Evaluation and Incentives 3. Director Department of Administration 4. Director of Department of Environmental Impact Assessment 5. Director of Department of Investment Projects Monitoring 6. Director of Department of Legal Affairs and Investment Law 7. Director of Department of Private Investments Strategies Analysis 	<p>The CDC is the highest decision-making level of the government for public and private investments. It also has operational arms for private investment, namely the Cambodian Investment Board (CIB) and the Cambodian Special Economic Zone Board (CSEZB). Both Boards review investment applications and grant incentives to projects (CDC, n.d.).</p> <p>The CDC is mandated to review investment applications, grant incentives, and monitor investment projects after implementation (CDC, n.d.).</p>

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
Indonesia	BKPM	<p>The organizational structure of the BKPM is as follows:</p> <p>Minister of Investment/Chairman</p> <p>Special Staff to the Chairman</p> <ol style="list-style-type: none"> 1. Economic Affairs 2. Regional Relations 3. Bureaucratic Reform 4. National Entrepreneurship 5. Inter-Institutional Communications <p>Investment Committee</p> <ol style="list-style-type: none"> 1. Communication and Information 2. Spokesperson <p>Vice Chairman</p> <p>Secretary General</p> <ol style="list-style-type: none"> 1. Investment Competitiveness Enhancement 2. Macro Economics 3. Inter-Institution Relations 4. Investment Priority Sector Development 	<p>The BKPM, or the Indonesian Coordinating Board non-ministerial government agency, is mandated to boost domestic and foreign direct investments (FDIs) by creating a conducive investment climate.</p> <p>The BKPM also established the Indonesia Investment Promotion Center (IIPC), an official representative of the BKPM overseas, that promotes investment in Indonesia to potential investors abroad through the provision of consultancy services on Indonesian investment opportunities, procedures, and assistance. It is also tasked to facilitate investment from Indonesia to the state of domicile and working area (BKPM, n.d.).</p>

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
Lao People's Democratic Republic (PDR)	Investment Promotion Department (IPD) under the Ministry of	<p>5. Information Technology and System Integration</p> <p>Deputy Chairman</p> <ol style="list-style-type: none"> 1. Investment Planning 2. Investment in Climate Development 3. Investment Promotion 4. Investment Service 5. Investment Supervision and Controlling 6. Investment Cooperation <p>Inspector</p> <p>Head of Data and Information Management Center</p> <p>Head of Education and Training Center</p> <p>Head of Legal Assistance Center</p>	<p>The IDP administers the foreign investment system and reviews investment applications in accordance with the Investment Promotion Law of Lao PDR. Further, they serve as the Central Investment One-Stop Service Office for screening projects, coordinating, summarizing, reporting, and implementing</p>

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
	Planning and Investment	<p>Director General</p> <p>Deputy Director Generals (4)</p> <p>Divisions</p> <ol style="list-style-type: none"> 1. Administration 2. Investment Promotion 3. Project Appraisal and Secretariat 4. Contract Appraisal and Management 5. Project Supervision Monitoring and Evaluation 6. One Stop Service 7. International Investment Cooperation 8. Public Private Partnership (PPP) 	activities to attract, promote, protect, and manage the private sector and PPP (IPD n.d.).
Malaysia	Malaysian Investment Development Authority (MIDA)	<p>The Board of MIDA is composed of the following:</p> <p>Chairman</p> <p>CEO</p> <p>Board Members:</p> <ol style="list-style-type: none"> 1. Deputy CEO 1. Investment Promotion Facilitation 	The MIDA was incorporated in 1967 by virtue of the MIDA Act. Its primary function is to promote and coordinate industrial development in Malaysia through the evaluation of applications for projects in the manufacturing sector and select services sub-sectors, such as granting manufacturing licenses, tax incentives, expatriate posts, and any other facilities (MIDA, n.d.).

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
		<p>2. Investment Development</p> <p>3. Investment Policy Advocacy</p> <p>Executive Directors</p> <ol style="list-style-type: none"> 1. Investment Facilitation 2. Corporate Management Services 3. Investment Policy Advocacy 4. Investment Promotion 5. Manufacturing Development (Non-Resource) 6. Manufacturing Development (Resource) 7. Investment Policy Advocacy 8. Services Development 	
Myanmar	Directorate of Investment and Company Administration (DICA)	<p>The organizational structure of DICA is as follows:</p> <p>Director General</p> <p>Deputy Director General</p> <ol style="list-style-type: none"> 1. Operation <ol style="list-style-type: none"> a. Investment Division (1) b. Investment Division (2) c. Investment Division (3) 	The DICA serves as the primary interface between businesses and the government, which is mandated to promote private sector development and boost domestic and foreign investment. It is a key agency within the Government of the Republic of the Union of Myanmar's Ministry of Investment and Foreign Economic Relations (MIFER) (DICA, n.d.).

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
		<ul style="list-style-type: none"> d. Investment Division (4) 2. Coordination <ul style="list-style-type: none"> a. Investment Promotion Division b. Plantation and Statistics Division c. Policy and Legal Division d. Human Resource Development and Research Division 3. Supervision <ul style="list-style-type: none"> a. Administration and Finance Division b. Company Affairs Division c. Investment Monitoring Division 4. Deputy Director General <ul style="list-style-type: none"> a. Regional/States Branch Office b. Departmental Cooperation Team 	

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
Singapore	Singapore Economic Development Board (EDB)	The Singapore EDB is managed by an Executive Committee composed of a Chairman, Managing Director, and seven (7) Executive Vice-Presidents.	The Singapore EDB is an attached agency of the Ministry of Trade and Industry responsible for strategies in facilitating investment promotion and industry development in the manufacturing and internationally tradeable services sectors (EDB, n.d.).
Thailand	Office of the Board of Investment (Thailand BOI)	The organizational structure of the Thailand BOI is as follows: Office of the Secretary General Investment Strategy Division Foreign Investment Marketing Division International Affairs Division Competitiveness Enhancement Division Information Technology Center Thai Enterprise Development Division Regional Investment and Economic Center 1. Chiang Mai 2. Nakhon Ratchasima 3. Khon Kaen 4. Chon Buri 5. Songkhla 6. Surat Thani 7. Phitsanulok	The Thailand BOI is an attached agency of the Office of the Prime Minister and is mandated to (Thailand BOI, n.d.): a. Promote investment that helps enhance national competitiveness by encouraging research and development, innovation, and value creation in the agricultural, industrial, and services sectors, small and medium enterprises, fair competition, and reduce social and economic disparity; b. Promote clusters to create investment concentration in accordance with regional potential and to strengthen value chains; c. Promote investment in border provinces in Southern Thailand to help develop the local economy, which will support efforts to enhance security in the area; d. Promote special economic zones, especially in border areas, both inside

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
	Investment Promotion Division	<ol style="list-style-type: none"> 1. Bio and Medical Industries 2. Advanced Manufacturing Industries 3. Basic and Supporting Industries 4. Digital, Creative Industries, and High Value Services 	<p>and outside industrial estates, to create economic connectivity with neighboring countries and to prepare for entry into the ASEAN Economic Community (AEC); and</p>
	Overseas Offices	<ol style="list-style-type: none"> 1. Tokyo 2. Osaka 3. Seoul 4. Beijing 5. Guangzhou 6. Shanghai 7. Stockholm 8. Taipei 9. Sydney 10. Frankfurt 11. Paris 12. New York 13. Los Angeles 14. Mumbai 	<ol style="list-style-type: none"> e. Promote Thai overseas investment to enhance the competitiveness of Thai businesses and Thailand's role in the global economy.

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
15. Jakarta	Investment Monitoring Division	1. Investment Monitoring Division 1 <ul style="list-style-type: none"> a. Bio and Medical Industries b. Advanced Manufacturing Industries 	
16. Hanoi	Investment Services Center	2. Investment Monitoring Division 2 <ul style="list-style-type: none"> a. Basic and Supporting Industries b. Digital, Creative Industries, and High Value Services 	
	Expatriate Services Division	One start one stop investment center <ul style="list-style-type: none"> 1. One Stop Services Center for Visas and Work Permits 2. SMART Visa 3. Long term resident Visa 	

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
Vietnam	Foreign Investment Agency (FIA) of Vietnam	No available information.	<p>The FIA is a national-level administrative agency under Vietnam's Ministry of Planning and Investment promoting and managing foreign investments and the country's direct investment activities abroad. The main functions of the FIA are as follows (FIA, 2020):</p> <ol style="list-style-type: none"> a. Act as a focal body to synthesize inward and outward investment for the national economic plan; b. Preside over the development, amendment, and complementation of foreign investment policy and mechanism; collect and find solutions to difficulties and impediments during the implementation of the law, policy, and mechanism of inward and outward investment; c. Receive applications and participate in inspecting build-operate-transfer (BOT), build-to-order (BTO), and build-transfer (BT) projects; preside over the procedures for BOT, BTO, and BT projects; submit to the Minister to decide on the issuance of Investment License to BOT, BTO, BT projects where the proposal for the project is approved; d. Receive application files of outward investment projects; participate in inspecting outward investment projects;

ASEAN country	FIRB-like institution/s	Composition	Mandate/Functions
			<p>preside over the application process and monitor the outward investment projects; submit applications to the Minister for the issuance of Investment License where the project is accepted; and</p> <p>e. Act as a focal body to undertake the state management over investment promotion activities; coordinate with relevant units to set up a strategy, plan, policy, and direction for inward and outward investment; and synthesize, evaluate and coordinate investment promotion activities.</p> <p>There are three (3) investment promotion centers at a regional level in Northern, Central, and Southern Vietnam under the administration of the FIA (FIA, 2020).</p>

IV. ADMINISTRATION OF TAX INCENTIVES IN THE PHILIPPINES AND ASEAN

As mentioned earlier, the FIRB has the authority to grant tax incentives to RBEs only to the extent of their registered project or activity under the Strategic Investment Priority Plan. However, such authority may be delegated by the FIRB to its Technical Committee or the concerned IPA. Under Section 297(B) of the NIRC of 1997, as amended by RA 11534, IPAs have the delegated authority from the FIRB to approve or disapprove the grant of tax incentives for registered projects or activities with investment capital of equal to or below P1 billion. While for projects with investment capital of above P1 billion, the authority to approve or disapprove the grant of tax incentives is vested in the FIRB.

Prior to the enactment of the CREATE Act, the IPAs were vested the full authority to administer investment incentives, among others, providing a different menu of tax incentives and authority to grant thereof. The enactment of the CREATE Act, which rationalized the grant and administration of tax incentives in the country to make it performance-based, time-bound, targeted, and transparent, provided a single menu of incentives across all IPAs.

Presently, there are 14 IPAs in the country. These include the Board of Investments (BOI), Philippine Economic Zone Authority (PEZA), Bases Conversion and Development Authority (BCDA), Subic Bay Metropolitan Authority (SBMA), Clark Development Corporation (CDC), John Hay Management Corporation (JHMC), Poro Point Management Corporation (PPMC), Cagayan Economic Zone Authority (CEZA), Zamboanga City Special Economic Zone Authority (ZCSEZA), Phividec Industrial Authority (PIA), Aurora Pacific Economic Zone and Freeport Authority (APECO), Authority of the Freeport Area of Bataan (AFAB), Tourism Infrastructure and Enterprise Zone Authority (TIEZA), and Regional Bangsamoro Board of Investments (BBOI). These IPAs are government entities created by law, executive order, decree, or other issuance and are in charge of promoting investments, administering tax and non-tax incentives, and/or overseeing the operations of the different economic zones and freeports in accordance with their respective charters.

It should be noted that the FIRB is not an IPA but an inter-agency government body whose powers are limited to those enumerated under the CREATE Act. The significant difference is the power of the FIRB to exercise policy-making and oversight functions on the administration and grant of tax incentives by the IPAs and other government agencies administering tax incentives. Conversely, the power of the FIRB to grant tax incentives is only upon the recommendation of IPAs. Also, the FIRB has no geographical jurisdiction, unlike other IPAs with limited authority within their SEZs. However, the same applies to the BOI.

In other ASEAN countries, there are FIRB-like and IPA counterparts. In some of these institutions, the role of the FIRB and an IPA are combined under one agency.

A. Brunei

In Brunei, the agency in charge of evaluating and approving investments is the Foreign Direct and Downstream Industry Working and Steering Committee (FDIDI). The role of the Brunei Economic Development Board, on the other hand, is for the application submission and aftercare process under the FDI Action and Support Centre (FAST) (BEDB, n.d.).

B. Cambodia

Under the Law on the Investment of the Kingdom of Cambodia, adopted in 1994, the Council for the Development of Cambodia (CDC) comprises two (2) operational Boards: The Cambodian Rehabilitation and Development Board and Cambodian Investment Board (CIB). Due to rapid economic development in Cambodia, the royal government introduced SEZs in 2005 [Cambodian Center for Human Rights (CCHR), 2018]. As a result, the CDC was restructured and established a new wing, the Cambodian Special Economic Zone Board (CSEZB), to manage the SEZ scheme (Sub-Decree No. 147, 2005). Thus, the CIB and CSEZB are part of the CDC and are not separate entities. The CIB is in charge of approving applications outside the SEZs.

C. Indonesia

The Badan Koordinasi Penanaman Modal is the main government agency in Indonesia that implements investment-related policies. It is an independent agency and is considered the first national single window for investment. It has the exclusive power to screen and prior approval of investment projects with foreign participation or investor registration and grant fiscal incentives (Organization for Economic Cooperation and Development [OECD], 2020).

D. Lao PDR

The Investment Promotion Department (IPD), under the Ministry of Planning and Investment, serves as the central investment one-stop service office for general business and concession activities. It is also tasked to promote Lao PDR as an investment destination, offer incentives, screen investment proposals, collect data, and monitor investment practices (IPD, n.d.). However, the authority to approve investment proposals is vested in the Investment Promotion and Management Committee at the central and provincial levels. The Committee has the critical authority for the consideration and approval of investments. The two (2) levels of committees may be involved in the approval process. Further, proposals concerning concession activities, controlled activities, and SEZ development will remain under the authority of the Central Committee (Tilleke & Gibbins, 2018).

E. Malaysia

The Malaysian Investment Development Authority (MIDA) is Malaysia's principal investment promotion agency (IPA) for developing manufacturing and services sectors. Each of the 13 states has its own IPA, namely: Pahang State Development Corporation (PKNP), Invest Johor, Invest Selangor Berhad (SB), Invest Perak, Invest Penang, Invest Kedah, Invest Melaka, Invest Negeri Sembilan (NS), Kelantan State Economic Planning Unit, Perlis State Economic Development Corporation (PKENP), Terengganu State Economic Planning Unit, Ministry of

Industrial Development Sabah, and Ministry of Industrial Development Sarawak (See Annex A.). The aforementioned IPAs only serves as a One Stop Center for submitting and coordinating application to the MIDA. Further, applications are still subject to the approval of the MIDA.

F. Myanmar

The Directorate of Investment and Company Administration (DICA) is primarily tasked with promoting private sector development and boosting domestic and foreign investment. It serves as a regulator of investment and companies, a company registrar, an IPA, and the secretariat of the Myanmar Investment Commission (MIC). The latter is a government-appointed body responsible for verifying and approving investment proposals. In addition, it carries out the duties of investment promotion, facilitation, and coordination (DICA, n.d.).

G. Singapore

The Economic Development Board is the primary investment facilitator in Singapore and is responsible for both the application process and approval.

H. Thailand

The Office of the Board of Investment Thailand is a One Stop Service Center with regional and overseas offices that accepts, evaluates, and issues Investment Promotion Resolutions in case of approval.

I. Vietnam

The Foreign Investment Agency of Vietnam serves as a focal body in several investment-related functions. It also presides over and coordinates with different agencies regarding foreign investment policies; and monitors and inspects the implementation of regulations concerning inward and outward investment. However, the power to approve investment proposals is vested in the National Assembly, Prime Minister, and the People's Committee, depending on the industry, in accordance with the 2020 Law on Investment of Vietnam (See Annex B.).

Among all the ASEAN countries, the Philippines and Malaysia are the only countries in the region with several IPAs, 14 and 13 institutions, respectively. However, the functions of the IPAs in Malaysia are limited, except for the MIDA, as the principal IPA. The MIDA is tasked to evaluate all of the applications in Malaysia. In comparison, IPAs in the Philippines evaluate applications of business enterprises with an investment capital of P1.0 billion and below.

On the other hand, Cambodia, Indonesia, Singapore, and Thailand are the only countries in the region with a singular institution that facilitates and approves investment applications—further eliminating red tape in the system by introducing a One Stop Center that caters to all investment promotion applications in their respective countries. Similarly, the Philippines' BOI also has no geographical constraints when accepting applications, unlike other IPAs that are confined within their jurisdiction. As an IPA, however, the BOI is still under the oversight functions of the FIRB regarding the administration and grant of tax incentives.

It must also be noted that in the Philippines, the President may, in the interest of national economic development and upon the recommendation of the FIRB, modify the mix, period, or manner of availment of tax incentives or craft the appropriate financial support package for a highly desirable project or a specific industrial activity based on defined development strategies for creating high-value jobs, building new industries to diversify economic activities, and attracting significant foreign and domestic capital or investment, and the fiscal requirements of the activity or project, subject to maximum incentive levels recommended by the FIRB.

The President may exercise such power if the project: (a) has a comprehensive sustainable development plan with clear inclusive business approaches and a high level of sophistication and innovation; and (b) minimum investment capital of P50.0 billion or minimum direct local employment of at least 10,000 within three years from the issuance of the certificate of entitlement (CREATE Act, 2021). Financial support to such projects or activities includes utilizing government resources such as land use, water appropriation, power provision, and budgetary support under the General Appropriations Act. Similarly, the Prime Minister of Vietnam also has the power to approve projects subject to the list provided under Article 31 of the 2020 Law on Investment Vietnam (See Annex B.).

Table 2

Institutions in the ASEAN Administering the Grant and Availment of Tax Incentives

Country	Institution/s administering the grant and availment of tax incentives
Philippines	1. FIRB 2. IPAs
Brunei Darussalam	BEDB
Cambodia	CDC
Indonesia	BKPM
Lao PDR	IPD (Ministry of Planning and Investment)
Malaysia	1. MIDA 2. Pahang State Development Corporation (PKNP)

Country	Institution/s administering the grant and availment of tax incentives
Malaysia (cont.)	<ol style="list-style-type: none"> 3. Invest Johor 4. Invest SB 5. Invest Perak 6. Invest Penang 7. Invest Kedah 8. Invest Melaka 9. Invest NS 10. Kelantan State Economic Planning Unit 11. PKENP 12. Terengganu State Economic Planning Unit 13. Ministry of Industrial Development Sabah 14. Ministry of Industrial Development Sarawak
Myanmar	DICA
Singapore	EDB
Thailand	Thailand BOI
Vietnam	FIA Vietnam (Ministry of Planning and Investment)

V. EVALUATION PROCESS OF THE GRANT AND AVAILMENT OF TAX INCENTIVES IN THE ASEAN

As mentioned in the previous discussion, no IPA or FIRB-like institution in the ASEAN member states is entirely the same in terms of composition, organizational structure, and other functions. Therefore, evaluation processes also differ in each ASEAN country. However, except for the Philippines, Myanmar, Singapore, and Thailand, the method of evaluating applications for tax incentives in the other ASEAN countries is either not fully disclosed to the public, or the information is not officially translated into English.

Rule 6 of the Implementing Rules and Regulations (IRR) of the CREATE Act identifies the processes for evaluating the tax incentives applications of IPAs and the FIRB in the Philippines. The regulations also mention using cost-benefit analysis (CBA) to evaluate tax incentives applications, which shall be employed by both the IPAs and the FIRB. In Myanmar, the DICA introduced an investment cycle that will guide their investors in every step of the application. Furthermore, they require their investors to submit a feasibility study and identify investment needs. Similarly, Thailand requires a feasibility study to be submitted

to BOI Thailand but only for projects with an investment value of over 750 million baht (USD 21.60 million)², excluding land and working capital costs.

As regards processing time, the IPAs and the FIRB in the Philippines have their respective Citizen's charter, which articulates the period within which they will process tax incentives applications. Of the ASEAN member states, Indonesia has the shortest processing period of eight days, while Thailand has the longest at nine to eleven months. (See Table 3.)

In the case of Vietnam, the processing time for applications differs depending on the nature of the investment project, categorized by the type of approving body or entity, i.e., National Assembly, Prime Minister, and Provincial People's Committee.

Table 3

Evaluation Process of the Grant and Availment of Tax Incentives in the ASEAN

Country	Processing time	Evaluation process	
Philippines	A. For projects or activities with investment capital of P1 billion and below:	Pursuant to Section 297(B) of the NIRC of 1997, as amended, the application for tax incentives shall be accompanied by a CBA.	
	IPA	Processing time	
	AFAB	Twenty-four working days	The evaluation process in the Philippines is enumerated under the CREATE Act IRR. Section 6 of Rule 6 of the IRR provides the following processes at the IPA level: 1. IPA a. Pre-evaluation of the applicant's eligibility (project or activity of the applicant must be included in the Strategic Investment Priority Plan) and completeness of the submitted documents. b. Conduct of an initial evaluation to determine the ex-ante impact of tax incentives on the project or activity, and this will be compared to the benefits that will be derived by the government, which is represented by taxes, duties, and fees payable by RBEs to the government (national and local). The period of comparison shall
	APECO	Six working days and four hours	
	BCDA	Twenty days	
	BOI	Seven weeks and five days	
	CDC	Five working days	
	CEZA	Nineteen days and forty-five minutes	
	PEZA	Twenty working days	
	PIA	Twenty to sixty working days, depending on the magnitude of the project	
PPMC	Seventeen working days		
SBMA	Three days		

² As of December 21, 2022, USD 1 is equivalent to 34.72 baht. Retrieved from <https://www.forbes.com/advisor/money-transfer/currency-converter/thb-usd/>

Country	Processing time	Evaluation process
ZCSEZA	Nineteen working days, six hours, and forty minutes	cover the entire period of incentives entitlement. A preliminary negative fiscal cost-benefit ratio shall not, by itself, however, disqualify the applicant for registration.
<p>Note: The data for JHMC, Regional BBOI, and TIEZA are unavailable.</p> <p>B. For projects or activities with investment capital of over P1 billion - 18.5 working days. This period, however, only covers the processing time of the FIRB. The IPA shall initially evaluate the application and forward its recommendation to the FIRB. The docket of application shall then be evaluated and reviewed by the FIRB until a decision is arrived at for which the Board shall issue a Resolution.</p> <p>C. For applications of highly desirable projects or a specific industrial activity - 31 working days. The duration of the process covers the activity/processing time of the FIRB and the Office of the President, which are 18.5 working days and 12.5 working days, respectively. The IPA shall initially evaluate the application and forward its recommendation to the FIRB.</p>		<p>c. The IPA shall issue the Order of Payment for the filing fee and stamp the Date of Official Filing, including the application number.</p> <p>d. In case of any issues encountered during the evaluation process, the applicant shall be notified by the IPA. The applicant shall be given a reasonable time to address the issue/s encountered or comply with the additional requirements if any.</p> <p>e. For projects or activities with investment capital of more than P1,000,000,000.00, the FIRB shall decide on the recommended tax incentives of the IPA.</p> <p>Note: The evaluation process of each IPA is partially comparable as there are differences in the processing time and the decision-making body, among others.</p>
		<p>2. FIRB</p> <p>a. Upon completion of all documentary requirements, the FIRB Secretariat shall review the evaluation and recommendations of the IPA. It shall prepare an evaluation report which shall be submitted to the TC. If there is a need for more documentary requirements, the Secretariat shall return the application to the IPA concerned.</p> <p>b. The TC may adopt or reject the Secretariat's evaluation and shall submit its recommendations to the Board.</p>

Country	Processing time	Evaluation process
		<p>c. The Board shall have the exclusive authority to decide on all applications for tax incentives. The Board may adopt, revise or reverse the recommendations of the TC through a Board resolution issued for each application and such shall be signed by at least a majority of the members of the Board.</p> <p>d. In the case of an application that may be granted incentives by the President, the copy of the Board Resolution shall be transmitted to the Office of the President for its review and decision.</p> <p>e. The FIRB Secretariat shall provide the concerned IPA with a copy of the Board resolution on the approved tax incentives; included are the terms and conditions for registration of the RBE.</p>
Brunei Darussalam	<p>Forty-five days for the certification process of investments related to halal activities.</p> <p>Note: No available data for other industries.</p>	No available data
Cambodia	If the proposed investment project is not identified in the negative list, the registration certificate is issued within 20 working days .	No available data
Indonesia	The Ministry of Finance shall decide on the application within eight working days .	No available data
Lao PDR	If the activity is deemed eligible and meets all the requirements prescribed, the incentive certificate is issued within 30 working days .	No available data
Malaysia	The processing and decision are made within six weeks from the date of receipt of complete information.	No available data
Myanmar	Upon acceptance of the application, the decision shall be made within 30 days .	The DICA introduced an investment cycle and support needs to its investors.

Country	Processing time	Evaluation process
	After which, a certificate approving the application for tax incentives shall be issued within ten days .	The cycle consists of the following stages (DICA, 2018): <ol style="list-style-type: none"> 1. Investment preparation (identification of investment needs and feasibility study by the investor); 2. Investment decision and actual investment by the investor; 3. Start of operations; 4. Re-investment; and 5. Divestment (depending on the project)
Singapore	Tax incentives application process takes three to six months .	The EDB recommends that investors prepare a business plan to facilitate and speed up the discussion with the Singapore Government (EDB, n.d.).
Thailand	<p>Approximately nine months for projects with investment capital not exceeding 200 million baht (USD 5.76 million); approximately 10 months for projects with investment capital not exceeding 2 billion baht; and approximately 11 months for projects with investment capital exceeding 2 billion baht.</p> <p>Upon acceptance of the applicant of the investment promotion resolution, the Thailand BOI shall issue a Promotion Certificate within 10 working days.</p>	<p>For projects with an investment value over 750 million baht (USD 21.60 million), excluding the cost of land and working capital, the project feasibility study must be submitted to the Board, including specified details as follows (BOI Thailand, 2022) (See Annex C.):</p> <ol style="list-style-type: none"> 1. Summary of the project; 2. Industry overview; 3. Appropriateness of the project; 4. Effects on the overall economy; and 5. Assistance from the Government
Vietnam	<p>The processing time differs depending on the decision-making body.</p> <p>Within 58 days for the approval by the Prime Minister; within 85 days for the approval by the provincial-level People's Committee; and within 165 days for the approval by the National Assembly.</p>	No available data

IV. CONCLUSION

Based on the foregoing discussion, while it is evident that the processes and structures of IPAs and other decision-making bodies concerning investments and tax incentives in the ASEAN vary, it cannot be discounted that there are also similarities in some ASEAN countries. For example, many IPAs or FIRB-like institutions are managed by an Executive Committee or Board. Furthermore, countries like the Philippines and Malaysia have multiple IPAs depending on the location.

The ASEAN region recognizes investment facilitation as a key tool for ASEAN Member States to attract investments. In the ASEAN Investment Report 2022, there were 10 investment facilitation measures identified that were either already in place or still being addressed by the Member States, and these were assessed as either not in place, basic or advanced.

It is worth noting that the Philippines was assessed as advanced on the ‘independence of competent authorities’ measure, which may be partly attributed to the expansion of the FIRB functions under the CREATE Act. It is thus, noteworthy that the country continues to align its policies and initiatives with the ASEAN Investment Facilitation Framework, which was adopted in 2021 to strengthen regional cooperation on investment facilitation.

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- Office of the President, Modifying All Laws, Acts, Decrees, Orders and Ordinances Granting Subsidies, Exemptions from Taxes, Duties, Fees, Imposts and Other Charges Under Certain Exceptions and Creating a Fiscal Incentives Board, Presidential Decree No. 776, Series of 1975 (PD No. 776, s. 1975)].
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Annex A

List of IPAs in Malaysia and its Mandate¹

IPA	Mandate
PKNP	The PKNP is mandated to formulate, facilitate, and implement projects and ideas to upgrade the socio-economic well-being of the Pahang State, especially in rural areas. It also acts as the trust body that coordinates investments between the private sector and the government for the state government ² .
Invest Johor	Invest Johor is a one stop center in the state of Johor that deals with investors and positions the state as an attractive destination for investment. Its primary role is promoting, facilitating, and coordinating investments in different industries. Further, it assists interested investors via direct consultation and cooperation with relevant authorities at both federal and state levels ³ .
Invest SB	Invest SB is a one stop agency that provides information, advisory services, and start-up or expansion assistance to potential and existing investors ⁴ .
Invest Perak	Invest Perak serves as the first point of contact for investors in the manufacturing and services sector in the State of Perak. It acts as the principal IPA of the State and reports directly to Chief Minister of Perak. Further, it supports qualified companies applying for state and federal government incentives ⁵ .

¹ The mandate of the other IPAs in Malaysia not included in the table are unavailable online.

² Pahang State Development Corporation. (n.d.). *Background/History*. Retrieved on October 14, 2022, from <https://www.pknpp.gov.my/index.php/en/corporate/latar-belakang-pknpp>

³ Invest Johor. (n.d.). *About Us*. Retrieved on October 14, 2022, from <https://investjohor.gov.my/about-us/>

⁴ Invest SB (n.d.). *About Us*. Retrieved on October 14, 2022, from <https://www.investselangor.my/About-Us/>

⁵ Invest Perak. (n.d.). *Overview*. Retrieved on October 14, 2022, from <https://www.investperak.gov.my/overview-investperak/>

IPA	Mandate
Invest Penang	Invest Penang is a non-profit entity of the Penang State Government with the primary purpose of promoting investments within Penang. It created Invest-in-Penang Berhad as a one stop agency that provides comprehensive information on Penang's investment opportunities and helps facilitate them. Further, the agency works with Federal agencies for investment incentives ⁶ .
Invest Kedah	Invest Kedah is a government-linked company responsible for attracting, facilitating, and supporting business investments in Kedah. It acts as a liaison to streamline the investment processes with local government agencies. Further, the company also acts as a post-investment support service ⁷ .
Invest NS	Invest NS is a one-solution center tasked to assist investors in setting up new and expanded operations in Negeri Sembilan ⁸ .

⁶ Invest Penang. (n.d.). *About InvestPenang*. (n.d.). Retrieved on October 14, 2022, from <https://investpenang.gov.my/about-invest-penang/>

⁷ Invest Kedah. (n.d.). *Our Principles*. Retrieved on October 14, 2022, from <https://www.investkedah.com/our-principles/>

⁸ Invest NS. (n.d.). *About Us*. Retrieved on October 14, 2022, from <https://investns.com.my/about-us/>

Annex B

Investment Projects in Vietnam Are Subject To The Approval Of The Following:

National assembly ⁹	Prime minister ¹⁰	Provincial People's Committee ¹¹
<p>1. Investment projects that exert great effects or potentially serious effects on the environment, including:</p> <ul style="list-style-type: none"> a. Nuclear power plants; b. Projects that require repurposing of the land of special-use forests, headwater protection forests, or border protection forests of at least 50 hectares; of sand-fixing and windbreak coastal forests or protection forests for wave prevention of at least 500 hectares; of production forests of at least 1,000 hectares 	<p>1. Investment projects regardless of capital sources in any one of the following cases:</p> <ul style="list-style-type: none"> a. Investment projects that require relocation of 10,000 people or more in mountainous areas or 20,000 people or more in other areas; b. Investment projects on construction of: airports and aerodromes; runways of airports and aerodromes; international passenger terminals; cargo terminals of airports and aerodromes with a capacity of at least 1 million tonnes per year; c. New investment projects in the passenger air transport business; d. Investment projects on construction of ports and wharves of special seaports; ports and wharves in which investment is at least VND 2,300 	<p>1. Except for the investment projects set out in Articles 30 and 31 of this Law, the provincial People's Committees shall approve investment guidelines for the following investment projects:</p> <ul style="list-style-type: none"> a. Investment projects that request the State to allocate or lease out land without auction or bidding for or receipt of land use rights, and investment projects that request permission to repurpose land, except for cases of allocation, lease, or permission for repurposing of the land of households or individuals not subject to the written approval by the provincial People's Committee in accordance with regulations of law on land; b. Projects on the construction of residential housing (for sale, lease, or lease purchase) and urban areas that
<p>2. Investment projects that require repurposing of land meant for wet rice cultivation with 2 or more crops of at least 500 hectares;</p>	<p>c. New investment projects in the passenger air transport business;</p>	<p>provincial People's Committee in accordance with regulations of law on land;</p>
<p>3. Investment projects that require relocation of 20,000 people or more in</p>	<p>d. Investment projects on construction of ports and wharves of special investment is at least VND 2,300</p>	<p>lease purchase) and urban areas that</p>

⁹ Article 30 of the 2020 Law on Investment Vietnam.

¹⁰ Article 31 of the 2020 Law on Investment Vietnam.

¹¹ Article 32 of the 2020 Law on Investment Vietnam.

National assembly	Prime minister	Provincial People's Committee
<p>mountainous areas or 50,000 people or more in other areas; and</p> <p>4. Investment projects that require the application of a special mechanism or policy need to be decided by the National Assembly.</p>	<p>billion within the category of Class I seaports;</p> <p>e. Investment projects which involve betting and casino services, excluding business in prize-winning electronic games for foreigners;</p> <p>f. Investment projects on construction of residential housing (for sale, lease, or lease purchase) and urban areas that use at least 50 hectares of land or less than 50 hectares of land but with a population of at least 15,000 people in an urban area; or that use at least 100 hectares of land or less than 100 hectares of land but with a population of at least 10,000 people in a non-urban area; or investment projects regardless of the area of land used or population within a restricted development area or a historic inner area (determined in accordance with urban area planning projects) of a special urban area;</p> <p>c. Projects on investment in golf course construction and business; and</p> <p>d. Investment projects of foreign investors and foreign-invested business organizations executed on islands or in border or coastal communes; in other areas affecting national defense and security.</p> <p>2. The investment guidelines of the investment projects in items a, b, and d, as above stated, executed in industrial parks, export-processing zones, hi-tech zones, and economic zones in conformity</p>	<p>use at least 50 hectares of land or less than 50 hectares of land but with a population of at least 15,000 people in an urban area; or that use at least 100 hectares of land or less than 100 hectares of land but with a population of at least 10,000 people in a non-urban area; or investment projects regardless of the area of land used or population within a restricted development area or a historic inner area (determined in accordance with urban area planning projects) of a special urban area;</p> <p>c. Projects on investment in golf course construction and business; and</p> <p>d. Investment projects of foreign investors and foreign-invested business organizations executed on islands or in border or coastal communes; in other areas affecting national defense and security.</p> <p>2. The investment guidelines of the investment projects in items a, b, and d, as above stated, executed in industrial parks, export-processing zones, hi-tech zones, and economic zones in conformity</p>

National assembly	Prime minister	Provincial People's Committee
	<p>Foreign investor's investment projects in the following fields: provision of telecommunications services with network infrastructure; afforestation; publication; and press;</p> <p>2. Investment projects which at the same time fall within the power of at least two provincial People's Committees to approve investment guidelines; and</p> <p>3. Other investment projects are subject to approval for their investment guidelines or subject to an investment decision by the Prime Minister as prescribed by law.</p>	<p>with planning approved by competent authorities shall be approved by management boards of such industrial parks, export-processing zones, hi-tech zones and economic zones; and</p> <p>3. The Government shall elaborate on this Article.</p>

Annex C

Details of the BOI Thailand Feasibility Study¹²

Details ¹³	Particulars
Summary of the Project	Summary of the project, in brief, i.e., products, investment capital, factory location, number of workers, raw materials in use, technology, and other relevant information.
Industry overview	<ol style="list-style-type: none"> 1. The linkage between the products for investment promotion is requested with other countries. Explain the situation in Thailand and other countries; 2. Demand for the project: domestic and major export markets and the future of these markets; and 3. Local production capacity of similar products.
Appropriateness of the Project	<ol style="list-style-type: none"> 1. Investors <ol style="list-style-type: none"> a. Explanation of business and industry experiences of Thai and foreign investors and the company's executives, and the investment ratio of all investors concerned; b. Progress in the negotiations between investors: at the initial stage of negotiation or the contract is signed; and c. In the case of utilizing an existing company by not setting up a new one, explain the shareholders, business, profit and loss, and the preceding balance sheets of the existing company. 2. Financial aspects: source of funds, utilization of investment capital, Cash flow, net present value, and internal rate of return (IRR) in the case of exempted corporate income tax and non-

¹² For projects with investment capital of over 750 million Baht, excluding cost of land and working capital.

¹³ BOI Thailand. (2022). *Investment Promotion Guide*. Retrieved on October 24, 2022, from https://www.boi.go.th/upload/content/BOI_A_Guide_EN.pdf

Details	Particulars
	<p>exempted corporate income tax, and Progress in the financial institution's consideration of the application for debt.</p>
3.	<p>Competitiveness:</p>
a.	<p>Suitability of import duties and business taxes on the products and the main raw materials;</p>
b.	<p>Average production cost at 50%, 80%, and 100% of production capacity;</p>
c.	<p>Cost, insurance, and freight process and cost of imported similar products;</p>
d.	<p>Advantages in manufacturing the products in Thailand; and</p>
e.	<p>Sensitivity analysis;</p>
4.	<p>Technical aspects:</p>
a.	<p>Available production techniques, the advantages, and disadvantages of each technique, techniques used in various countries, the reasons why the project chose the specific technique/s;</p>
b.	<p>Explanations of technical support, aspects which they assist;</p>
c.	<p>Conditions and limitations of technology transfer, the cost of know-how;</p>
d.	<p>Appropriateness of the production process;</p>
e.	<p>Appropriateness of production scales in comparison to those used in factories in other countries;</p>
f.	<p>Sources and adequacy of raw materials, including opportunities to produce raw materials in Thailand;</p>
g.	<p>Factory location; and</p>
h.	<p>Utilization of labor at various levels and training courses.</p>
5.	<p>Effects on the environment</p>

Details	Particulars
Effects on the overall economy	<ol style="list-style-type: none"> 1. How much will the government lose revenue by promoting the project? 2. Benefits to the overall economy
Assistance from the Government	<ol style="list-style-type: none"> 1. The necessity to apply for promotional privileges: requested incentives; 2. Degree of necessity to adjust import duties on raw materials and finished products; 3. The necessity to request special protection from competition from foreign countries or to limit the number of local manufacturers; and 4. Government assistance in various aspects, such as electricity, water, infrastructure, etc.