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Our Asia Counsel Insights provide a summary overview of the key trending legal and business issues in Vietnam and how they may impact on your business. Please enjoy your read.

## About Asia Counsel

Asia Counsel is a dynamic international corporate and commercial law firm dedicated to serving clients in Vietnam. We are committed to helping clients achieve their business strategies and providing outstanding legal services.



## Banking Wrap

### Dong Devaluation

The State Bank of Vietnam devaluated the Vietnamese Dong by a further 1% on 7 May 2015 from VND21,458/1USD to VND21,673/1USD.

### Business Borrowings

The State Bank of Vietnam has reported that up to February 2015, the total outstanding business borrowing is about VND4,000,000 billion (c.USD184 billion). This is an 0.65% increase from 2014. Loans to heavy industry and construction amounted to 35% of the total borrowings.

### Bank Consolidation

The State Bank of Vietnam has plans to consolidate the existing 40 commercial banks down to 15 by 2017.

## Enterprises Law: Changes from 1 July

Below is our continuing coverage of the changes to the Enterprises Law from 1 July 2015.

### Charter Capital Contribution

Founding members or shareholders must contribute to the charter capital within 90 days of incorporation. If charter capital is not fully contributed within that time then the registered charter capital must be reduced to the amount of capital actually contributed. This poses issues for investment projects that require large charter capital contributions. For instance, it is impractical to contribute USD100 million within 90 days as deploying such amount requires a phased-in approach depending on the project needs. The government should consider this issue in drafting the implementing decree.

### Private Placement

Private shareholding companies making a private placement must notify the relevant authority within 5 working days of a shareholder decision on the private placement. The placement can proceed 5 working days after the notification if the authority does not object.

## Property

### Construction contracts

Decree 37/2015/ND-CP to take effect from 15 June 2015 prescribes minimum advance payment in construction related contracts for State-budget funded projects.

- Consulting service contract: advance payment of 15 to 20% depending on the contract price;
- Construction execution contract: advance payments of between 10 to 20% depending on the contract price.
- Equipment and technology transfer contract; EC, EP, PC, EPC, turnkey and other construction contracts: at least 10% of contract price.

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If you have any questions on any of the items discussed above, please do not hesitate to contact us.

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## Business

### Social insurance

From 2018, social insurance scheme shall apply to all foreign employees entering into labor contracts of at least 3 months.

### Equitisation

The Ministry of Finance is drafting regulations to allow for the equitisation of more than 50% of the shares in a State owned enterprise. This would allow greater private ownership given current equitisations require the state to maintain a substantial majority shareholding.

### Import Waste Materials

Manufacturers who import waste materials for production purpose must pay a 20% security deposit on total import.

## The Financial Markets

### Derivatives

The Government issued its first decree on derivative securities with Decree 45/2015/ND-CP dated 5 May 2015 which will take effect on 1 July 2015. The decree sets up a market for three main types of derivatives: futures, options and forward contracts which will be traded on a Vietnamese stock exchange. The Vietnam Securities Depository will settle and clear the derivatives.

Only qualified securities brokers approved by the SSC can conduct business in derivatives. There are restrictions on the source of funding for securities firms and fund managers to trade in derivatives. Vietnamese banks and insurances firms are only permitted to trade in the derivatives if approved by the State Bank of Vietnam or Ministry of Finance, as relevant.

## Consumer

### Foreign-made goods taking over local market

News reports indicate that foreign goods from Japan and ASEAN countries are taking over the local retail market due to the removal of import duty barriers. Under the Agreement on Comprehensive Economic Partnership among ASEAN countries and Japan, 3,234 Japanese-made goods are entitled to zero tax rate from 1 April 2015.

### Filing of Consumer Contracts

Businesses must file standard contract or terms and conditions with the Vietnam Competition Authority (VCA) or the Departments of Industry and Trade in nine service offerings such as: apartment sale and purchase; mobile and fixed phone telecommunications; Internet; air and train passenger transportation; and cable tv. The purpose of the filing is to enhance consumer protections. In March 2015, there were 41 filings: 54% were accepted, 42% were rejected and 4% withdrew. 34 of the 41 filings were apartment sale and purchase contracts.

## Vietnam Fact Box

GDP USD171 billion

GDP Growth 6.19%

Population 90.73 million

Rural population is double the urban population

There are 1,545 wards (phường), 49 urban districts (quận) and 548 rural districts (huyện) in Vietnam

In 2013, 21.1% of enterprises are State-owned enterprises, 48.9% are private Vietnamese owned enterprises and 30% are foreign invested enterprises.

15% of Vietnam's total revenue come from oil and gas.

19 May is Ho Chi Minh's birthday.

## Infrastructure

### Private investment in Vietnam's railway infrastructure

Vietnam Railways Corporation (VRC) has called for private investments under the public private partnership model for 17 projects with total investment capital of up to USD 5 billion. These projects vary from freight transportation and freight handling as well as the upgrading of rail facilities.

### Costs of building roads

Reports indicate that the costs of building roads in Vietnam are higher than the average of other countries. The average cost is USD7-8 million per km. In a number of road projects in Vietnam the costs are as follows: (i) HCMC – Long Thanh Dau Giay Highway is USD 13.5 million per km; (ii) Da Nang – Quang Ngai Highway is USD10.7 million per km; (iii) Ninh Binh – Thanh Hoa Highway is USD12.5 million per km.

