

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

Swaps

In Vietnam, only interest rates swaps and foreign exchange swaps are permitted by Vietnamese banks and they can only be conducted by banks if approved by the State Bank of Vietnam.

Profits and Reserves

According to news reports (www.cafef.vn), in the first quarter of 2015, profits of the 10 largest Vietnamese banks were VND16,000 billion (c.USD 735 million) which is a 33% increase from the same quarter last year. The banks placed 46% of the profits in their risk reserves.

Fines for no cash in ATMs

If there is no cash in an ATM or if an ATM is not functional for more than 24 hours, the SBV can fine the banks owning the ATM.

Investment Law: Changes from 1 July

Below is a snapshot of the key changes to the Investment Law from 1 July 2015.

Acquisition Registration

A foreign investor acquiring: (a) 51% or more of the charter capital of an entity; or (b) an interest in an entity operating in a sector subject to foreign investment conditions (ie Appendix 4 of the Investment Law), must register the acquisition with the local department of planning and investment ("DPI"). There is a 15 day period in which the DPI must advise the target company to register the change in ownership under normal company law.

Investment Registration Certificate

A foreign investor or an entity that has foreigners holding 51% or more of the charter capital of the entity wanting to implement an investment project (ie conducting business investment activities) in Vietnam must apply for an investment registration certificate ("IRC") with the DPI. The IRC is issued by the DPI, not the people's committee. This IRC will also be used to apply to establish a company in Vietnam.

Property

Bank Guarantees

Property developments are earnestly working with Vietnamese banks to give guarantees to purchasers of off-the-plan apartment and villa for sale projects as part of changes to the real estate business law to take effect on 1 July 2015. This new requirement protects purchasers from projects that are delayed or bankrupt.

Casino in Nha Trang?

The Chairman of the People's Committee of Khanh Hoa province has asked the Prime Minister to consider Khanh Hoa Province as a possible location for a casino in the Prime Minister's national casino policy. Phu Quoc, Hoi An, Da Nang, Ho Tram and Hai Phong are already approved casino locations.

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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

Labour Outsourcing

On 14 May 2015, the Ministry of Labour, Invalids and Social Affairs issued Decision 629/QD-LDTBXH setting out the process to license labour outsourcing companies. The requirements for a labour outsource company to be licensed are below:

- The applicant must have a minimum legal capital of VND2 billion and put such amount in escrow (VND10 billion for a foreign joint venture business).
- The applicant must own its head office or have a lease in place for at least 2 years.
- The owner must have at least 3 years' experience industry experience (5 years for a foreign JV).
- The prescribed licensing period is 60 days.

The Financial Markets

Margin Lending

Margin lending interest rates offering by securities firm range from 9.9 to 15.4% p.a. There are about 150 out of 700 stocks on the stock market where margin lending transactions are permitted to trade. Securities are also required to obtain approval from the State Securities Commission in order to carry out margin lending. Vietnamese banks are also limited to lending to securities firms and clients for margin lending purposes, this being 5% of a bank's charter capital. However, short selling remains prohibited in Vietnam.

Japanese Investors

According to news reports, Japanese investors have the most trading accounts in Vietnam. Of the 17,000 trading accounts 40% of the accounts are held by Japanese investors.

Consumer

Compensation for Delayed Flights

The Ministry of Transportation issued Circular 14/2015/TT-BGTVT dated 27 April 2015 requiring Vietnamese airlines to compensate passengers for delayed (ie more than four hours) or cancelled flights. The minimum compensation amount is quite low. For instance, for domestic routes of over 1,000 km, the compensation is VND400,000 (c. USD20) and USD150 for international routes of over 5,000 km.

Counterfeit Goods

News reports state that in the period of 13-15 May 2015, the Market Management Department of Ho Chi Minh City during its investigations confiscated about 17,000 counterfeit goods at 26 locations in Ho Chi Minh City.

Best Savers

According to a Nielsen study, Vietnamese save the most in the world.

Vietnam Fact Box

GDP rose by 6.03% during Q1 2015, the highest level in five years, whilst the index of industrial production grew by 9.4% YOY.

The average life expectancy is 73.2 years.

There are 6.5 million people in Vietnam employed in wholesale and retail trade and repair of motor vehicles and motorcycles.

There are 240,000 people in Vietnam employed in professional, scientific and technical activities.

There is a 12.6% drop on foreign visitors to Vietnam in the first five months of 2015 as compared to the same period last year.

Infrastructure

Potential increase in the purchase price of clean energy

The purchase price of clean energy generated from wind and solar may increase this year. At the beginning of 2015, the Wind Energy Association of Binh Thuan proposed to the MoIT for an increase in the pricing for wind power from 7.8 cent/kWh to 10 cent/kWh in 2015 and 12 cent/kWh and above from 2017 to attract more investors into the renewable energy industry in Vietnam.

Operation of a new hydropower plant in Lam Dong

The Dong Nai 2 Hydropower Plant built in Tan Thuong commune, Di Linh district, Lam Dong province was officially opened on 16 May 2015. The plant has a total designed capacity of 70 MW and adds 263.8 million kWh per annum to Vietnamese national electricity grid.

