

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

### Breach of Ownership Limit

The State Bank of Vietnam issued Circular 06-2015-TT-NHNN dated 1 June 2015 requiring all shareholding credit institutions to prepare a remedial plan to be filed with the SBV to ensure that there is no breach of the single shareholder or the foreign ownership limit set out in the Law on Credit Institutions and Decree 01. The breaches must be remedied before 31 December 2015. There are negative consequences if the breach is not remedied including the refusal of the SBV to approve any board member or authorized representative of the breaching shareholder. Shareholders in breach are not entitled to payment of dividends for the amount of shares which exceeds the cap. All credit institutions must file with their remedial plan, the shareholder register and identify any related shareholders. Circular 06 comes into effect on 15 July 2015.

## Investment Law: Changes from 1 July

### Joint Venture Agreements

Reference to joint venture agreements have been removed from the Investment Law. The implication does not necessarily mean that a joint venture agreement is no longer a document that may be entered into between investors, particularly local and foreign investors. A JVA identifies matters as between the investors which may not necessarily be permitted to be included in the charter.

### National Assembly and Prime Minister Approved Projects

The National Assembly is now involved in the approval for certain national significant projects such as projects with serious impact on the environment (eg nuclear power plants). The Prime Minister is responsible for approving a list of eight project groups such as casinos and gaming business, airports and seaports, petroleum business, production of cigarettes and any project with an investment scale of more than VND5,000 billion (c. USD230 million).

## Property

### How is Property Transferred?

Real property is ordinarily transferred by executing a property sale and purchase agreement ("SPA") at a notary public. The parties will need to schedule a meeting with the notary public and provide copies of personal information and the land title documents prior to the meeting. The notary public will draft the SPA for execution by the parties. Each party will need to provide evidence of marital status and if married, the SPA will need to be signed by the spouse. Settlement and payment of the purchase price is paid on the day the SPA is signed at the notary public. The seller will hand-over the original title documents and land use fees payment receipt and the buyer will proceed to title transfer and payment of the transfer tax at the relevant local departments.

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Asia Counsel is a dynamic international corporate and commercial law firm dedicated to serving clients in Vietnam. Our partners have over eight years of experience in working on complex and challenging matters in Vietnam. We are committed to helping clients achieve their business strategies and providing outstanding legal services.

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

Christian Schaefer  
Managing Partner  
E christian@asia-counsel.com

Minh Duong  
Partner  
E minh@asia-counsel.com

## Business

### Recall of Waste Products

The Prime Minister issued Decision 16/2015/QĐ-TTg dated 22 June 2015 proposing the establishment of a national waste recall program to incentivize manufacturers to recall a range of waste products such as mobile phones, computers, fridges, televisions and old vehicles.

### Vocational Education

The Government introduced Decree 48/2015/ND-CP on vocational education and training dated 15 May 2015. A foreign invested vocational education school or college may be established if it satisfy a range of conditions. These include a minimum investment capital of VND100 billion (c. USD4.5 million) for colleges and minimum space per student at a vocational school (4 sqm) or college (25 sam).

## Financial Markets

### Prospectus Liabilities

Companies making a public offer must register the public offer and prospectus with the State Securities Commission of Vietnam. The issuer and to some extent the underwriters and advisors who sign-off on a prospectus are liable under Vietnam's securities law and civil law for any falsified, untrue or misleading statements made in the prospectus.

A fine of between USD15,000 – USD20,000 may be imposed by the SSC for providing false information or omitting important information in the prospectus.

There is also an obligation on the issuer to update investors on any important information that arises during the offering.

Individuals may also be sanctioned under criminal law for falsifying information in a prospectus including imprisonment of up to two years depending on the severity of the crime.

## Consumer

### Advertising of Medicines

The Ministry of Health issued Decision 09/2015/TT-BYT dated 25 May 2015 regulating the manner and content of advertisements for medicines, cosmetic products and health foods. The advertisements of these products must be registered with the Ministry of Health before they are permitted to be advertised. Certain content restrictions on medicines include the requirement for the patient to consult a physician before use, the prohibition on stating that the medicines do not have any side effects or the product is 100% effective.

### Economic Concentration Notifications

The Vietnam Competition Authority reported in its 2014 Annual Report that nine notifications were made in relation to economic concentrations of enterprises. These were mergers, acquisitions and joint ventures of enterprises where as a result of the concentrate there is a combined market share of 30% or more. The notifications came from Abbott, VICEM and Lotte.

## Vietnam Fact Box

There are 594,598 domain names registered ending with .vn and there are 941,720 Vietnamese domain names registered

There are about 25 million Facebook users in Vietnam with 15 million daily users of Facebook

There are 30.5 million internet users in Vietnam

VNPT has a 65% market share of internet subscribers and Viettel has 19% of subscribers. There are about 40 internet service providers in Vietnam

9% of internet users use the internet for E-banking

66% of internet users use the internet everyday

## Infrastructure

### Underground Metro Shopping Development

News reports indicated that Toshin Development of Japan has proposed to the Ho Chi Minh City People's Committee to develop an underground metro shopping and commercial complex for the underground metro stations at Ben Thanh and Le Loi. The project will be a PPP project estimated at approximately USD300 million and if approved is intended to be completed by 2023.

### Long Thanh International Airport

The development of the Long Thanh International Airport to replace Tan Son Nhat is still under review by the National Assembly. The total cost is now estimated to be USD15.8 billion. Reportedly, alternative plans have also been proposed as cost savings including the expansion the current Tan Son Nhat airport which is estimated at USD9.2 billion or redevelopment of the Bien Hoa airport at a cost of USD7.5 billion.

