

Our Asia Counsel Insights provide an overview of the key trending legal and business issues in Vietnam and how they may impact 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

### Draft Criminal Code

The Criminal Code is being amended and there is a draft proposal to introduce new criminal offences for certain conduct in the banking sector. It is proposed that a fine of between VND 50 million to VND 500 million or imprisonment of between one to seven years is imposed, depending on the severity of the offence and serious consequences caused by the offence, in respect of the following conduct:

- except in the issuance of credit cards, extending credit to persons who are ineligible under law to receive a loan;
- extending credit to persons exceeding the lending limit set by law;
- breaching the legal requirements on contribution of capital and purchase of shares by a bank.

## Enterprise Law

### Company Registration

On 14 September 2015, the Government issued Decree 78/2015/ND-CP of the Government on Enterprise Registration. A number of key provisions are below.

- Hanoi and HCMC people's committee may set up two company registration departments to ease registration congestion.
- Time period for the registration department to issue a registration certificate is now three working days.
- The process for online company registration is prescribed in detail in the decree giving online registrations greater emphasis.
- There is a prescribed process for the filing of a change of foreign shareholders (the filing includes an approval by a shareholders meeting - this could be onerous to get the relevant shareholders to agree).

## Property

### Real Estate Business Decree

Decree 76/2015/ND-CP of the Government dated 10 September 2015 regulates the transfer of the whole or part of a real estate development project. An application must be made to the provincial level people's committee to effect the transfer. The application includes a range of information about the current project including a project update. The transferee must provide details of its financial capacity and ability to complete the project. The people's committee has a period of 30 days to respond to the application. The project transfer agreement may only be signed and the process to effect the assignment can only occur after the people's committee has approved the transfer.

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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.

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## Business

### Public disclosure of information by State-owned enterprises

The Government issued Decree 81/2015/ND-CP dated 18 September 2015 regulating the public information disclosure requirements for enterprises 100% owned by the State. The aim is to provide greater transparency of conduct of these SOEs. Information disclosed must be disclosed on the website of the SOE or on the website maintained by the Ministry of Planning and Investment. Information that must be disclosed includes:

- strategic development plan of the company;
- five year business and development plan;
- annual report and three year report on progress and performance of the company;
- report on social corporate responsibility of the company;
- half yearly and yearly financial statements of the company.

The company must also make disclosures on extraordinary matters prescribed in the decree.

## Financial Markets

### T+2 Settlement

The State Securities Commission of Vietnam issued Notice 198/TB-UBCK dated 29 September 2015 prescribing a shortened settlement period for listed shares and fund certificates from 9h T+3 to 16h30 T+2. Share transactions will now settle on a T+2 basis. The change will take effect from 1 January 2016.

### Corporate Governance

The SSC is seeking comments to proposed changes to Circular 121/2010/TT-BTC on corporate governance for listed companies. The proposed changes include:

- Capping a board member's term at five years, non-renewable.
- Requiring listed companies to have an internal audit committee.
- Restricting loans and guarantees given by the company to shareholders, board members and management personnel.
- Limiting the number of companies where a person can concurrently hold board membership.

## Consumer

### Administrative Penalties in the Vocational Education Sector

The Government introduced Decree 79/2015-ND-CP regulating penalties for violation of law in the vocational education sector. Penalties would be imposed for the following conduct.

- Fines of between VND300,000 to VND10,000,000 for teaching less than the prescribed hours of study.
- Fines of between VND1mil to VND10mil for exceeding the limit on the number of students per class.
- A fine of up to VND40mil for teaching a subject without prior approval by the relevant authority.
- A fine of up to VND30mil for entering into a joint training scheme with a foreign institution without approval or without a contract.

## Vietnam Fact Box

The 2015 Asia Development Bank Basic Statistics reveals the following for Vietnam:

- Employment to population ratio (above 15 years) is 75.5%.
- Proportion of population below minimum level of dietary energy consumption is 13%.
- Proportion of seats held by women in national parliament is 24%.
- Literacy rate of 15- to 24-Year-olds is 98.1%.
- Proportion of population using an improved drinking water source is 95%.
- 2014 GDP growth is 6%.

## Infrastructure

### Draft Circular on Public Private Partnership

On 30 July 2015, the Ministry of Planning and Investment issued a draft circular regulating the selection of projects to be developed under the PPP model. The draft circular prescribes the form of project proposal that government ministries and provincial people's committee may use to propose a project for development under the PPP model. Investors may also present a PPP project proposal in the form annexed to the circular which would be presented to the relevant government ministries or provincial people's committee for approval. The draft circular also contains a form of project feasibility study report that must be submitted to the PM, a minister or provincial people's committee as relevant for approval.

