

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

Foreign currency accounts of resident entities

The State Bank of Vietnam (SBV) has issued Circular No. 20/2015/TT-NHNN, which will take effect from 15 Dec 2015. The SBV may permit Vietnamese entities to open and use bank accounts in overseas nations, especially in the following cases:

- Satisfies both the foreign country and Vietnam's regulations for establishing and operating branches and representative offices ("B&RO");
- Necessary for B&RO's operations;
- Necessary for performance of loan agreements with foreign parties;
- Investment of particularly high importance;
- Public private partnership's (PPP) to perform an agreement with a foreign party.

Investment Law

Offshore Investment Registration Forms

The Ministry of Planning and Investment (MPI) issued Circular 09/2015/TT-BKHDT on 23 Oct 2015, prescribing the standard forms used for offshore investment procedures. The standard application and explanation forms remain largely similar to those under the former regulations. However, the Circular introduces a number of new forms related to cash flows of offshore projects:

- Undertaking to self-arrange foreign currency for offshore investment by investor(s);
- Undertaking to arrange foreign currency for offshore investment by a credit institution;
- Confirmation of the fulfilment of tax obligations of an investor from tax authorities.

Property

House Ownership by Foreign Entities

Decree 99/2015/ND-CP of the Government dated 20 Oct 2015 details a number of provisions of the Law on Housing 2014, such as:

- Foreign entities and individuals can (i) purchase houses only from developers of residential housing projects and from other foreign persons; and (ii) only own houses as inherited from or donated by Vietnamese owners. Foreigners cannot purchase existing apartments or houses any other Vietnamese owners.
- Foreign nationals require a valid passport affixed with an entry stamp to be eligible to purchase houses in Vietnam.
- The provincial departments of construction must run a webpage on its website to publish and update information on foreign ownership of houses.

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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

Airport Management and Operation

The Government issued Decree No 102/2015/ND-CP on 20 Oct 2015 to set out details for entities that plan, manage and operate airports. In particular,

- Enterprises providing airport and aviation services at the airport must be Vietnamese legal entities;
- Minimum capital of such entities operating at international airports is VND 200 billion and VND 100 billion at national airports;
- Enterprises providing air traffic and aeronautical information, and search and rescue services have to be wholly state-owned;
- Companies providing air operations area services, information guiding, supervision services and aviation meteorology services have to be at least 65% state-controlled;
- Foreign investment in terminal operation services, aviation fuel supply services and ground services must not exceed 30% of the entity's charter capital.

TPP

TPP introducing new Regulations among various Trade-Related Matters

On 4 Oct 2015, Vietnam and the other 11 Parties of the Trans Pacific Partnership ("TPP") announced its conclusion. Recently published in English the full public TPP document comprises 30 chapters covering trade and other trade-related matters. Some of the most relevant chapters are as follows:

- **Trade in goods:** Eliminating and reducing tariffs and non-tariff barriers on industrial goods, tariffs and other restrictive policies on agricultural goods.
- **Textile and apparel:** Tariffs on textiles and apparel will be lifted, whether immediately or in schedule. To benefit from the lower tariffs under the TPP, the TPP Parties must use yarns and fabrics from other TPP Parties when producing end products.
- **Rules of origin:** As a fundamental commitment, low tariffs will only apply on goods that have genuinely been produced in TPP member states.
- **Technical barriers to trade:** The TPP Parties will ensure that technical regulations and standards do not create unnecessary barriers to trade between them. Various annexes govern specific sectors, such as cosmetics, medical devices, pharmaceuticals, and wines and spirits.

TPP's impact on Vietnam

TPP is expected to have various impacts on Vietnam's economy, briefly:

- Certain import products will benefit from abolished tax tariffs immediately or after 3 or 5 years, such as agricultural products, apparel and furniture.
- Some financial services will be opened up, for example, to cross-border reinsurance, and portfolio management.
- The garment industry can greatly benefit as Vietnam manufacturers can purchase materials from TPP Parties to produce and export end products to other TPP countries under lower tariffs.

TPP will take effect within 60 days after receiving notice of adoption by all TPP Parties.

Vietnam Fact Box

On 20 November Vietnam celebrates its annual Teacher's Day.

According to UNICEF:

Youth (15-24 years) literacy rate 2008-2012 for males is 97.5% for females is 96.7%

Primary school participation, net attendance ratio 2008-2012 for male is 98% and females is 97%

Secondary school participation, Net attendance ratio 2008-2012 for males is 78.3% and females is 83.9%

Adult support for learning 2005-2012 in the poorest 20% is 62.9% richest 20% is 94.1%

Financial Markets

Securities Issuance under new Circular 162

The State Securities Commission issued Circular 162/2015 on 26 October 2015 regulating public offers of securities, share swaps, share redemptions and mandatory tender offers. Taking effect from 15 December 2015, it sets out the process for the registration of public offers, securities issuance and changes to shareholder structure. It also sets out the process to register the issuance of securities of a Vietnamese company outside of Vietnam and the offshore listing of shares. Circular 162 contains a new form of prospectuses for a public offer of shares and bond; with a separate prospectus for the offer of shares in exchange for stock, and an additional form to be used for underwriters underwriting a public offer.

