

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.

Key Dates

- Enterprises that declare monthly VAT must submit on July the June VAT declaration.
- The effective date of Criminal Code 2015 which has been scheduled for 1 July 2016, has been deferred indefinitely.



Legal Partner of the Vietnam Basketball Association

Investment

Offshore Indirect Investment

On 29 June 2016, the State Bank of Vietnam issued Circular 10/2016/TT-NHNN regulating offshore investment. Circular 10 will take effect from 13 August 2016 and the key rules are:

- Vietnamese organisations are only permitted to trade either on its own account or under managed investment in limited offshore securities such as shares listed on an offshore securities market, investment funds and Government and corporate bonds with a good rating from international rating agencies.
- For commercial banks and finance companies, the maximum amount of offshore securities investment is 7% of the equity capital of the entity.
- The Vietnamese entity must open a separate account with a Vietnamese bank to conduct offshore securities trading.

- A Vietnamese entity engaging in offshore securities trading must register its investment limit with the SBV to ensure compliance with the national limit.
- Vietnamese employees can now participate in offshore employee share incentive schemes provided the offshore shares are from a company that has presence in Vietnam (eg through a subsidiary, a branch or rep office).
- The share scheme must be registered with the SBV and the application includes a completed application form, establishment document of the issuer and Vietnamese employer, a summary of the scheme and a list of eligible employees.
- The shares or options under the scheme may be in foreign currency.
- The issuer under the ESOP must open a foreign currency account with a Vietnamese bank where all ESOP related transactions must be conducted.

Banking

Consumer Credit Information

The Government released a draft Decree to amend Decree 10/2010/ND-CP regulating credit information activities. Under the draft Decree, a credit information company must meet the following conditions to be granted a certificate of satisfaction of conditions for credit information activities:

- Information Technology: The company must have 2 data transmission lines, each line is provided by a service provider.
- Legal capital: VND30 billion.
- Personnel: The company chairman must have at least a bachelor degree in economics, accounting, finance, banking or IT and must have at least 3 years of experience in one of these fields.
- The company must have at least 20 banks committed to provide credit information to it.

About Asia Counsel

Asia Counsel is a dynamic international corporate and commercial law firm dedicated to serving clients in Vietnam. Our partners have over nine 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.

Minh Duong

Partner

E minh@asia-counsel.com

Christian Schaefer

Managing Partner

E christian@asia-counsel.com

Information Technology

Network Information Security

From 1 July 2016, the Law on Network Information Security comes into effect. Some notable points are as follows.

- The law sets out a number prohibited activities such as spamming, spreading harmful software, establishing fake or scam information system; illegally collecting, using, spreading or trading personal information of any person, exploiting error of any system in order to collect personal information.
- Commercial information cannot be emailed to a recipient without his/her prior consent.
- It is the responsibility of the internet service providers to prevent any harm caused by the internet or their clients to the network information security. Internet service providers must supply full information if requested by the authorities.
- Each individual must protect his/her personal information on the network.

Enterprises

Internal Audit

The Ministry of Finance ("MoF") has released a draft decree on internal audit for comment. Internal audit is compulsory for:

- Listed companies;
- State owned enterprises operating under the business model of parent-subsidiary companies;
- Subsidiaries of any company which the State owns more than 50% of its charter capital;
- Enterprises operating in particular industries (i.e insurance, banking, securities);

Enterprise may either appoint its qualified employee to be an internal auditor or engage the qualified independent audit organization for its internal audit.

The internal auditor must have at least three years of experiences in accounting, auditing or at least five years' work experience.

Commercial

Certificate of Origin

Manufacturers and exporters or their authorized representatives can apply for a Certificate of Origin of preferential products ("C/O") for their products through an online system called "ecosys" on the website www.ecosys.gov.vn. The applicant must declare the information and provide a soft copy of the supporting documents as required by ecosys. Once the online declaration is completed, the hard copy of such supporting documents is no longer required unless requested by the authority. Only when the authority agrees to grant the C/O, the applicant will then lodge the hard copy application form and the C/O form as required by Circular 06/2011/TT-BTC. Within 6 business hours after receiving the online application for the C/O, the authority must notify the result of their evaluation of the application to the applicant.

Vietnam Fact Box

Forbes Vietnam announces top Vietnam valuable brands

On 30 June 2016, Forbes Vietnam announced a list of top local valuable brands for the first time. This list was selected from over 300 local brands in Vietnam based on published financial statement. The top ten is as follows:

Brand	Value of Brand
1. Vinamilk	1.52 bil USD
2. Viettel	752 mil USD
3. Vingroup	279 mil USD
4. Sabeco	247 mil USD
5. FPT	171 mil USD
6. Vietinbank	147 mil USD
7. Vietcombank	135 mil USD
8. Masan Group	126 mil USD
9. BIDV	125 mil USD
10. Vietnam Airlines	78 mil USD

Education

Business conditions in education sector

The Government has introduced a draft Decree on business conditions in the education sector. The conditions for the establishment of a university are below:

- The plan of university establishment must comply with the socio-economic masterplan and the masterplan of university and college network.
- There must be an approval from the People's Committee where the university is to be established.
- The area of the university must be at least five hectares.
- For private university, the charter capital must be at least VND250 billion excluding the value of the land. The investment capital and charter capital must be cash or other assets that is certified in writing by the authority.
- There must be an estimated number of teachers and officers in compliance with the law.

