

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

- For enterprises that declare VAT monthly, June 20th is the due date to submit the VAT Tax Declaration of May 2016.
- June 20th is the due date for state-owned enterprise to submit report on result of last year annual business plan.



Banking

Prudential Ratios and Limits

The State Bank of Vietnam issued Circular 06/2016/TT-NHNN dated 27 May 2016 to amend Circular 36/2014/TT-NHNN on the prudential ratios and limits on the activities of credit institution. Notable changes are below.

- From 1 January 2017, the risk coefficient applicable for credit facilities granted to real estate business is 200%.
- The maximum ratios applicable for a commercial bank's short-term capital sources that may be used for medium to long term lending is adjusted as follows: (i) 60% from 1 Jul 2016 to 31 Dec 2016; (ii) 50% from 1 Jan 2017 to 31 Dec 2017; and (iii) 40% from 1 Jan 2018. This applies to foreign bank branches.

Circular 06 takes effect from 1 July 2016.

Enterprise

Resolution 35

The Government issued Resolution 35/NQ-CP dated 16 May 2016 on supporting and developing enterprises up to 2020. The key points are as follows:

- In 2017, the derivative securities market shall be established and the two stock exchanges of Vietnam: Ho Chi Minh City and Hanoi stock exchanges, shall be merged.
- 50% reduction in personal income tax for workers in high technology IT sector and agricultural sector using high technology.
- The MPI will work with other ministries to establish an enterprise incubation model to support start-ups.
- The government should not criminalise economic or civil relationships but penalize serious offenders pursuant to law.

Agriculture

Import of Agricultural Products

The Ministry of Agriculture and Rural Development administers the import licensing of meat, poultry and other animal products for human consumption as well as fresh fruit and vegetables. A summary of the licensing issues are below.

- The Plant Protection Department is responsible for the inspection, quarantine and approval of the import of fruits into Vietnam. Fruits and vegetables must undergo a quarantine process and a phytosanitary certificate from a competent authority of the exporting country must be submitted to the Department. All fresh fruits must undergo a pest risk analysis.
- Animal-based produce must undergo quarantine and inspection with the Department of Animal Health.

About Asia Counsel

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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Competition

Vietnam Competition Authority Report

The Vietnam Competition Authority (“VCA”) recently published its 2015 annual report. Key matters are below.

- In 2015, the VCA investigated 28 cases of anti-competitive practices and collected penalties of VND1,843,500,000 (USD 82,000).
- The VCA received an application in relation to economic concentration with respect to FedEx’s acquisition of TNT. The VCA indicated that it will continue to monitor this economic concentration due to the market shares of each of the parties.
- The VCA also received an application from Mondelez on the acquisition by its subsidiary, Cadbury Enterprises Pte. Ltd. of Kinh Do Binh Duong Joint Stock Company. The VCA determined that this economic concentration is not a prohibited economic concentration under the Law on Competition.
- In 2015, the VCA received 755 applications to register model consumer contracts. 537 applications did not satisfy requirements of law and were rejected.

Legislation

New Decree on promulgation of legal documents

The Government issued Decree 34/2016/ND-CP dated 14 May 2016 detailing and providing measures for the implementation of the Law on Promulgation of Legal Documents. The key points:

- Each legal document must set out the effective date.
- When a higher order legal document is repealed, the lower order implementing regulation shall also cease to have effect.
- Decisions of the Prime Minister on approval of strategies, programs, projects and plans are not legal instruments.
- Drafters of legislation are encouraged to also produce an English translation for laws of the National Assembly and its Standing Committee, Government’s decrees and Prime Minister’s decisions that relates to a treaty implementation or impacts foreign businesses.

Decree 34 takes effect on 1 July 2016.

Investment

Penalties for breach of investment laws

The Government issued Decree 50/2016/ND-CP dated 1 June 2016 on administrative penalties in the investment sector. The Decree takes effect on 15 July 2016. Here are some of the key penalties:

- A fine of between VND10-15 million if the legal representative does not enter into a power of attorney authorizing another person to act on his or behalf when the legal representative exits Vietnam.
- A fine of between VND30-40 million if a foreign investor does not comply with the foreign ownership restriction.
- A fine of between VND5-10 million if there is more than one legal representative but the company fails to publicly disclose this fact.
- A fine of between VND10-15 million if a company does not have a share register or fails to put proper signage of the company name at the head office, branch or rep office.

Vietnam Fact Box

Vietnam Agriculture

Land

Agricultural area	10,793,300 Ha
Country Area	33,095,100 Ha
Forest	14,257,000 Ha

2015 GDP increase in each sector

Agriculture	2.03%
Forestry	7.69%
Fisheries	2.8%

Top world exports: rice (2nd), coffee (2nd), pepper (1st), rubber, cashew nuts, wood products and fisheries.

Source: viettrade.gov.vn; fao.org; gso.gov.vn

Custom

Penalties on administrative violations in customs

On 26 May 2016, the Government issued Decree 45/2016/ND-CP amending Decree 127/2013/ND-CP on penalties for administrative offenders and enforcement of administrative decisions in the customs sector. Decree 45 adopts new provisions on penalties for breaches of regulations on management of imported and exported goods at ports and warehouses. These include, inter alia:

- Failure to report on time the status of cargo backlog in customs operations areas;
- Failure to arrange goods in ports and warehouses according to supervision and management requirements of the customs authorities; and
- Allowing movements of goods out of ports or warehouses without proper documents provided by the customs authorities.

The Decree takes effect from 1 August 2016.

