

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.

Deal Update:

- Advised BAA Training Vietnam on the establishment of a 100% foreign invested pilot training centre in Ho Chi Minh City and leasing of Airbus A320 full flight simulators.
- Advising the investors of Pharmacity on the structuring of their investment in the company.



Civil Procedure

Bailiff services expand nationwide

Decree 08/2020/ND-CP on organization and operation of the Bailiff dated 08 January 2020 took effect on 24 February 2020 and marks the end of a long pilot period in Ho Chi Minh city.

Under this Decree, the bailiff is permitted to make an affidavit to record events, acts per requests of individuals and organizations in Vietnam, except for cases in relation to national security and defense, private life, personal secrets, etc. The affidavit shall not replace notarized, authenticated documents and other administrative documents. However, the affidavit is admissible as court evidence to resolve civil and administrative cases and provides grounds for transactions between individuals and organizations.

Technology

Clarity for transportation apps

Decree 10/2020/ND-CP on auto transportation business and corresponding requirements issued on 17 January 2020 repealing Decree 86/2014/ND-CP takes effect on 01 April 2020.

The new Decree regulates transportation business conducted via mobile application. If an entity satisfies the prescribed technical requirements and has no direct involvement in the transportation process, the entity can operate a mobile app which facilitates transportation without a transportation business license. On the other hand, if such entity engages in the transportation process in any fashion, then a transportation business license is required.

Education

Transparency in higher education

Decree No. 99/2019/ND-CP was issued on 30 December 2019 detailing and guiding the amendment to the Law on Higher Education, which took effect on 15 February 2020.

Under this law, higher education institutions must announce on their websites, among other items: internal regulations, results of accreditation of themselves and their training programs, expected outcomes of training programs, the rate of students employed 12 months after graduation, examples of degrees and certificates, annual lists of degrees and certificates conferred upon learners; training costs, tuition rates, admission fees, etc.

The Decree also provides further details for "equivalent degrees", which are degrees of some special academic disciplines, such as medicine, dentistry, traditional medicine, pharmacy, veterinary, engineering, etc.

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.

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ASIA COUNSEL INSIGHTS

February 2020

Finance

Guidance for bancassurance

The State Bank of Vietnam issued Circular No. 37/2019/TT-NHNN dated 31 December 2019 prescribing specific provisions related to bancassurance activities by credit institutions and foreign bank branches. These institutions can refer clients to insurance companies, offer insurance, collect premiums, and settle claims, among other activities. Credit institutions looking to take advantage of the additional revenue stream from introducing their clients to insurance policies offered by insurance companies will, in addition to other requirements, need to:

- Satisfy all the legal requirements for insurance agents under the 2000 Law on Insurance and its various amendments;
- Ensure the premiums collected are not used for anything not specified in the insurance agreement; and
- Amend their State Bank of Vietnam-issued license to include the operation of insurance agents.

Banking

Banking sector penalties

On 14 November 2019, the State Bank of Vietnam issued Decree 88/2019/ND-CP to replace Decree No. 96/2014/ND-CP providing for penalties for administrative violations in monetary and banking sector.

Under new Decree 88, certain fines for administrative violations are reduced.

Specifically, the monetary penalty imposed on violations for carrying out transactions, quotations, contract prices, posting or publishing prices of goods, services or land use rights, or performing other similar acts (including converting or adjusting prices of goods or services or contract prices) in foreign currency in a manner inconsistent with regulations under the Decree is capped at VND50 mill (for individual) and VND100 mil (for the organization) which is an 80% reduction compared to those levied previously in Decree 96/2014/ND-CP.

Immigration

Residence card

Under the Law amending and supplementing a number of articles of the Law on Entry, Exit, Transit, and Residence of Foreigners in Vietnam, which takes effect from 1 July 2020, foreign investors in Vietnam with a capital contribution of less than VND 3 billion will not be granted temporary residence cards.

Under Article 1.3.c of the New Law, foreign investors in Vietnam and representatives of foreign organizations investing in Vietnam with a capital contribution of less than VND 3 billion will be granted "DT4 visas" with a term of no more than 12 month. Holding DT4 visas, these investors will not be granted temporary residence cards under Clause 14, Article 1 of this law.

Further to the above, foreign investors with DT1, DT2, and DT3 Visas, which are issued to foreign investors contributing capital of VND3 billion to VND100 billion, will be eligible for temporary residence cards.

Vietnam Fact Box

In the first two months of 2020, FDI worth USD6.47 billion flowed into Vietnam, down 25% from the same period in 2019, with COVID-19 being cited as a factor for the difference. Sixty percent of this total was devoted to power manufacturing and distribution, with the second largest category, at twenty-seven percent, being manufacturing and processing. Singapore invested the most in these two months, followed by China and South Korea. Source: Vietnam Investment Review.

Real Property

Condotels

The Ministry of Natural Resources and Environment issued Official Dispatch No.703/BTNMT-TCQLDD to provide instructions on using land and granting certificates of ownership of construction works other than landed residential homes ("OL 703").

According to OL 703, the terms of land use of holiday hotel condos or condotels is up to 50 years and 70 years for special cases such as large investment projects with slow recovery of capital and projects in areas with difficult socio-economic conditions. At the expiry of the term, the State will consider an extension if the land users still have land use needs. For the projects meeting regulatory requirements for transfer under the provisions of the Law on Real Estate Business, the procedure of granting certificates of ownership of such construction works to transferees will be subject to Article 32 in Decree No.43/2014/ND-CP and Article 2.22 in the Decree No. 01/2017/ND-CP.

