

Company Branch

Foreign banks, auditing firms, law firms, fund management companies, and foreign economic organizations can set up their branches in Vietnam. The licensing agencies are varied, of which e.g. SBV grants licenses to foreign banks' branches, MOF grants licenses to branches of foreign auditing firms and fund management companies' branches, and MOIT is authorised to grant licenses to foreign businesses.

In this Section, only branches of foreign business/traders which fall within the sole power of the provincial-level DOIT are focused, with a note that the new establishments thereof shall be all conditional to the Vietnam's WTO commitments, pursuant to which the establishment of branches of foreign service providers is unbound, except for the following sectors and sub-sectors:

- Legal services;
- Computer and related services;
- Management consultant services;
- Service related to management consulting;
- Construction and related engineering services;
- Franchising services;
- Non-life insurance services;
- Banking services;
- A number of securities services (Asset management service, Settlement and clearing services for securities, derivative products, and other securities-related instruments; Provision and transfer of financial information, and related software by suppliers of securities services; Advisory, intermediation and other auxiliary securities-relate, including investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy; etc.).

Nevertheless, the licensing in practice may vary from what is

provided by the Vietnam's WTO Commitments as itemized above. At this moment, no information about the abrogation of this hurdle to market is revealed by the Vietnamese Government so far.

7.1 Legislation

The Commercial Law dated 14 June 2005 constitutes the legal ground for representative offices and branches of foreign businesses in Vietnam, which is further specified by the Government's Decree No.07/2016/ND-CP, dated 25 January 2016, detailing the provisions of the Commercial Law on representative offices and branches of foreign traders in Vietnam ("Decree 07").

To implement Decree 07, on 5 July 2016, the MOIT issued Circular No.11/2016/TT-BCT, detailing all standard forms related to the issuance of licenses to, organizations and activities of representative offices and branches of foreign enterprises in Vietnam ("Circular 11").

7.2 Requirements

Under Decree 07, normally, a Branch license shall be granted if the applicant satisfies the following conditions:

- (i) The parent company is incorporated and registers for doing business in accordance with provisions of laws of countries or territories being parties to treaties to which Vietnam is a signatory or is recognized by the aforesaid countries or territories;
- (ii) The parent company has come into operation for at least 5 years from the date of establishment or registration;
- (iii) The Certificate of Business Registration or equivalent document having expiry date is valid for at least 1 more year from the date of submission of the application;
- (iv) The scope of operation of the branch is conformable with Vietnam's Commitments to market access stipulated in treaties to which Vietnam is a signatory shall be consistent with lines of business of the parent company;
- (v) Where the businesses of the branch are inconsistent with Vietnam's Commitments or the parent company is not located in

one of countries or territories being parties to treaties to which Vietnam is a signatory, the branch can be established only if they obtain a prior consent of the relevant Minister for establishment of the branch.

7.3 Applications

To establish a Branch in Vietnam, a foreign company must submit a set of application files for a license issued by the MOIT. The following documents must be submitted to the licensing authority for obtaining the License:

- (i) Application for the license (standard form);
- (ii) A legalized copy of the Certificate of Incorporation or equivalent documents of the parent company and any amendments thereto;
- (iii) A certified copy and Vietnamese translation of the parent company's letter of appointment of the Head of Branch;
- (iv) A certified copy and Vietnamese translation of the audited financial statements or certificates of fulfillment of tax liabilities or financial obligations of the last fiscal year or equivalent documents as proof of existence and operation of the parent company issued or certified by competent authorities where such foreign trader is established;
- (v) A certified copy and Vietnamese translation of the Memorandum and Articles of Association of the Branch;
- (vi) Documents on the expected location of the Branch including: copies of memorandum of understanding (MOU) or leasing agreements or documents as proof of the right to use a location as the branch, copies of documents on the expected location of the Branch; and
- (vii) A copy of the passport or ID card (for Vietnamese), or certified copy and Vietnamese translation of the passport (for foreigners) of the Head of the Branch.

7.4 Licensing Timing

A Branch license will be normally granted within 7 days from the receipt of the satisfactory file. The applicant is required to pay the license fee of VND1 million for a license. The license fee would be paid upon the approval of the application file.

Within 15 days from the date of issuance of the licence, information about the Branch shall be publicly published on the licensing agency's website.

7.5 Permitted Activities

A Branch is permissible to trade the products and carry out the trading-related activities in accordance with the provisions of the Commercial Law, concretely:

- (i) Provide services other than those specified in specialized legislative documents;
- (ii) Lease the office, lease and/ or purchase the utilities necessary for the operation of the Branch;
- (iii) Recruit staff;
- (iv) Execute the contract in Vietnam in accordance with the License;
- (v) Open the bank account;
- (vi) Remit profits abroad;
- (vii) Have stamp in the name of the Branch;
- (viii) Carry out the trading activities and other activities specified in the License.

7.6 Term of License

The license of a Branch has a term of five years but not exceeding the remaining effective period of the parent company's Certificate of Business Registration or the equivalent (for documents having expiry date). The license of a Branch may be extended upon its expiry unless it commits one of the following violations:

- (i) Fail to come into operation for 1 year and fail to enter into transactions with licensing agencies;
- (ii) Fail to submit reports on the operation of the branch for 2 consecutive years;
- (iii) Fail to submit reports, provide documents or explanations on issues related to its operations to the licensing agency within 6 months from the deadline of submission or at the written request of the licensing agency; and
- (iv) Other cases provided for by law.

In addition, the License may be revoked when the representative office committed any of the above-mentioned violations.

7.7 Taxation

Branches of foreign businesses shall be subject to the taxes prevailing in Vietnam, which are well described in the [Section 16](#) hereunder.