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Legal news

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HIGHLIGHTED

1. **New regulations providing guidelines for a number of contents of Law on securities**

On 26 June 2015, the Government issued Decree No. 60/2015/ND-CP, amending and supplementing a number of articles of Decree 58/2012/ND-CP dated 20 July 2012, detailing and providing guidelines for a number of articles of Law on Securities and Law amending and supplementing a number of articles of Law on Securities (“Decree 60”).

This Decree provides for the extension of ownership ratio of foreign investors participating in Vietnam securities market. Specifically, foreign ownership ratio in public company is regulated as follows: (i) If an international treaty of which Vietnam is a member has provisions on foreign ownership ratio, then such provisions apply; (ii) If public company operates in business investment line for which the investment laws and other relevant laws have provisions on the foreign ownership ratio, then such provisions apply. If a public company operates in a business investment line with conditions applicable to foreign investors but there is not yet any specific provision on foreign ownership ratio, then the maximum foreign ownership ratio is 49%; (iii) If a public company operates in multi-business lines regulated by different provisions on foreign ownership ratio, then the foreign ownership ratio shall not exceed the lowest ratio applicable to the lines (in which such company operates) regulated by provisions on foreign ownership ratio, unless otherwise prescribed by an international treaty; and (iv) Regarding any public company not falling within the cases prescribed above, the foreign ownership ratio is unrestricted, unless otherwise stipulated by the company’s charter.

According to Decree 60, with regard to State-owned enterprises performing equitization in the form of an initial public offering of securities, the foreign ownership ratio shall be implemented in accordance with the laws on equitization. If the laws on equitization are silent, then such ratio shall be compliant with corresponding provisions above.

The new Decree also provides for the investment in bonds of foreign investors. Specifically, foreign investors are allowed to unlimitedly invest in Government bonds, Government guaranteed bonds, local authority bonds and enterprise bonds, unless otherwise stipulated by relevant laws or the issuing organization. In the case of issuance of convertible bonds, the issuing organization must ensure that the foreign ownership ratio on maturity for conversion into shares or on maturity for purchase of shares complies with provisions on foreign ownership ratio as prescribed above.

In addition, foreign investors are allowed to invest without limitation in certificates of securities investment funds, in shares of securities investment companies, in shares without voting rights of public companies, derivative securities, depository receipts, unless otherwise stipulated by the issuing organization’s charter. Except for open funds and securities investment funds

with foreign ownership ratio of 51% or more, investment conditions and procedures applicable to foreign investors must be implemented when they contribute capital to or purchase securities or capital contribution portions in economic organizations.

This Decree shall take effect on 1 September 2015.

2. New regulations on construction and investment management

On 18 June 2015, the Government issued Decree No. 59/2015/ND-CP, on the management of construction and investment projects (“Decree 59”).

Decree 59 provides for the issuance of certificates for practicing construction activities to individuals who are Vietnamese or foreigners conducting legally construction activities in Vietnam in order to undertake titles, to participate in works conferred by these titles, or to practice independently as stipulated.

This Decree also classifies construction and investment projects into 4 groups based on the scale, nature and type of projects’ main building works: National important projects, projects of group A, projects of group B and projects of group C. In case where the classification is based on the used capital sources, the projects include: Projects funded by the State budget, projects funded by non-State capital, and projects funded by other capital sources.

In addition, Decree 59 also provides for the preparation of Feasibility study report of the project owner to be submitted to the investment decision making authority for assessing and appraising the project and deciding on the investment, except for cases of constructing single houses, new building works, repair, renovation, or upgrading of construction works with the total investment capital under VND 15 billion.

Another notable content is the publication of information about the capacity of organizations conducting construction activities. Accordingly, organizations conducting construction activities must provide information related to their operation capacities to professional agencies to be published publicly on the website administrated by these agencies. The information shall be taken as a basis to choose organizations and individuals participating in the elaboration of plans, the elaboration, assessment and appraisal of construction and investment projects; the management of construction and investment projects; the construction survey, supervision over construction work, etc.

This Decree shall take effect on 5 August 2015.

3. New regulations on occupational safety and hygiene

On 26 June 2015, the Nation Assembly issued Law No. 84/2015/QH13 on Occupational Safety and Hygiene (“Law on Labour Safety and Hygiene”).

Law on Occupational Safety and Hygiene is applied to contractual employees working under labour contracts; apprentices and trainees working for

employers; cadre, public officials and servants of peoples' armed forces; employees not working under labour contracts; Vietnamese working overseas under contracts; foreigners working in Vietnam; employers; and other bodies, organizations and individuals relating to labour safety and hygiene activities.

The new Law provides for the regimes and policies on occupational safety, informing, communicating, training occupational safety and hygiene to prevent labour accidents, occupational disease; as well as the operational and managerial methods related directly to the rights of employees, including: labour protection equipment, allowance in kind, health check-ups, occupational disease detection examination; and supplements provisions on hard, toxic or dangerous jobs, restriction on duration of being exposed to dangerous or harmful factors, healthcare and management of employees' health.

Another notable content of this Law is the specific provision on responsibilities of the employers and social insurance agencies with regard to the victims of labour accidents or occupational diseases; and supplemented provisions on special circumstances in which employees enjoy the same regimes as those applicable to victims of labour accidents, including: accident takes place in the area managed by the employer, during the rest time (break time, middle shift meal, extra meal in kind, periodical hygiene, taking shower, breastfeeding, taking toilet).

This Law also provides separately for the occupational safety and hygiene in respect of business and production establishments such as provisions on organizational structure and other basic contents of the implementation of occupational safety and hygiene activities in business and production establishments, including formulation of plans, organization of inspections, competition, rewarding, statistics, reporting on occupational safety and hygiene.

This Law shall take effect on 1 July 2016.

Other Sectors

Finance - Banking

- Circular No. 08/2015/TT-NHNN dated 30 June 2015 of the State Bank of Vietnam, amending and supplementing a number of articles of Circular No.40/2011/TT-NHNN dated 15 December 2011 of the Governor of State Bank, providing for the issuance of Licenses to and the organization and operations of commercial banks, foreign banks' branches, representative offices of foreign credit institutions, and other foreign organizations conducting banking activities in Vietnam.
- Circular No. 07/2015/TT-NHNN dated 25 June 2015 of the State Bank of Vietnam, providing for the bank guarantees.
- Circular No. 06/2015/TT-NHNN dated 1 June 2015 of the State Bank of Vietnam, providing for the time-limit, process and procedures for transition in case of share ownership exceeding the limits prescribed in Article 55 of Law on Credit Institutions.

Taxation

- Decision No. 1194/QĐ-BTC dated 23 June 2015 of the Ministry of Finance, announcing the administrative procedures in the field of tax administration under settlement authority of the Ministry of Finance.
- Circular No. 101/2015/TT-BTC dated 29 June 2015 of the Ministry of Finance, supplementing the list of commodity groups and preferential import tax rates separately applicable to raw materials, supplies, components and supporting parts in order to manufacture focused information technology (IT) products according to Chapter 98 of Preferential Import Tariff accompanying Circular No.164/2013/TT-BTC dated 15 November 2013 of the Ministry of Finance.
- Circular No. 96/2015/TT-BTC dated 22 June 2015 of the Ministry of Finance, providing guidelines for the provisions on corporate income tax in Decree No.12/2015/ND-CP dated 12 February 2015, detailing the implementation of Law amending and supplementing a number of articles of Laws on taxation; of Decrees on taxation; and of Circular No. 78/2014/TT-BTC dated 18 June 2014, Circular No. 119/2014/TT-BTC dated 25 August 2014, and Circular No.151/2014/TT-BTC dated 10 October 2014 of the Ministry of Finance.
- Circular No. 92/2015/TT-BTC dated 15 June 2015 of the Ministry of Finance, providing guidelines for the implementation of value-added tax and personal income tax with respect to resident individuals conducting business; providing guidelines for the implementation of a number of contents amending and

supplementing personal income tax, which are contained in Law No.71/2014/QH13 amending and supplementing a number of articles of Laws on taxation and Decree No. 12/2015/ND-CP dated 12 February 2015, detailing the implementation of Law amending and supplementing a number of articles of Laws and Decrees on taxation.

Trade

- Resolution No. 44/NQ-CP dated 17 June 2015 of the Government, approving the ASEAN – India Agreement on Trade in Services.
- Decision No. 24/2015/QĐ-TTg dated 30 June 2015 of the Prime Minister, promulgating the Regulation of organization and operations of Vietnam Competition Council.
- Inter-ministerial Circular No. 22/2015/TTLT-BCT-BNV dated 30 June 2015 of the Ministry of Industry and Trade and Ministry of Home Affairs, providing Guidelines for the functions, duties, powers and organizational structure of professional agencies of industry and trade branch under People's Committees at provincial and district levels.
- Circular No. 21/2015/TT-BTC dated 23 June 2015 of the Ministry of Industry and Trade, providing for the methods for determination of the prices of electric system supporting services, and process of examination of contracts for supplying electric system supporting services.
- Circular No. 13/2015/TT-BTC dated 16 June 2015 of the Ministry of Industry and Trade, amending and supplementing a number of articles of Circular No.26/2013/TT-BTC dated 30 October 2013 of the Ministry of Industry and Trade, providing for the standard forms of minutes and decisions used in inspection and administrative sanction activities by the Market management force.
- Circular No. 05/2015/TT-BKHDT dated 16 June 2015 of the Ministry of Planning and Investment, detailing the formulation of commodity procurement tendering documents.
- Circular No. 12/2015/TT-BCT dated 12 June 2015 of the Ministry of Industry and Trade, providing for the application of regime on the issuance of automatic import licenses for a number of steel products.
- Circular No. 11/2015/TT-BTC dated 4 June 2015 of the Ministry of Industry and Trade, providing for the transiting of commodities of the People's Republic of China through the territory of the Socialist Republic of Vietnam.
- Circular No. 85/2015/TT-BTC dated 3 June 2015 of the Ministry of Finance, providing for the collection rates and the regime on collection, submission and

use management of charges and fees in chemical activities.

Labour

- Resolution No. 93/2015/QH13 dated 22 June 2015 of the National Assembly on the implementation of policy on enjoying one-off social insurance interests by workers.
- Decision No. 731/QD-LDTBXH dated 1 June 2015 of the Ministry of Labour, War Invalids and Social Affairs, promulgating the List of legal documents, which have wholly or partly expired in 2014, in the fields under the State management of the Ministry of Labour, War Invalids and Social Affairs.
- Circular No. 23/2015/TT-BLDTBXH dated 23 June 2015 of the Ministry of Labour, War Invalids and Social Affairs, providing guidelines for the implementation of a number of articles on wages and salaries of Decree No.05/2015/ND-CP dated 12 January 2015, detailing and providing guidelines for a number of contents of the Labour Code.

Education

- Decision No. 1833/QD-BGDDT dated 2 June 2015 of the Ministry of Education and Training, announcing newly-issued administrative procedures; and amended, supplemented or replaced administrative procedures under the management of the Ministry of Education and Training.
- Circular No. 13/2015/TT-BGTDT dated 30 June 2015 of the Ministry of Education and Training, on the Regulation on the organization and operations of private preschools.

Transport

- Decision No. 15/2015/QD-UBND dated 30 June 2015 of the People's Committee of Hanoi, amending and supplementing Decision No. 40/2014/QD-UBND dated 20 August 2014, on the collection of fees for new issuance (first registration in Vietnam) of registration certificates accompanying number plates of road motor vehicles in Hanoi.
- Circular No. 26/2015/TT-BGTVT dated 22 June 2015 of the Ministry of Transport, providing guidelines for the implementation of a number of articles of the Regulation on managing the operations of inland ports accompanying Decision No. 47/2014/QD-TTg dated 27 August 2014 of the Prime Minister.

Natural Resources - Environment

- Decree No. 54/2015/ND-CP dated 8 June 2015, providing for incentives for

economical and effective use of water.

- Decision No. 6242/QD-BCT dated 22 June 2015 of the Ministry of Industry and Trade, supplementing Zoning plan for exploration, mining, processing and use of industrial minerals (serpentine, barite, graphite, fluorite, bentonite, diatomite and talc) until 2015, with the orientation to 2025.
- Circular No. 38/2015/TT-BTNMT dated 30 June 2015 of the Ministry of Natural Resources and Environment, on the renovation and restoration of the environment in mining activities.
- Circular No. 36/2015/TT-BTNMT dated 30 June 2015 of the Ministry of Natural Resources and Environment, on the management of hazardous wastes.
- Circular No. 35/2015/TT-BTNMT dated 30 June 2015 of the Ministry of Natural Resources and Environment, on the protection of the environment in economic zones, industrial parks, export processing zones, and high-tech zones.

Science - Technology

- Decision No. 19/2015/QĐ-TTg dated 15 June 2015 of the Prime Minister, providing for the criteria to determine high-tech enterprises.
- Circular No. 11/2015/TT-BKHCN dated 26 June 2015 of the Ministry of Science and Technology, detailing and providing guidelines for the implementation of a number of articles of Decree No. 99/2013/ND-CP dated 29 August 2013, providing for the sanctioning of administrative violations in the field of industrial property.

Information - Communications

- Circular No. 16/2015/TT-BTTTT dated 17 June 2015 of the Ministry of Information and Communications, detailing the implementation of Decree No.187/2013/ND-CP dated 20 November 2013, on the export and import of goods in the field of printing and distribution of publications.
- Circular No. 15/2015/TT-BTTTT dated 15 June 2015 of the Ministry of Information and Communications, amending a number of provisions of Circular No. 18/2012/TT-BTTTT dated 15 November 2012 of the Minister of Information and Communications, promulgating the List of telecommunication enterprises and group of telecommunication enterprises holding dominant market shares of important telecommunication services.

Administration - Judiciary

- Decree No. 58/2015/ND-CP dated 16 June 2015, amending and supplementing a number of articles of Decree No. 192/2013/ND-CP dated 21 November 2013,

providing for the sanctioning of administrative violations in the field of management and use of State assets; thrift practice and waste combat; national reserves; and State treasury.

- Decree No. 56/2015/ND-CP dated 9 June 2015, on the evaluation and classification of cadres, and public officials and servants.
- Circular No. 07/2015/TT-BTP dated 15 June 2015 of the Ministry of Justice, providing detailed regulations on and measures for the implementation of a number of provisions of Decree No. 113/2014/ND-CP dated 26 November 2014, on the management of international legal co-operations.
- Circular No. 06/2015/TT-BTP dated 15 June 2015 of the Ministry of Justice, detailing and providing guidelines for the implementation of a number of the Law on Notarization.

Agriculture - Forestry - Fishery

- Law No. 79/2015/QH13, on Animal Health, adopted by the National Assembly on 19 June 2015.
- Decree No. 55/2015/ND-CP dated 9 June 2015, on the credit policy serving agricultural and rural development.
- Circular No. 97/2015/TT-BTC dated 23 June 2015 of the Ministry of Finance, amending Appendix 3 to Circular No. 115/2014/TT-BTC dated 20 August 2014 of the Ministry of Finance, providing guidelines for the implementation of insurance policy stipulated in Decree No. 67/2014/ND-CP dated 7 July 2014, on a number of aquacultural development policies.
- Circular No. 23/2015/TT-BNNPTNT dated 22 June 2015 of the Ministry of Agriculture and Rural Development, on the management of environmental treatment and improvement products used in livestock breeding and aquaculture.
- Circular No. 21/2015/TT-BNNPTNT dated 8 June 2015 of the Ministry of Agriculture and Rural Development, on the management of plant protection products.
- Circular No. 20/2015/TT-BNNPTNT dated 1 June 2015 of the Ministry of Agriculture and Rural Development, promulgating the National technical regulations on fishing vessel safety equipment.

Investment

- Decision No. 23/2015/QD-TTg dated 26 June 2015 of the Prime Minister, providing for the mechanism under which the State makes payment by land to the Investors when implementing Construction and investment projects in the form of Build – Transfer.

- Inter-ministerial Circular No. 90/2015/TTLT-BTC-BKHDT dated 15 June 2015 of the Ministry of Finance and Ministry of Planning and Investment, providing guidelines for financial management mechanism applicable to investment promotion activities.

Miscellaneous

- Decision No. 645/QD-BXD dated 2 June 2015 of the Ministry of Construction, adjusting and supplementing the functions, duties, and powers of the Department of Construction Activities Management and the State Authority for Construction Quality Inspection on the labour safety and hygiene in construction activities.

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