



Indochina notes

LEGAL UPDATES ON INVESTMENT, INFRASTRUCTURE AND FINANCE

New laws
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New laws

The National Assembly (NA) finished its first session in June 2008. Most notably, given the slight overheating in the economy, the NA approved the reduction of the targeted 2008 GDP growth rate from 8.5-9 per cent, as approved at the end of 2007, to 7 per cent.

During this session, the NA also passed 11 new laws:

- the Law on Corporate Income Tax (CIT), which reduces the standard CIT rate to 25 per cent from 28 per cent;
- the Law on Amendment and Supplement to the Law on Petroleum, which grants the Prime Minister greater power over the terms of petroleum contracts;
- the Law on Atomic Energy, which provides the first regulations on the subject in Vietnam, paves the way for the operation of nuclear energy in Vietnam and protects against proliferation;
- the Law on Promulgation of Legal Documents – popularly known, at least by non-lawyers, as the law on laws – which aims to limit the proliferation of legal documents;
- the Law on Management and Usage of State Assets;
- the Law on Compulsory Purchase and Requisition of Assets;
- the Law on Value Added Tax;
- the Law on Operations of the Red Cross;
- the Law on Amendment and Supplement to the Law on Prevention of and Fight against Drugs;
- the Law on Amendment and Supplement to the Law on Publishing; and

- the Law on Amendment and Supplement to the Law on Vietnam People's Army Comrades.

Investment

Property ownership by foreigners

Foreign individuals and foreign-invested enterprises (FIEs) have to date not been permitted to own houses or apartments in Vietnam. Many regretted this because prices seemed to be heading in one direction only. Conveniently, now that the real estate market looks precarious, new legislation, in the form of Resolution 19 of the NA dated 3 June 2008, allows some foreigners to buy. From 1 January 2009, 'foreign eligible buyers' will be permitted to purchase 'residential houses' in limited circumstances. A foreign eligible buyer is:

- a foreign individual entering Vietnam for direct investment in Vietnam in accordance with the law on investment, or hired as a manager by a business operating in Vietnam in accordance with the Enterprise Law (including both domestic organisations and FIEs);
- a foreign individual who has been presented with a medal by the President of Vietnam (medals are ubiquitous, but those conferred by the President are rare); and other individuals who have made special contributions to Vietnam as determined by the Prime Minister on a case-by-case basis (the PM is unlikely to have too much time to study these files);
- a foreign individual working in a socio-economic field holding a bachelor's degree or higher degree or an

individual who possesses special knowledge and skills that Vietnam needs (a good loophole for those who can navigate the subjective shoals that this category will create);

- an FIE that is not licensed to conduct real estate business in Vietnam that purchases residential housing as a residence for its employees (for employers who like betting on the real estate market); and
- a foreign individual married to a Vietnamese citizen (the traditional route, if all else fails).

Foreign eligible buyers who are foreign individuals are permitted to purchase a 'residential house' only if they are living in Vietnam, are permitted by the Vietnamese authorities to reside in Vietnam for more than one year and are not subject to diplomatic regulations.

Foreign eligible buyers may purchase apartments only from commercial residential housing developments. A foreign eligible buyer may own only one such apartment, with the exception of an FIE, which may purchase multiple apartments for its employees. A foreign eligible buyer is entitled to mortgage, bequeath, maintain and renovate the apartment purchased, authorise other persons to manage the apartment and to be compensated by the Government if the apartment is demolished in accordance with a decision of the Government. A foreign eligible buyer is not permitted to sell or donate his apartment within 12 months of obtaining his house ownership certificate (but a foreign individual who is unable to stay in Vietnam is permitted to sell the apartment before the end of this period). A foreign eligible buyer is not allowed to lease or use the apartment as office space or for any other purpose.

A foreign eligible buyer (that is not an FIE) is permitted to own an apartment for a maximum of 50 years from the date on the house ownership certificate. On the expiry of the term of ownership, the foreign eligible buyer must sell or donate the house. The term of house ownership by an FIE is limited to the term of operation of the enterprise set out in its investment certificate (including any extension).

Industrial zones and economic zones

Industrial zones (IZs) and export processing zones have played a crucial role in the recent manufacturing boom. Access to land outside these zones for foreign manufacturing investment is beset by hazards

and delays. But these zones have been sprouting indiscriminately over the countryside, many of them improperly authorised and others without appropriate infrastructure. Some people would say it is rather late, but the Government issued Decree 29 dated 14 March 2008 regulating the establishment, operation and management of IZs, export processing zones and economic zones. From now on:

- the establishment of IZs and economic zones has to be based on a master plan for development of IZs and economic zones approved by the Prime Minister;
- IZs can be established only if they conform with the approved master plan; and at least 60 per cent of the total aggregate industrial land area of IZs already in the relevant province has been leased to investors;
- an existing IZ may be expanded if (i) it is in line with the approved master plan; (ii) at least 60 per cent of the total industrial land area of that IZ has been leased to investors; and (iii) its sewage treatment plant has been built and put into use; and
- a new economic zone must, among other things: (i) be situated in a geographical position favourable for regional economic development (having a deep water seaport or being near an airport); (ii) have an area of 10,000 hectares or more; and (iii) have the ability to attract large-scale or important investment projects and affect the socio-economic development of the whole region.

Foreign employees working in Vietnam

Many foreign businesses have complained long and hard about the rule that limited their foreign employees to no more than 3 per cent of the total workforce. Their complaints have now been answered and the restriction is removed by virtue of Decree 34 dated 25 March 2008 on managing and recruiting foreign employees working in Vietnam. But these same businesses may soon regret their wishes.

The changes introduced by Decree 34 also increased the burden on organisations employing foreigners in two notable and unwelcome ways:

- certain persons formerly exempt from needing work permits (people on the members' council of a limited liability company, as well as anyone holding the position of general director or deputy general director, were exempt from the work permit requirement) are no longer exempt; and

- in the case of persons exempt from the work permit requirements, Decree 34 imposes on their employers new obligations that are almost as burdensome as the permit requirements, particularly in terms of documentation.

Under Decree 34, the following foreigners are exempt from work permit requirements:

- foreign employees entering Vietnam to work for less than three months;
- board members of a shareholding company or owners of a limited liability company (if the owner is an individual);
- foreign service salespersons; and
- most importantly, foreign lawyers certified to practice in Vietnam.

Certification of the legal capital in real estate projects

To reduce the number of fly-by-night real estate developers, the Ministry of Construction issued Circular 13 on 21 May 2008 requiring enterprises applying for an Investment Certificate to engage in real estate business to include certification of their legal capital as part of the application. The minimum charter capital (ie the legal capital) for a company in the real estate business in Vietnam is VND6bn. Of course, the actual charter capital of such companies would normally be much higher. The Circular 13 certification appears to apply only to the legal capital amount of VND6bn but could be interpreted to apply to the entire charter capital.

The application file must contain the following to evidence the contribution of the charter capital by the founding shareholders or members:

- minutes of a meeting of the founding shareholders/members regarding their contribution of the charter capital. It is not clear under Circular 13 whether the parties may agree in the minutes that the contribution of the charter capital is to be in accordance with the schedule agreed by the parties or if such charter capital must be fully contributed before obtaining the Investment Certificate;
- if the charter capital will be contributed in cash, confirmation from a commercial bank operating in Vietnam of the deposit of an amount of cash equal to such charter capital contribution. This will be difficult for putative foreign investors for a number of reasons:
 - they will need a Vietnamese bank account;

- there are foreign exchange control issues; and
- Circular 13 provides that the deposit amount can ‘only be released after the company has been issued the business registration certificate’. It is unclear how foreign investors can remit the deposit amount if they decide to withdraw the application file or if they are not issued an Investment Certificate.

- if an investor will contribute its charter capital in the form of assets, confirmation must be obtained from a valuation expert operating in Vietnam of the value of such assets. Again, this is restrictive given that only a recognised valuation expert operating in Vietnam can provide the certification even if the assets are overseas. Furthermore, it is not entirely clear whether the party contributing the assets must own the assets. If so, this will be difficult because few developers in Vietnam can obtain the land use right certificate for land to be contributed to a new company before obtaining the Investment Certificate for the company.

Distribution

The limitation on trading and distribution activities by FIEs that was contained in Circular 9 dated 17 July 2007 of the Ministry of Trade has been lifted by Circular 5 dated 14 April 2008 of the Ministry of Industry and Trade (MOIT). Under Circular 5, FIEs importing goods will be permitted to sell them to any number of licensed distributors.

New airport authorities

Anyone who has whiled away the hours in a Vietnamese airport waiting for a delayed flight knows that there is room for improvement in the management of the place. This may soon change. The Deputy Prime Minister, in Official Correspondence 1436 of the Government Office dated 6 March 2008, approved the establishment of three new aviation corporations: the Northern Aviation Corporation, the Central Aviation Corporation and the Viet Nam Flight Operation Corporation. These new aviation corporations will be formed out of the Northern Airport Authority, the Central Airport Authority and the Viet Nam Civil Aviation Management Centre respectively. This is an important step towards the division of business functions from state management of the aviation sector. It may lead to some greater choices during those waits.

Foreign ownership of unlisted companies

Decree 139 (see our Sector Update on Decree 139) suggests that unlimited ownership of an unlisted company is possible outside regulated areas. By contrast, there are suggestions that indirect investments in securities, which are governed by the Securities Law, would limit ownership of public companies to 49 per cent. There is no clarity on this issue, but the Government Office did issue Notice 63 on 11 March 2008, which purported to 'increase' the cap on foreign ownership in unlisted public companies to 40 per cent from the previous 30 per cent. Although a notice issued by the Government Office is not a legal document, it has guidance value to the implementing authorities, specifically the Ministry of Finance (MOF) and the State Securities Commission (SSC).

Investment by state-owned enterprises

One of the causes of the economy's current overheating is excessive borrowing by state-owned enterprises (SOEs). Vinashin and Lilama, two of the former darlings of the SOE world, have – according to reports in the official media – recently managed to borrow 21 times their equity. Vinashin, a shipbuilding company, was moving into securities, banks, insurance, airlines and numerous other businesses. In Official Correspondence 1931 of the Government Office dated 26 March 2008, the Prime Minister requested that the MOF prepare regulations on the investment activities of SOEs to ensure that the ratio between investments in an SOE's main business and in other businesses is at least 70:30.

Government guarantee

In Official Correspondence 2209 of the Government Office dated 7 April 2008, the Prime Minister requested that the MOF prepare regulations on government guarantees applicable to foreign-invested projects and the procedures for dealing with financial obligations incurred thereby.

Infrastructure

Petroleum law amendments

The 1993 Law on Petroleum was not a model of flexibility and over the course of the past 15 years, despite one amendment in 2000, certain omissions and difficulties have emerged. The NA has now put its finger

in the dyke by approving amendments and supplements to this law, in particular:

- coal bed methane now falls within the law and is helpfully classified as an 'encouraged petroleum investment project';
- the law now provides a general obligation to restore the environment as well as specifying that the obligation to remove fixed installations and equipment arises after completing each phase of a contract;
- the new law grants the Prime Minister a new power to extend a petroleum contract even after the initial five-year extension and contemplates new regulations on the subject (which is clearly of interest to many contractors whose blocks cannot be developed due to lack of a market or claims by other nations);
- the new law transfers the power to approve a petroleum contract and to approve the transfer of an interest in a petroleum contract from the Government to the Prime Minister;
- the obligations of a transferee of a petroleum contract are now spelled out, PetroVietnam has a pre-emptive right and the transferor will have to pay all taxes and fees applicable to the transfer;
- tenders for petroleum service supply contracts will now have to be carried out in accordance with separate regulations that are to be issued by the Government;
- the right to export without an export permit is now clearly subject to the Government's right to request the sale of the petroleum into the domestic market;
- the tax provisions have been repealed because they are covered in the tax laws themselves. Under the new Law on Corporate Income Tax, the CIT rate for petroleum activities still ranges from 32 to 50 per cent; and
- the Ministry of Industry's powers to manage the petroleum sector have been formalised.

Export duty rate for crude oil

On 17 April 2008, the MOF doubled the export duty for crude oil to 8 per cent, applicable from 22 April 2008. Under the previous Decision 106 dated 20 December 2007, the export tax rate applicable to crude oil was 4 per cent. The rate has since been increased to 20 per cent in accordance with Decision 35 dated 6 June 2008.

Companies with appropriate stabilisation clauses and investment licences should be able to claim exemptions.

Tendering of blocks in Nam Con Son Basin

In official correspondence 908 dated 18 June 2008 to PetroVietnam, the Prime Minister approved the tendering plan proposed by PetroVietnam for blocks 03, 04-1, 04-2, 19, 20, 21 and 22/03 in the Nam Con Son Basin in the form of open international competitive tendering and approved the list of 37 parties participating in the tendering.

Binh Son Oil Refinery and Petrochemical Company

The Prime Minister approved the establishment of a new company in the oil and gas sector, Binh Son Oil Refinery and Petrochemical Company, in Official Correspondence 582 dated 22 April 2008. This company is wholly owned by PetroVietnam and will operate in oil processing, refining and trading.

Environmental protection fees

Under Decree 63 of the Government dated 13 May 2008, organisations exploiting certain kinds of minerals – including stone, feldspar, gravel, sand, earth, coal, natural mineral water, ilmenite, metal minerals, apatite, crude oil and natural gas – will have to pay environmental protection fees. For example:

- crude oil: VND100,000/tonne;
- natural gas: VND200/m³;
- metal mineral ores: from VND10,000 to 180,000/tonne depending on the mineral resources extracted; the highest levels are applicable to zinc and lead ores;
- ilmenite: VND50,000/tonne;
- gemstone ore: VND50,000/tonne; and
- natural mineral water: VND2,000/m³.

These fees are substantially higher than those previously charged and more minerals are subject to the fees. Crude oil, natural gas, metal mineral ores and gemstone ores were not previously on the list of minerals subject to the fee.

Mineral projects: security deposit for rehabilitation of the environment

Not content with merely increasing environmental fees, the Prime Minister, in a burst of greenery, also issued a decision on security deposits for environmental rehabilitation after mineral mining activities.

Decision 71 dated 29 May 2008 requires all mining organisations (i) to formulate a project to carry out environmental rehabilitation work after completing the mining process, which must be approved by the competent authority (an environmental rehabilitation project) and (ii) to deposit money into an escrow account to cover the costs of the environmental rehabilitation project before starting a mineral mining operation. Organisations currently conducting mineral activities must prepare an environmental rehabilitation project for submission to the relevant authority for approval and then deposit money.

The amount of the deposit is calculated based on the costs necessary to carry out the environmental rehabilitation project ‘on the forecast worst adverse impact of the mineral mining operation on the environment and ecology’. The budgeted deposit amount must be set out in the environmental rehabilitation project as appraised and approved by the competent authority.

The escrow deposits must be made either with the Environmental Protection Fund of Vietnam or with a local Environmental Protection Fund, the solvency of which remains to be ascertained.

Master plan for gold, copper, nickel and ferromolybdenum ores

Vietnam is rich in natural resources but the mining industry is only just showing the earliest signs of movement, with a few projects involving bauxite coming to fruition and activity. On 5 June 2008, in Decision 11, the MOIT gave some impetus to the gold, copper, nickel and ferromolybdenum sector by approving the master plan from now until 2015, with a vision to 2025.

- Gold production during this period is estimated to be around 151.3 tonnes. The demand for gold by 2010, 2015, 2020 and 2025 is expected to be 86, 92, 98 and 103 tonnes respectively. From now until 2015, exploration should occur in 39 potential gold mines, six of which are of industrial scale, including Sa Phin and Minh Luong in Lao Cai province, Tra Nang in Lam Dong province, A Vao-A Pey in Quang Tri and Thua Thien-Hue provinces and Bong Mieu and Dac Sa in Quang Nam province.
- Copper production is estimated to be around 2.21m tonnes. The demand for copper by 2010, 2015, 2020 and 2025 is expected to be 92, 120, 156 and 196

thousand tonnes. From now to 2015, exploration should occur in 18 mines; the major ones are Ta Phoi and Vi Kem in Lao Cai province, An Luong and Lang Phat in Yen Bai province, Nam He-Huoi Say in Dien Bien province, Nam Tia, Nam Nga, Nam Kinh in Lai Chau province, Suoi On, Da Do, Phieng Luong, Na Lay in Son La province and Duc Bo in Quang Nam province. The focus will be on seven mines of an industrial scale in Lao Cai, Yen Bai, Dien Bien and Quang Nam provinces. New factories for copper refining are to be set up in Son La and Yen Bai with capacities of 10,000-15,000 tonnes per year.

- Nickel is concentrated mostly in Son La province. From 2008 to 2015, the exploration focus will be in Ban Phuc and Ta Khoa mines. It is planned that a factory producing metal nickel and related products with the capacity of 7,000-10,000 tonnes per year will be put into operation in Son La province after 2013. Another factory producing nickel sulphate from chrome ores with a capacity of 500-1,000 tonnes will be put into operation in Thanh Hoa province by 2015.
- Ferromolybdenum production is estimated at 28,400 tonnes, concentrated mainly in Lao Cai and An Giang provinces. Exploration is to begin between 2016 and 2020 and exploitation is to begin after 2020. A factory for processing ferromolybdenum will be set up in Lao Cai province between 2016 and 2020, with an initial capacity of 40-80 tonnes per year with input from Kin Chang Ho and O Quy Ho mines.

Banking and capital markets

During the first months of 2008, Vietnam's long march towards financial liberalisation seems to have reached a temporary impasse. In furtherance of the struggle against the inflationary bogeyman, Vietnam has re-introduced interest rate caps, sharply narrowed the scope of permitted purposes for onshore foreign currency lending and created a new super-regulatory agency for the banking, securities and insurance sectors.

Interest rates

Between 1996 and 2005, Vietnam's banking policy was characterised by a gradual liberalisation of interest rates. This process culminated in June 2002 with the removal of caps on interest rates on Vietnamese dong lending, permitting risk-based lending. Ceilings on interest rates

for foreign currency lending were also lifted. However in 2005 it appeared that a maximum interest rate for bank lending had been re-introduced. Certain provisions of the Civil Code 2005, if interpreted literally, could be read as imposing restrictions on the interest rate and penalty interest rate to be charged on loans by Vietnamese credit institutions, tied to the basic interest rate published by the State Bank of Vietnam (SBV). Nevertheless there was some confusion over whether the Civil Code 2005 provisions were intended to apply to loans extended by credit institutions or only to loans that were not extended by credit institutions. During the period from 2005 to early 2008, Vietnamese credit institutions in practice treated the Civil Code 2005 provisions as inapplicable to loans extended by them.

This appears to have been wrong. Decision 16 of the SBV dated 16 May 2008 has unambiguously re-imposed interest rate caps on loans extended by Vietnamese credit institutions. Under this decision (similar to the Civil Code 2005 provisions) interest rates on Vietnamese dong loans by Vietnamese credit institutions may not exceed 150 per cent of the basic interest rate published by the SBV for the applicable interest period. The same cap applies to the interest rates that Vietnamese credit institutions may offer to their depositors. Decision 16 does not appear to apply to loans in currencies other than Vietnamese dong (indeed, the SBV does not publish basic interest rates for foreign currency loans).

Loan-related fees

After the issue of Decision 16 by the SBV, a number of credit institutions used 'loan-related fees' to circumvent the 150 per cent cap. It was the understanding and practice in the industry that the 150 per cent interest rate cap applied only to interest rates charged by lenders and not to all other loan-related fees, such as commitment fees, administration fees and management fees. The banks have again been disappointed. Official Correspondence 5158 of the SBV dated 10 June 2008 stipulates that all loan-related fees must be included within the total cap of 150 per cent of the basic interest rate published by the SBV. Currently this rate is 14 per cent; therefore all loan interest and loan-related fees would be capped at 21 per cent. Whether this cap would apply to fees related to past due loans is not completely clear – because this would seem to be an unreasonable application of the cap.

Onshore loans in foreign currency

The SBV has also curtailed Vietnamese credit institutions' ability to lend to onshore borrowers in foreign currency. Under Decision 09 of the SBV dated 10 April 2008, Vietnamese credit institutions may extend loans in foreign currency only for the following purposes: making payment to overseas parties for the import of goods and services, refinancing offshore loans and making direct offshore investments. Decision 09 significantly narrows the permitted categories for onshore foreign currency loans. Perhaps most notably, Decision 09 no longer allows onshore foreign currency loans to any borrower that has foreign currency revenue (as was previously the case). In practice this will make it more difficult for exporters to obtain onshore foreign currency loans and is likely to curtail significantly onshore foreign currency lending in Vietnam.

National Financial Supervision Committee

The swing towards greater regulation of the financial system can also be seen in Decision 34 of the Government dated 3 March 2008, which establishes the National Finance Supervisory Council (the NFSC) as a 'super regulator' with supervisory powers over banking, securities and insurance. On the face of Decision 34, many of the NFSC's functions will involve co-ordinating the operation of existing regulators in those fields. However significant potential powers of the NFSC include:

- providing 'general supervision of the finance market and of compliance with international practice and standards on supervision of finance markets by specialised branch inspectorates and supervisory bodies in the banking, securities and insurance sectors';
- supervising 'the conditions for issuance of operational permission to credit institutions and non-banking institutions in the banking, securities and insurance sectors';
- requiring 'the MOF, the SBV and other organizations operating in the banking, securities and insurance sectors to provide periodical and extraordinary reports containing information relevant to finance and banking'; and
- convening 'meetings of senior staff of ministries and branches in order to exercise the supervisory role allocated to the NFSC'.

At the time of writing, implementing regulations for the NFSC had not yet been introduced. Therefore it is unclear to what extent the NFSC will exercise its potentially broad supervisory powers. However the NFSC has the potential to play an important and positive role in the Vietnamese Government's efforts to bring stability to the Vietnamese financial sector.

Operational network of commercial banks

On 29 April 2008, the SBV issued Decision 13 on the operational network of commercial banks. Decision 13 replaces (i) Decision 888 of the SBV dated 16 June 2005 on opening, establishing and terminating transaction offices, branches, representative offices and units of commercial banks and (ii) Decision 1090 of the SBV dated 17 September 2003 on opening and terminating transaction offices, branches and transaction units of joint venture banks in Vietnam.

Decision 13 regulates the opening and termination of the 'operational network' of state-owned commercial banks, joint stock commercial banks, joint venture banks and 100 per cent foreign-owned banks in Vietnam (together: commercial banks). The 'operational network' of commercial banks for the purposes of Decision 13 includes transaction offices, branches, representative offices, professional units, transaction units, savings deposit funds, ATMs and transaction locations.

Decision 13 does not regulate the establishment of 'subsidiary companies', which have been contemplated (but have not been further implemented) under the Law on Credit Institutions (LCI).

Within one year of starting operations, a commercial bank is permitted to open a transaction office and up to two branches if it meets certain conditions on business plans, information systems and internal regulations.

After one year, the commercial bank is allowed to open a transaction office and branches if it satisfies certain conditions relating to profitability, safety, debt classification, risk reserves and bad debt. The number of branches that a commercial bank is allowed to open must comply with the following formula:

$$100bn \times N1 + 50bn \times N2 < C$$

In which:

- C is the charter capital (calculated in Vietnamese dong) of the commercial bank;

- N1 is the number of branches already opened and requested to be opened in Hanoi City and Ho Chi Minh City; and
- N2 is the number of branches already opened and requested to be opened in an administrative unit outside Hanoi City and Ho Chi Minh City.

To open transaction offices, branches, representative offices and professional units in Vietnam, the commercial bank must submit an application file to the SBV branch where the head office of the commercial bank is located. Within 10 working days, the SBV branch should forward the application to the SBV in Hanoi to issue a permit within 30 working days from the date of receipt of the application file from the SBV branch.

A commercial bank is allowed to open an offshore office or branch after at least five years in operation, which must include three consecutive profitable years.

Equitisation of Mekong Housing Bank

The Prime Minister approved the equitisation of Mekong Housing Bank (MHB) in Decision 313 dated 24 March 2008. The main content of the equitisation plan is:

- the equitisation will take the form of an issue of new shares. After the issue the state-owned capital will account for 68.1 per cent of the capital and the additional issued shares will account for 31.9 per cent;
- shares for public auction: 13.11 per cent;
- shares for sale to employees: 1.79 per cent;
- shares for sale to the labour union: 2 per cent; and
- shares for sale to strategic investors: 15 per cent.

The strategic investors must agree not to sell shares in MHB for five years from the date MHB receives its business registration certificate as a new joint stock company.

Given the failure of the public auction of the last large SOE – Habeco’s – it is not clear if this auction will occur before some improvement in the fortunes of the local stock market, which is languishing around 60 per cent lower than its starting point at the beginning of the year.

Share price trading band

From March to June, the SSC has thrice revised the share price trading bands for the Hanoi Securities Trading Centre (HASTC) and the Ho Chi Minh City Stock Exchange (HOSE). On 27 March 2008 in Official Correspondences 466 and 467 of the SCC to HASTC and

HOSE respectively, the SSC lowered the price trading bands for HASTC and HOSE to 2 per cent and 1 per cent (from the previous levels of 10 per cent and 5 per cent). Later, in Official Correspondences 528 and 529 to HASTC and HOSE, the SSC allowed HASTC to increase the price trading band to 3 per cent and HOSE to increase the price trading band to 2 per cent. Most recently, on 16 June 2008, the SSC issued Official Correspondence 1660 to increase the trading band at HASTC and HOSE to 4 and 3 per cent respectively.

Securities market stabilisation

In Notice 105 of the Government Office dated 24 April 2008, the Prime Minister asked the SBV and other relevant ministries to carry out certain actions to stabilise the securities market. The Prime Minister requested that:

- the SBV implement stricter methods to control indirect investment capital and short-term loans in foreign currency, especially those without security, and foreign currency from foreign exchange transactions;
- the MOF (i) submit to the Prime Minister draft regulations to amend Decision 36 on the purchase of shares in Vietnamese companies and Decision 238 on the foreign ownership cap in the securities market; (ii) submit to the Prime Minister a draft decision allowing 100 per cent foreign-owned fund management companies and branches to establish and operate in Vietnam; and (iii) issue regulations on the establishment and operation of representative offices of foreign securities companies in Vietnam; and
- the Ministry of Planning and Investment draft regulations regarding the conversion of FIEs into share-holding companies.

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