

REORGANIZATION FOR OVERSEAS LISTING OF VIETNAMESE COMPANIES

Recent years have witnessed a significant increase in the number of Vietnamese companies (“**VietCo**”) involving in overseas listing either as a member of a multi-national group or a single entity. Vietnam is however not widely accepted by overseas Stock Exchanges (such as in Hong Kong, Malaysia, Taiwan etc.) as a place of incorporation of issuer and hence direct overseas listing of VietCo may be arduous. It is thus necessary to restructure VietCo under a listing vehicle (“**ListCo**”) of which place of incorporation is accepted by the relevant Stock Exchange.

The reorganization may involve a share swap whereby ListCo will offer its own shares to the existing owners of VietCo in exchange for shares in VietCo. There has been however no law specifically governing share swap. It is therefore advised to structure the transactions in a way that is governed by Vietnamese laws to help to expedite the progress and avoid unexpected challenges from the licensing authorities.

- ✓ On the front of existing owners of ListCo, accepting share offer by ListCo constitutes an overseas investment and they are required by laws to obtain an overseas investment registration certificate before proceeding (applicable for Vietnamese entities or individuals). Relevant licensing procedures may take around 15 days or longer (if an in-principle approval from the Prime Minister or the National Assembly is required). The applicant shall, inter alia, prove the fulfilment of tax obligations to the State and declare sources of foreign currency for the overseas investment.
- ✓ On the other front, ListCo’s acquisition of shares in VietCo will involve the following steps:

(1) Obtain an approval to sale and purchase of shares [in VietCo]; and/or	- Around 15 days ¹	Stock exchanges will require the issuer to disclose in its prospectus shareholding structure of the group. The parties thus will normally need to complete step (1) and step (2) before submission of listing applications.
(2) Register ListCo’s shareholding in VietCo; and/or	- Around 3 working days	
(3) Update ListCo’s shareholding in relevant investment (registration) certificate [of VietCo]; and/or	- Around 15 working days ²	
(4) Amend/obtain other sub-licenses [of VietCo]	- Subject to business lines and structure of VietCo	

In addition, parties are advised to pay attention to multi-business lines registered by VietCo as there are statutory restrictions or conditions applied to foreign investment in certain areas. Different actions will be required depending on specific situation. For example, Vietco may need to remove business activities in which foreign investment is not allowed prior to the ListCo’s acquisition; or if VietCo is engaged in retail sectors, it will need to obtain sub-licenses to do retail business and/or set up retail outlets as a result of the reorganization.

Where multiple factors will affect the restructuring and the listing, it is therefore always of paramount importance to ensure that relevant parties are closely accompanied by reliable consultants to envisage the whole process and all necessary steps and actions have been fully aware of and effectively implemented for a successful listing.

¹ Subject to guidance on the new Law on Investment No. 61/2020/QH14

² Subject to guidance on the new Law on Enterprises No. 59/2020/QH14

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The Firm traces its beginnings in 2005 when a team of experienced Vietnamese lawyers came together to set up what was formerly known as PBC PARTNERS. A subsequent joint venture in 2016 with the 6th largest law firm in Singapore led to a brand relaunch and the firm is now known as **RHTLaw Vietnam**.

RHTLaw Vietnam offers clients access to a network of over 2000 legal professionals across various offices in Asia through RHTLaw Asia and the ASEAN Plus Group (APG).

Our model is driven by the focus on helping clients succeed, which translates to clear and precise solutions with high-level legal and commercial insights. We proactively grow our practice in tandem with regional and international fast growing industries and areas.

We are serving an increasing number of clients in the Capital Market industry. The scope of our activity include:

- ✓ Acting for investment banks, sponsors, issuers and corporations in equity offering on the stock exchange of various jurisdictions, including but not limited to initial public offerings, rights issues, bonus issues, employees scheme issues and investment funds.
- ✓ Acting for issuers, security agents, financial institutions and other participants in debt capital market including but not limited to debt securities offerings and private placements.
- ✓ Structuring transactions; assisting with corporate reorganizations and schemes of arrangement.
- ✓ Conducting legal due diligence on issuers; issuing legal opinions on compliance with relevant laws and listing requirements; reviewing due diligence reports and legal opinions prepared by other legal advisers of issuers.
- ✓ Rectifying non-compliance and managing other corporate exercises.
- ✓ Interviewing and conducting due diligence on third parties involved in business operations of issuers including but not limited to customers, suppliers, distributors, deposit banks, lending banks, competent authorities and other relevant third parties.
- ✓ Drafting and reviewing transactional documents, prospectuses, submissions and offer documents.

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