



# BUSINESS RESILIENCE AMIDST COVID-19 BACKDROP



Ho Chi Minh  
Hanoi  
Singapore  
Phnom Penh

## Vietnam's progression for foreign investment during COVID-19

- Vietnamese startups also secure large funds in the period including VNLife, VNG, MoMo, Tiki and Sendo.
- Standard Chartered expects Vietnam's GDP growth to recover to 5.5 per cent on-year in the fourth quarter of 2021.
- Prominent industries: Healthcare, Electronics, Fintech, E-commerce, Retail

### Facts and figures (Source: <https://vir.com.vn/>)

- Despite COVID-19, foreign investors' new capital registered in Vietnam reached 22.15 billion USD in the first nine months, up 4.4 percent compared to the same period last year<sup>1</sup>.
- GDP in third quarter 2021 decreased by about 6.17% due to a combination of the heightened social distancing measures over the last 3 months, the low resiliency of both Vietnamese enterprises and the authorities.

<sup>1</sup> Government Portal's online conference held on September 27 with the participation of a number of localities housing foreign direct investment (FDI) projects



*Illustrative photo (Source: VNA)*

# ISSUES ASSOCIATED WITH BUSINESS RESILIENCE

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**THIRD PARTIES'  
OBLIGATIONS**



**STATE  
OBLIGATION**



**SUPPLY CHAIN**



**WORKFORCE  
PLAN**



**INTERNAL  
GOVERNANCE**



**REAL ESTATE  
OBLIGATIONS**



**CYBER –SECURITY  
& PRIVACY**

## **THIRD PARTIES' OBLIGATIONS**

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- Reviewing or considering force majeure provisions.
- Reviewing contracts to identify potential non-performance and violations; negotiating and applying any mitigations.
- Seeking advice (from legal, financial and business perspectives) on applicable remedies provided under the law or other COVID-19 regulations.
- Engaging stakeholders to maintain stability, goodwill and reputation.
- Keeping up to date on applicable changes of laws, guidance and other practices.

## **OBLIGATION TO THE STATE**

- ❑ Regular review of compliance status and mandatory reporting (e.g. labour, tax, investment).
- ❑ To ensure that any COVID-19 related actions (e.g. temporary suspension) are fully compliant with the laws.
- ❑ Maintaining consistent connection with local authorities for their guidance especially where these may differ from the guidance from the central authorities.
- ❑ Delay or non-performance may be inevitable but ensure engaging State and local authorities to mitigate same.
- ❑ Being prepared for any additional requests from the State authorities which are not clearly regulated by laws.
- ❑ Being prepared and familiar with digitalized communication platforms in certain public services/areas which may not be consistent in terms of registration and submission.

## **SUPPLY CHAIN**

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- ❑ Following up with third parties to identify any interruption / interference to business/supply continuity.
- ❑ Closely following alerts on infection rates and quarantine areas to anticipate disruptions to products and services and changes in the legal framework (e.g., medical equipment, medicine, technological supplies or services).
- ❑ Diversifying supply sources.
- ❑ Identifying and overcoming any customs or export/import restrictions especially as regards the import and export of raw materials.

## **WORKFORCE PLAN**

- Considering applying required health, quarantine and safe production regulations.
- Implementing measures to ensure employees', vendors' and customers' health and safety.
- Be prepared for and to familiarise with travel restrictions.
- Considering different measures and options for paying/supporting employees who are quarantined or otherwise affected by COVID-19.
- Remote working will be required in certain businesses/jobs/areas.
- Assessing whether internal labour rules allow more control in terms of working remotely.
- Re-evaluate internal policies, rules and agreements to reduce or otherwise mitigate labour cost by applying reduction-in-force or other methods provided by laws.
- Regularly engaging and communicating with employees.

## **INTERNAL GOVERNANCE**

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- ❑ Preparing and properly implementing plans which stabilizes business performance.
- ❑ Keeping directors, shareholders and other stakeholders updated on corporate performance.
- ❑ Getting advice in terms of applying remote meeting/e-signature/postpone options.
- ❑ Getting advice on all possible effects on the decision-making process changes.
- ❑ Reviewing insurance program and requesting for insurance benefits regarding directors, shareholders and other key officers.



## **REAL ESTATE**

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- ❑ With respect to measures of coping with COVID-19 infection rate, there may be potential local travel restrictions which could effect the premises.
- ❑ Reviewing and considering all options to the implementation of projects (especially projects associated with acquiring land or construction).
- ❑ Regularly updating on the public health requirements such as cleaning, avoiding enclosed space or large gatherings.
- ❑ Being aware and prepared for inevitable event relating to COVID-19 that may trigger termination or suspension of premise lease agreements
- ❑ Getting advice on options provided by laws to have chance for negotiating changes to lease provisions/reduction of rent or any payable fee.

## **CYBER –SECURITY & PRIVACY**

- ❑ Facilitating electronic devices and ensuring the same are ready and safe for working remotely.
- ❑ Implementing expert-recommended practices for safety and securities, such as two-factor authentications, security software and updates and other security controls.
- ❑ Properly obtaining full consents from any individual if there is any monitoring/information collection programs.
- ❑ Controlling and assessing the information collection/monitor activities from any third party with respect to the corporate data.
- ❑ Enhancing defence mechanism and layers to malware and phishing.
- ❑ Assessing whether privacy and security regulations allow the collection and process health data such as body temperature and travel information.
- ❑ Providing simple, consistent and straightforward communication within the enterprise.

## ABOUT US

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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, RHTLaw Asia LLP, led to a brand relaunch and the firm became known as RHTLaw Vietnam.

Since then, the Firm has experienced strong growth and is now recognised as a leading law firm in Vietnam. RHTLaw Vietnam is also a member of ASEAN Plus Group (APG) which is a group of full-services law firms that blends the best of knowledge, culture and international expertise.

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.



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Energy & Environment



Financial Institution &  
Service



Life Science &  
Healthcare



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Infrastructure



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We serve a broad range of clients across a variety of **INDUSTRY GROUPS**.

We are one of the few firms able to assist clients with integrated services covering both private and corporate needs.

Each of our industry groups brings together a team of specialist lawyers from a variety of **practice areas**.

# ABOUT THE SPEAKER



**BENJAMIN YAP**  
**Senior Partner**  
**Ho Chi Minh City Office**

- Banking and Finance
- Employment
- Inward and Outward Investment
- Mergers and Acquisition
- Real Estate and Construction
- Trading and Commerce

Mr. Benjamin Yap is a Vietnam registered foreign lawyer who is called to the Singapore and English Bar. He is the Firm's first Senior Partner. Prior to joining RHTLaw Vietnam, Benjamin was the resident partner in Ho Chi Minh City for Singaporean law firm, Kelvin Chia Partnership. Benjamin's areas of expertise are focused on corporate/ commercial transactions in mergers and acquisitions, real estate, corporate compliance/governance and employment. Benjamin was the President of the Singapore Business Group from 2008 to 2012 and is currently the Honorary President by virtue of his position as the Immediate Past President..

## Professional Activities

Law Society of Singapore  
Advocate & Solicitor, Singapore  
Barrister-at-law, Middle Temple

## Education

University of Wales, Aberystwyth, LLB 1994

## Languages

English (Native)

Tel. (+84) 28 3820 6448  
Cell. (+84) 973 753 111  
Email. [benjamin.yap@rhtlaw.com.vn](mailto:benjamin.yap@rhtlaw.com.vn)

# ABOUT US CONTACT US

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## **RHTLAW VIETNAM – Head office**

Suite 1101, 11th Floor, Sofitel Central Plaza  
17 Le Duan Boulevard, District 1  
Ho Chi Minh City, Vietnam  
Tel: +84 28 3820 6448

## **RHTLAW VIETNAM – Hanoi Branch**

Unit 1501B, 15th Floor, Charmvit Tower  
117 Tran Duy Hung Street, Cau Giay District  
Hanoi, Vietnam  
Tel: + 84 24 3974 8881

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