

FRANCHISE & LICENSE for FDI in Vietnam

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VIETNAM CORPORATE LAW FIRM OF THE YEAR

TEAM INTRODUCTION



In-depth Legal Consulting for Tax, Finance and M&A



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VIETNAM CORPORATE LAW FIRM OF THE YEAR

LOCAL INSIGHTS MEET INTERNATIONAL EXPERTISE

- A full service law firm with a seasoned team of multi-disciplinary professionals
- in-depth understanding of the legal system, business environment, and cultural background in Vietnam.
- Offices: Hanoi and Ho Chi Minh City
- Professional staffs: 25
- Languages: *Vietnamese, English, Japanese, French, Chinese, Korean*



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INTERNATIONAL AWARDS



■ Legal500, Chambers & Partners, IFLR 1000 and Legalese's Tax Director Handbook (global legal directories & ranking agencies) and international professional magazines list VCI Legal among the top law firms in Vietnam for: *M&A, competition law, banking and corporate, insurance, taxation, intellectual property, investment.*



■ Acquisition International Magazine:

- Vietnam Corporate Law Firm of the Year 2012-2014,
- M&A Vietnam Law Firm of the Year 2013,
- Real Estate Law Firm of the year 2012-2013



■ ACQ Global Magazine:

- Vietnam Banking & Finance Law Firm of the Year 2012-2013
- Vietnam Capital Markets Law Firm of the Year 2012-2013
- Vietnam Corporate Law Firm of the Year 2012-2013
- Vietnam M&A Law Firm of the Year 2012-2013



■ Financial Monthly – Law Firm of the Year 2011-2013



■ Corporate LiveWire – M&A Vietnam Law Firm of the Year 2012- 2013



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Practice Overview

- Full-service business law firm with business-oriented & specialized legal services:
 - In-house Counsel Service™
 - Finance, Legal & Stock Market Engineering Service;
 - Investment Structuring & Placement
 - Legal, Insurance & Risk Management Service;
 - Intellectual Properties Strategic Management Service;
 - IP Enforcement Service.



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VIETNAM CORPORATE LAW FIRM OF THE YEAR

Key Practice Areas

Strategic practice groups built on our “*In-house Counsel Service*” platform

1. Corporate | M&A | Investment Structuring;
2. Securities, Banking & Finance
3. Real Estate | Construction |
4. Tax | Transfer Pricing | HR Management & Labour
5. Petroleum | Mining | Energy
6. Infrastructure



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Representative Clients & Experience Financial Services



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Representative Clients & Experience*

Technology – Petroleum – Heavy Industry



at&t



invent



by Schneider Electric

PHILIPS



BP PETCO



Ciba



TOTAL



TATA



Shell



Reliance
Growth is Life



SAMSUNG

ALTANA



TAIHEIYO CEMENT

BYK
Additives & Instruments



Mercedes-Benz



Mitra Energy Limited



BLUESCOPE
STEEL

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Healthcare & Nutrition Products



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Representative Clients & Experience

FMCG & Logistics



Fun Characters International
Marketing Licensee of The Walt Disney Company



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Representative Clients & Experience*

Real Estate & Construction



MINISTRY FOR FOREIGN
AFFAIRS OF FINLAND



M&C CORP.



NORFOLK GROUP



serenityholding



HOTEL PLAZA LIMITED



VIGLACERA



THAI THINK CAPITAL



MANGO



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Some Clients & Experience in Franchising & Licensing

- **Unilever** licensing contracts
- **Pierre Cardin** licensing contract
- **Fun Characters International & Walt Disney:** merchandise licensing
- **Fashion TV:** broadcasting licensing contract
- **Black Angus Steak House** franchising contract
- **Hilton Hotels, Renaissance & Marriot Hotel Group, Starwood Real Estate Group** licensing contract



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Clients & Experience in Franchising & Licensing

- **Elite Modeling Agency:** negotiate on licensing terms
- **Hard Rock Café:** licensing contract & business model
- **Dale Carnegie Professional Training;** registration of licensing contract
- **Trung Nguyen Café:** brand management & distribution contract, bad debt recovery
- **Wrap & Roll Restaurant** licensing & franchising contract



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THE UPS & DOWNS OF FRANCHISING



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THE "UPS" - ADVANTAGES

- **Expansion of Business Model**
 - Expansion can be faster because franchisees provide labour and their sales provide growth.
 - Replicate business market.
- **Reduce a risk of building a new brand**
 - The risk of business failure is reduced by franchising. The business is based on a proven idea.
 - Products/services have already established a market share. (No need for market testing)

THE “UPS” - ADVANTAGES

- **Big benefit**

- The business can receive support from other franchisees in the network (Franchisees may be more talented at growing the business and turning a high profit)

- **Consistency in operation.**

- Consistent operations across the business generally means improved efficiency and higher quality.



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THE “DOWNS” – DISADVANTAGES

- **Franchisees controlling**
 - Franchisees cannot be managed as closely as employees.
- **High initial costs:**
 - Upfront investment (time and money) required can be huge. E.g.: support; training; transportation; and management costs.

THE “DOWNS” – DISADVANTAGES

- **Difficulty in choosing franchisees.**
 - Selecting a wrong franchisee can ruin the reputation of the whole franchise.
- **The flexibility of business.**
 - Very low.
 - The inflexible nature of a franchise may restrict your ability to introduce changes to the business to respond to the market or make the business grow.

THE “DOWNS” – DISADVANTAGES



- Disputes from variety of franchisees about rights or obligations.
- **Intellectual Property matters:**
- Sharing confidential information with franchisees is risky if they are not fully committed to the business. (esp. trade secrets).

DISPUTE





RETAIL, DISTRIBUTION & OUTLET LICENSE



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BACKGROUND

- Vietnam is a WTO member with commitments to open markets fully from 2007
- Foreign investment regulations must conform with committed roadmap under WTO
- Foreign goods or services are open to be traded locally; and
- FIEs operations must comply with Vietnam's WTO commitments & local laws



DECREE 09

Decree No. 09/2018/ND-CP dated January 15, 2018 of the Government on guidelines for the Law on Commerce and the Law on Foreign Trade Management regarding the sale of goods and other activities directly related to the sale of goods for foreign investors and foreign-invested businesses in Vietnam

Conditions for issuing business license



A foreign investor from a country or territory which has acceded to a treaty which Vietnam is a signatory and under which Vietnam has committed to open its market for the sale of goods

A foreign investor not from a country or territory which has acceded to a treaty to which Vietnam is a signatory

Article 9, Clause 1 of Decree 09

A foreign investor from a country or territory which has acceded to a treaty which Vietnam is a signatory and under which Vietnam has committed to open its market for sale of goods and other related activities shall:

- a) Meet market access conditions prescribed in international treaties which Vietnam is a signatory;
- b) Develop a financial plan deemed qualified to apply for a business license;
- c) Incur no overdue tax in a case where it has been established in Vietnam for at least 1 year.



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Article 9, Clause 2 of Decree 09

A foreign investor not from a country or territory which has acceded to a treaty to which Vietnam is a signatory shall:

- Develop a financial plan deemed qualified to apply for a business license;
- Incur no overdue tax in a case where it has been established in Vietnam for at least 1 year.
- In accordance with special law;
- In conformity with the extent of competitiveness of domestic enterprises within the same sector;
- Employment creation for domestic workers;
- Potential and actual contribution to State Budget.

Included Agreements

- IPRs Licensing Agreement
- Distribution Agreement
- Management & Technical Services Agreement
- Location leases
- Supply Contracts: materials & ingredients
- Confidentiality Agreement
- Technology Transfer Agreement



MORE QUESTIONS?



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