

## Client Alert

June 2010

### New Implementing Circular on Business Registration

The Ministry of Planning and Investment has issued Circular No. 14/2010/TT-BKH (“**Circular No. 14**”) guiding Decree No. 43/2010/ND-CP (“**Decree No. 43**”) on business registration. While there are apparently attempts to streamline the process, there is uncertainty on how well or easily these measures will be implemented.

#### 1. Background on Decree No. 43

The Government issued Decree No. 43/2010/ND-CP on business registration on April 15 2010, replacing Decree No. 88/2006/ND-CP of August 2006.

Decree No. 43 aims to streamline business registration procedures, supplements the rules for naming companies, and lays the foundation for a business registration database that would be accessible and consistent nationwide. Decree No. 43 also halves the turnaround time, in theory, from receipt of application to issuance of a business registration certificate to five business days. A single code will now be issued for business registration and tax code registration.

Decree No. 43 contains provisions for a national enterprise registration information system, including a national enterprise registration information portal and a national database on enterprise registration that would enable investors to conduct business registration online. Business registration information would then also be available for a fee from the national database on enterprise registration.

With the birth of the national enterprise registration information system, investors will also be required to search nationwide to avoid repetitive business names, rather than the previous provincial-level search requirement. As of January 1, 2011, any proposed name identical to, or similar enough to cause confusion with, an already registered business name anywhere in Vietnam, will be rejected. To avoid disputes over business names, investors need to have their proposed name investigated carefully before applying for registration.

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<sup>1</sup> Based on Decision No. 04/2008/QĐ-NHNN of the State Bank of Vietnam (“**SBV**”) issuing regulations on issuance, management, and use of digital signature, digital certificate and digital signature certification service, dated 21 February 2008 (“**Decision No. 04**”), digital signature certification services have been extended initially only in connection with e-transactions involving the SBV. As such, only individuals and entities of the SBV, credit institutions, the State treasury and other related entities are qualified to become subscribers for such certificates.

Should you wish to obtain further information or want to discuss any issues raised in this alert with us, please contact:

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## 2. Guidance from Circular No. 14

Decree No. 43 provides that business registration can be completed online using the national enterprises registration information portal. However, Circular No. 14 limits streamlined online registration only to companies that have registered an electronic signature.

In practice, registering an electronic signature is a difficult procedure and applicable to only a limited number of companies. Without a registered electronic signature, application dossiers may be submitted on the Internet, but must still be submitted in paper form within 15 working days of online filing.

The new Circular also contains provisions on enterprise names and registered addresses, now requiring firms to complete change of address procedures with tax authorities prior to registering a change of address with the provincial business registrar.

Circular No. 14 also introduces a new form of enterprise registration certificate, combining the old business and tax registration certificates. The new form will be issued whenever a firm changes the content of its business registration.

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