

2014 LAW ON ENTERPRISES

KEY CHANGES FOR SINGLE MEMBER LIMITED LIABILITY COMPANY

As at March 2015

The new Law on Enterprises (**2014 LOE**) was passed by the National Assembly of Vietnam on 26 November 2014 and will become effective from 1 July 2015. The new law introduces a number of changes to the regulatory framework applicable to companies operating in Vietnam. We set out below a summary of the key changes relevant to single member limited liability companies (**SLLC**).

Corporate features

- 1 Instead of only one, companies **can have multiple legal representatives** each of whom alone may represent the company. The number of legal representatives must be specified in the charter. Although the law does not specifically state that **all** legal representatives must be registered and named in the company's enterprise registration certificate (**ERC**), we expect that this will be required to allow verification by third parties.
- 2 Companies **can have multiple corporate seals and decide on their form and content**. Corporate seals must be registered with the business registration office and their samples must be posted on the National Enterprise Registration Information Portal (the website portal is currently being developed).
- 3 **Charter capital of SLLCs must be contributed within 90 days from the date of issuance of the ERC**. It is not entirely clear whether this deadline applies only to the original charter capital of SLLCs at the time of establishment or also to subsequent capital increases.
- 4 **SLLCs can now reduce its charter capital** provided that it has been operating continuously for more than two years after its establishment and can ensure payment of debts and other obligations after the capital decrease.
- 5 SLLCs set up as **foreign invested enterprises must have investment registration certificates and ERCs**, instead of the current single investment certificates. Existing foreign invested SLLCs do not have to re-register to obtain these new document and can continue to operate under their existing investment certificates.
- 6 **Generally SLLCs no longer have to register their business lines in their ERCs** pursuant to the new principle of freedom of business. However, it is unclear how this principle will apply to foreign invested companies which may still be restricted to conducting only the registered business lines set out in their investment registration certificates.

Management rules

- 7 **SLLC owner to decide all 'developmental' investment projects**, instead of just those with value of 50% or more of the total assets of the company as provided under the 2005 law.
- 8 **Members' Council of SLLCs (MC) can have from three to seven members** with term not exceeding five years. Chairman of the MC can be appointed by majority voting of MC members or by the SLLC owner.

- 9 **The Chairman or an MC member may concurrently be the general director of the SLLC.** The restriction that general director cannot be a related person of the chairman/MC members or the SLLC owner has been removed.
- 10 **The limit on the number of inspectors of SLLCs has been removed and their term is extended to five years.** Inspectors now have the right to attend and participate in discussion at MC meeting.
- 11 Unless otherwise specified in the charter, MC, chairman of the company and inspectors (no longer including the general director) will decide whether to **approve related party transactions by majority votes**. The requirement to make the content of the related party transactions publicly available at the head office or branches of the SLLC has been removed.
- 12 Companies must **notify the business registration office of changes in the information** of their general director and inspectors within 5 days and of changes in content of its ERC within 10 days.

Transitional issues

- 13 Existing SLLCs can continue to operate under their existing ERC or investment certificates and there is no requirement for SLLCs to re-register in order to operate under the 2014 LOE. SLLCs may amend the company charter if they want to apply new rules under the 2014 LOE.
- 14 Guiding regulations are expected to be issued before 1 July 2015 (when the new LOE becomes effective) to implement the changes and hopefully clarify ambiguities under the 2014 LOE. We will continue to monitor this process and keep you posted on any important changes.