NEWSLETTER

Vietnam: Beneficial Ownership Requirements and Major Updates to the Enterprise Law

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I. INTRODUCTION

Vietnam consistently prioritizes the cultivation of a transparent and active business environment for domestic and foreign investors, underpinning its dynamic economic growth through continuous legislative reforms and proactive policy frameworks. In a significant stride toward further enhancement of this commitment, on June 17, 2025, the National Assembly of Vietnam officially passed the Law amending the Law on Enterprises[1], which will take effect on July 1, 2025 (collectively, with the existing Law on Enterprises, "**Amended Law on Enterprises**"). One of the main revisions proposed by the Amended Law on Enterprises to reshape the country's corporate landscape by enhancing the transparency of business practices and the management capability of State authorities, is the introduction of "beneficial owners" (though this concept is not new in Vietnamese law, specifically, the Law on AML)[2] and obligations owed by enterprises to beneficial owners. In addition, lawmakers took this opportunity to remedy certain shortcomings in the Law on Enterprises with regard to corporate governance, to boost investors' confidence in doing business in Vietnam.

This newsletter will discuss the details of key amendments introduced in the Amended Law on Enterprises, how these changes will impact on business practices, and our recommendations for compliance with the new regulations.

II. KEY CHANGES INTRODUCED BY THE AMENDED LAW ON ENTERPRISES

1. New regulations governing "beneficial owners" ("BO")

1.1. Background to the new regulations

Vietnam became a member of the Asia/Pacific Group on Money Laundering ("**APG**") in 2007 and since then has participated in APG's mutual evaluation rounds using an assessment methodology based on the 40 Recommendations of the Financial Action Task Force ("**FATF**").[3] As a result, Vietnam has recognized and raised concerns about investment transparency for years, and has undertaken significant regulatory reforms to

1 Law No. 59/2020/QH14 of the National Assembly dated June 17, 2020 (as amended) ("**Law on Enterprises**").

2 Law No. 14/2022/QH15 of the National Assembly dated November 15, 2022 on Anti-money laundering ("**Law on AML**").

3 Proposal No. 286/TTr-CP of the Government to the National Assembly dated April 29, 2025 concerning issuance of the Amended Law on Enterprises (accessible here) ("**Proposal 286**"), Item I.2.1.3(b).

combat and remedy issues related to investment transparency, such as "disguised" investments."[4] In 2020, the country introduced the new Law on Investment,[5] which allows authorities to terminate projects based on sham transactions[6] (pursuant to which "nominee investment arrangements" might be challenged by the authorities). In 2022, the new Law on AML was promulgated, and contains specific regulations governing BO to strengthen Vietnam's legal framework in terms of financial transparency.

However, despite the ongoing efforts of Vietnam's lawmakers in recent years (for example, "BO" is a concept recognized in the Law on AML), in June 2023 Vietnam was placed on the increased monitoring list ("**Grey List**") by the FATF[7] because Vietnam's reforms did not align fully with the objectives established by the FATF. Specifically, the FATF identified the following notable shortcomings: (i) the definition of BO in the Law on AML did not fully meet the FATF standard,[8] (ii) the Law on Enterprises did not require the business registration authority to collect or maintain BO information, and (iii) there were no obligations for enterprises to file changes to BO information within set timeframes.[9]

Now, with the promulgation of the Amended Law on Enterprises, which introduces numerous provisions relating to BO that are applicable to all enterprises, Vietnam appears to be on the right track. This demonstrates Vietnam's serious commitment to addressing the FATF's evaluation and recommendations. The Amended Law on Enterprises, in conjunction with the Law on AML, will significantly improve the country's legal framework governing BO, and likely facilitate the removal of Vietnam from the Grey List in the future.

1.2. BO in the Amended Law on Enterprises

Under the Amended Law on Enterprises, the "*BO of an enterprise having legal entity status*" is defined as *"individuals who have actual ownership of the charter capital or has the right to control that enterprise, except for cases of the direct owner representative at an enterprise in which the State holds 100% of the charter capital and the representative of the State capital invested in a joint stock company or a multi-member limited liability company according to the provisions of laws on management and investment of State capital in enterprises*."[10] However, the Amended Law on Enterprises does not specify a threshold to determine "actual ownership of charter capital," nor does not it explain how the "right to control an enterprise" should be interpreted. These details are expected to be officially guided by a decree to be issued by the Government later.[11]

For reference, according to the Draft Decree on business registration,[12] in relation to the threshold, an individual is deemed to have "actual ownership of charter capital" if he or she directly or indirectly (*i.e.*, through

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4 Resolution No. 50-NQ/TW of the Politburo of the Communist Party of Vietnam on orientations towards improvement of regulations and policies to enhance quality and efficiency of foreign investment by 2030 ("**Resolution 50**"), Items I.2 and III.1.

5 Law No. 61/2020/QH14 of the National Assembly dated June 17, 2020 on investment (as amended) ("**Law on Investment**").

6 Law on Investment, Article 48.2(e).

7 A list of jurisdictions on the Grey List can be accessed here.

8 Per Articles 3.6 and 3.7 of the Law on AML, a BO is an individual who has actual ownership of one or several assets, has the right to require the customer (meaning an individual or a legal entity using or intending to use any service or product supplied by a financial institution or a relevant non-financial business or profession) to carry out transactions related to assets for this individual; is an individual who has the right to govern a legal entity or a legal agreement.

By contrast, the FATF states that a BO should be determined on the basis that he or she is the ultimate owner/controller of a legal person, either through his or her ownership interests, positions held within the legal person, or other means (see paragraph 33 of FATF guidance on transparency and beneficial ownership, accessible here).

9 Paragraphs 259 and 260 of the Report on evaluation of Vietnam (dated June 2023 and updated in January 2025) ("**Vietnam Report**") can be accessed here.

10 Amended Law on Enterprises, Article 4.35.

11 Amended Law on Enterprises, Article 217.6.

12 For purposes of this newsletter, we relied on the latest draft decree on business registration available to the public, which is the draft decree dated May 26, 2025, accessible here ("**Draft Decree**"). Given that the Amended Law on Enterprises was passed after the date of the Draft Decree, there is a possibility that the Draft Decree may have been revised before it was officially issued.

another enterprise) (a) owns 25% or more of the charter capital, or (b) owns 25% or more of the total number of shares *corresponding to each type of shares* in the enterprise.[13] In the latter scenario, it appears that owning 25% or more of any type of *preferred shares* also be will deemed to constitute actual ownership of charter capital. If the relevant shares are *dividend preferred shares* or *voting preferred shares*, it makes sense to say that the individual has actual ownership of charter capital because he or she may have ownership over the company from the perspectives of control and/or economic interests. However, it is not reasonable if the relevant shares are *redeemable preferred shares* (which gives the individual the right to exit the company rather than controlling the company) or other types of shares (if the charter so provides). In addition, for the context of the right to control, an individual is deemed to have the "right to control an enterprise" if he or she has the right to approve one of the following matters: appointment, dismissal, or removal of a majority or all of the members of the Board of Directors, the legal representative, or the Director or General Director of the enterprise, amendment or supplementation of the charter of the enterprise, or important issues relating to business operations as set forth in the charter.[14]

1.3. Key obligations of enterprises with regard to BO under the Amended Law on Enterprises

Starting July 1, 2025 (the effective date of the new regulations provided in the Amended Law on Enterprises), enterprises are obligated to: (i) collect, update, and retain information about BOs of the enterprise, and cooperate with competent state agencies when requested to determine the BO of the enterprise,[15] (ii) retain a BO list[16] at the headquarters or other location specified in the charter,[17] (iii) submit the BO list to the business registration authority when carrying out the enterprise registration process,[18] (iv) give notice of changes to BO information to the authority within 10 days from the date of the change (except for listed companies and companies registered for securities trading),[19] and (v) retain BO information for at least five (5) years from the date of enterprise dissolution or bankruptcy.[20]

Any enterprise registered before July 1, 2025 must give notice of BOs' information to the authorities at the same time the enterprise carries out the procedures for registering or giving notice of changes to the enterprise registration information, except where the enterprise asks to give notice of the information earlier.[21]

1.4. Impact of the new BO regulations in the Amended Law on Enterprises

1.4.1. It might be challenging for enterprises to identify their BO, which means enterprises may be exposed to the risk of violating the BO obligations.

Identification of BOs is the first step an enterprise must take in order to comply with the new BO regulations in the Amended Law on Enterprises. However, based on the regulations currently available (including those promulgated under the Draft Decree), enterprises may not be able to identify their BO correctly, and therefore may fail to comply with the new BO obligations in full, as required by the Amended Law on Enterprises. The following are some reasons why.

First, as discussed in Section II.1.2, the Draft Decree adopts a broadly framed approach to the definition of the

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13 Draft Decree, Articles 17.1(a) and 17.2.

14 Draft Decree, Article 17.1(b).

15 Amended Law on Enterprises, Article 8.5a.

16 Per Article 25.5 of the Amended Law on Enterprises, the BO list must include the following main information: name, date of birth, nationality, ethnicity, gender, contact address, ownership percentage or controlling rights, and information about the individual's identification documents.

17 Amended Law on Enterprises, Article 11.1(h).

18 Amended Law on Enterprises, Articles 20.3, 21.3, and 22.3.

19 Amended Law on Enterprises, Article 31.1(c).

20 Amended Law on Enterprises, Article 216.1(h).

21 The Law issued by the National Assembly on June 17, 2025 amending the Law on Enterprises, Article 3.1.

"right to control an enterprise," which refers generally to decision-making powers over certain key business activities as set forth in the company's charter. This open approach implies that the decision whether or not an individual qualifies as a BO will be assessed on a case-by-case basis, contingent on the specific provisions in each enterprise's charter. This ambiguity is likely to create practical challenges, because enterprises may struggle to delineate the boundaries of "control rights" and what qualifies as "important business operations." For instance, it remains unclear whether a veto right over resolutions of the General Meeting of Shareholders or the Board of Directors automatically will be deemed an expression of control, and which types of matters subject to veto will be regarded as sufficiently significant to fall within the scope of this definition.

Second, while the Amended Law on Enterprises and the Draft Decree provide for certain thresholds and criteria to identify BO (as discussed in Section II.1.2), their practical application is far more complicated, especially when control is not exercised through equity ownership alone, but instead through layered structures, nominee arrangements, or shareholder agreements. For instance, a controlling individual may not appear in the shareholder register but still may wield decisive influence through offshore vehicles, investment funds, or other legal entities acting on the decisionmaker's behalf.

The foregoing issues present structural challenges for enterprises. Although legally obligated to declare the identities of BOs, enterprises may not have access to the necessary information or legal methods by which to verify upstream ownership or indirect control. The Draft Decree does not clarify how far an enterprise must go to trace indirect ownership chains, nor does it provide a liability shield for enterprises acting in good faith based on self-reported or incomplete information. As a result, companies are placed in a legally vulnerable position: expected to identify BOs while lacking the tools to do so definitively.

1.4.2. New BO requirements may potentially delay licensing procedures.

As discussed above (see Section II.1.3), enterprises will be required to submit BO information to the authorities during certain licensing procedures. However, it is unclear how the authorities will assess and handle this information. It is possible that the authorities will request additional BO details if the initial submission is deemed inappropriate or insufficient, which could prolong licensing procedures.

1.4.3. "Nominee" or "disguised" ownership arrangements may be exposed.

Vietnam has witnessed numerous "nominee" or "disguised" ownership arrangements throughout the years; these arrangements present challenges to regulatory oversight and financial transparency. For that reason, the Law on Investment prohibits "*sham transactions*." Now investors doing deals in the dark via nominee arrangements or offshore transaction structures are subject to additional control and regulation because these arrangements may be discovered by the authorities, given that (i) the Amended Law on Enterprises gives competent state agencies the right to ask enterprises to provide their BO information,[22] and (ii) the BO information of enterprises will also be shared among state agencies in Vietnam to enhance the effectiveness of state management, to prevent and combat money laundering, and for other relevant purposes.[23]

Investors, especially foreign investors, should re-evaluate their current and future investment structures cautiously to ensure full compliance with the new legal framework on BOs in addition to the Law on Investment, and recognize that the longstanding practice of "nominee" or "disguised" ownership now lies directly in the crosshairs of Vietnamese authorities.

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22 Amended Law on Enterprises, Article 8.5a.

23 Amended Law on Enterprises, Articles 33.1a, 215.4(c), and 215.4a.

1.4.4. New BO regulations may drive up enterprise compliance costs.

The new BO regulations in the Amended Law on Enterprises place a significant burden on enterprises. Enterprises will be compelled to monitor ownership rigorously and maintain accurate and up-to-date BO information by establishing dedicated channels and resources, and to notify the authorities of changes to BO information promptly. This is likely to raise compliance costs and administrative expenses, particularly for foreign-invested enterprises whose BO may not be located in Vietnam.

2. Other notable changes introduced by the Amended Law on Enterprises

2.1 Redefining the "market price" of shares and capital contributions

According to the current Law on Enterprises, "*market price*" is used primarily in specific contexts, such as: (i) determining the repurchase price of shares or capital contributions at the request of shareholders or members, or pursuant to a decision of limited liability company and joint stock company, and (ii) serving as the minimum price in the event of private placements by joint stock companies.[24] In these situations, market price serves as a reference point when the parties cannot reach agreement or when no other basis of valuation is available.

The current Law on Enterprises determines market price using one of three methods: (i) the trading price immediately before the valuation date, (ii) a price mutually agreed upon by the parties, or (iii) a valuation by a licensed appraisal organization.[25] While this approach offers flexibility, these methods apply uniformly to public and non-public companies. This has raised concerns, particularly for public companies, where reliance on a single-day trading price can be problematic in volatile markets due to susceptibility to short-term fluctuations and potential manipulation.

To address these concerns, the Amended Law on Enterprises introduces a more objective, statistically grounded valuation method, applicable exclusively to shares of public companies. Specifically, the Amended Law on Enterprises replaces "*single-day trading price*" with "*average trading price over the 30 consecutive days immediately preceding the valuation date*."[26] This change provides a more stable and transparent benchmark for determining the market price of shares listed or registered for trading on securities exchange systems. Notably, the Amended Law on Enterprises retains flexibility by allowing parties to continue using negotiated pricing or valuations provided by licensed appraisal organizations. For shares in or capital contributions to non-public companies, the original methods remain unchanged.

While the reform enhances the accuracy of valuations and reduces the impact of market volatility, the Amended Law on Enterprises does not resolve how "*trading price*" should be calculated. Neither the Amended Law on Enterprises nor the Law on Securities, including their respective guiding instruments, defines this term. The absence of a clear definition of "*trading price*" may create interpretive uncertainty, lead to inconsistent application across transactions, and undermine the Amended Law on Enterprises' goal of establishing a standard and transparent valuation method.

2.2 Fictitious declarations of charter capital

The current Law on Enterprises deems fictitious declarations of charter capital to be prohibited acts.[27] However, the law provides no express explanation of what constitutes a "fictitious declaration," which has

[24] Law on Enterprises, Articles 51, 126, 132, and 133.

[25] Law on Enterprises, Article 4.14.

[26] Amended Law on Enterprises, Article 4.14.

[27] Law on Enterprises, Article 16.5.

resulted in different understandings and inconsistent enforcement by local authorities in practice.

To address this issue, the Amended Law on Enterprises introduces a clearer definition of "fictitious declarations," which includes situations in which the registered charter capital is not contributed in full, and where the enterprise fails to register a downward adjustment to reflect the actual contributed amount properly, as required by law.[28] This clarification targets the widespread practice of declaring inflated capital figures without genuine financial backing, commonly referred to as "fictitious capital."

As a result, investors should ensure that their registered or declared charter capital has been contributed in full, to avoid being deemed in violation of this provision. Both investors and enterprises also should be mindful of the obligation to register a capital adjustment if a full contribution has not been made. It is worth noting that any instance of under-contribution without proper registration of adjustment, no matter how minor the shortfall or the objective reasons from which it stems, may be subject to administrative penalties under the Amended Law on Enterprises. For example, in practice, we are familiar with cases in which investors failed to contribute capital in full due to objective circumstances, such as bank transfer fees being deducted from the intended capital contribution. Under the Amended Law on Enterprises, these situations still may be deemed fictitious declarations.

2.3 Legal cap on private bonds

Under the current Law on Enterprises, a joint stock company that is not a public company that makes a private placement of bonds must satisfy certain conditions, such as (i) having paid the full principal and interest due on bonds already offered for sale that have come due for payment or having paid in full all debts as they come due for three consecutive years prior to the bond placement tranche (if any), except for bond placements to creditors that are selected financial institutions, (ii) having audited annual financial statements for the year immediately preceding the year of issuance, and (iii) satisfying the conditions on financial safety ratios and prudential ratios during operations as prescribed by law.

The Amended Law on Enterprises supplements another condition that the bond issuer must have *debt (including the value of bonds expected to be issued) not exceeding five times its equity*, based on the audited annual financial statements for the year immediately preceding the year of issuance. This limitation does not apply to (a) bond issuers that are State-owned enterprises, enterprises issuing bonds to implement real estate projects, credit institutions, insurance enterprises, reinsurance enterprises, insurance brokerage enterprises, securities companies, and securities investment fund management companies,[29] and (b) corporate bond offerings for which notice is given to the Stock Exchange before July 1, 2025, which shall continue to be governed by the current Law on Enterprises.[30]

The new legal cap was confirmed by the National Assembly Standing Committee to strengthen the financial capability of bond issuers and to reduce default risks for issuers and investors.[31]

III. CONCLUSION AND RECOMMENDATIONS FOR ENTERPRISES AND FOREIGN INVESTORS

The Amended Law on Enterprises marks a critical step in Vietnam's ongoing efforts to enhance transparency,

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28 Amended Law on Enterprises, Article 16.5.

29 Amended Law on Enterprises, Article 128.3.

30 The Law issued by the National Assembly on June 17, 2025 amending the Law on Enterprises, Article 3.2.

31 Reference: https://vietnamnews.vn/economy/1719747/na-passes-amended-law-on-enterprises.html; https://baothanhhoa.vn/chinh-thuc-thong-qua-luat-sua-doi-bo-sung-mot-so-dieu-cua-luat-doanh-nghiep-252372.htm (only available in Vietnamese).

accountability, and alignment with international standards—particularly in the areas of beneficial ownership and capital integrity. These changes signal stronger regulatory scrutiny and a shift toward substance-over-form in corporate governance. However, as specified under the Amended Law on Enterprises, it is necessary watch for issuance of the relevant decree, to obtain further guidance on some of these changes.

Nevertheless, these developments warrant immediate attention and proactive follow-up by enterprises and foreign investors, including through the actions outlined below.

1. **Perform an internal compliance review** of corporate records, particularly with respect to charter capital contributions and the identification of BOs. For existing companies, Article 3.1 of the Amended Law on Enterprises requires BO information to be updated at the time of the next amendment to the enterprise registration, which may trigger new disclosure obligations.

2. **Closely monitor upcoming implementing regulations**, which are expected to clarify key issues such as due diligence standards, declaring parties, and allocation of liability for BO reporting. These documents will be essential to assessing compliance risks and managing internal procedures.

3. **Engage legal counsel or trusted advisors early in transaction planning**, especially in the context of M&A or restructuring transactions, where beneficial ownership and capital declarations may become sensitive points of regulatory review. Structuring deals without due consideration of these issues may lead to delays, reputational risks, or post-closing complications.

By acting early and deliberately, enterprises and investors can ensure regulatory compliance, maintain transactional certainty, and avoid certain types of exposure under the new legal framework.

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