

## Recent Legal Developments in Vietnam

### 1. Draft Amending Decree on Non-Cash Payments

On 6 November 2019, the State Bank of Vietnam issued an updated draft decree to amend Decree on non-cash payments, which was open to public opinion.

The proposed amendments provide regulation for (i) non-cash payments, including opening and using payment accounts; (ii) non-cash payment services; (iii) payment intermediary services; (iv) organizing, managing and supervising payment systems.

#### **Key Amendments Proposed in the Non-cash Payments Draft:**

##### **Foreign ownership cap on payment intermediary services providers**

The new draft introduced the 49% foreign ownership cap on companies engaged in payment intermediary services (**PIS**), considering most PIS companies are foreign-owned. Operations of these existing PIS companies are expected to be impacted, as the draft decree does not include a full grandfather clause. The cap will apply upon the earlier of the expiry of the PIS license or a change in shareholders to the company.

##### **Introducing “electronic money”**

One of the new terms in the Draft is electronic money, which is a monetary value on a technical device that may be widely used for making payments to entities other than the e-money issuer. It is allowed to supply electronic money, including banks, foreign bank branches or payment intermediary service providers.

##### **Introducing “payment agent”**

The Draft Decree introduces a new payment service agency model to provide financial service coverage in remote areas that do not have transaction points belonging to banks. The payment agent shall perform a part of the process of opening a payment account and providing payment services of the payment agent to the customer.

##### **Introducing “mobile money”**

Among other changes, the draft decree also introduces the business of “mobile money” within the scope of a PIS. This service comprises electronic money issued a PIS provider engaged in providing telecommunications services identifying clients through mobile subscriber databases.

## **2. New Law amending a number of articles of Immigration Law on entry, exit, transit and residence of foreigners in Vietnam**

On 25 November 2019, the National Assembly published a number of articles of Immigration Law on entry, exit, transit and residence of foreigner in Vietnam (“**Law 51**”). The new Immigration Law is expected to take effect on 01 July 2020.

**We have highlighted the key points of The Immigration Law “51” below.**

### **Visa changes in your situation**

Under the current Immigration Law on entry, exit, transit, and residence of foreigners, the visa for foreigners in Vietnam cannot be reprocessed. However, in order to facilitate situations foreign individual will be allowed to convert status in-country under some circumstances below:

- Foreign individual has evidence of being an investor or a representative of a foreign organization investing in Vietnam according to the provisions of Vietnamese law;
- Foreign individual has a document proving a direct family relationship with a Vietnamese citizen father, mother, spouse, child;
- Foreign individual is invited or guaranteed by agencies or organizations and has a work permit exemption in accordance with the Labour Code of Vietnam; or
- Foreign individual enters by an electronic visa and has a work permit/certificate of work permit exemption in accordance with the Labour Code of Vietnam.

### **Visa type changes for foreign investors**

Vietnamese authorities will implement new visa types for foreign investor into Vietnam, based on the value of the investment capital as follows.

- DT1 - Issued to foreign investors in Vietnam and representatives of foreign organizations investing in Vietnam, with total investment capital of VND 100 billion upwards or investing in the sectors and professions with incentives and geographical areas with priorities determined by the government.

- DT2 - Issued to foreign investors in Vietnam and representatives of foreign organizations investing in Vietnam, with total investment capital of between VND 50 billion and VND 100 billion, or investing in the sectors and professions with encouragement determined by the government.
- DT3 - Issued to foreign investors in Vietnam and representatives of foreign organizations investing in Vietnam, with total capital of between VND 3 billion and VND 50 billion.
- DT4 - Issued to foreign investors in Vietnam and representatives of foreign organizations investing in Vietnam, with total capital of less than VND 3 billion.

In addition, the new Law clarifies the visa status for foreign individuals, depending on their purpose in Vietnam, issuing specific types of visa such as LV1, LV2, DN1, and DN2.

#### **Issuing electronic visas**

The Vietnamese authorities have put together a list of countries that allow foreigners to enter and exit Vietnam with electronic visas. The prescribed processing time for electronic visas is 03 working days from the date of registration and visa fee settlement.

#### **Temporary residence cards**

One of the new elements of Law is regarding the duration of temporary residence cards (“TRC”), particularly for TRC with symbols “DT”. Accordingly, TRC with symbols DT1 is valid for not more than 10 years, DT2 is valid for not more than 5 years, DT3 is valid for not more than 03 years.

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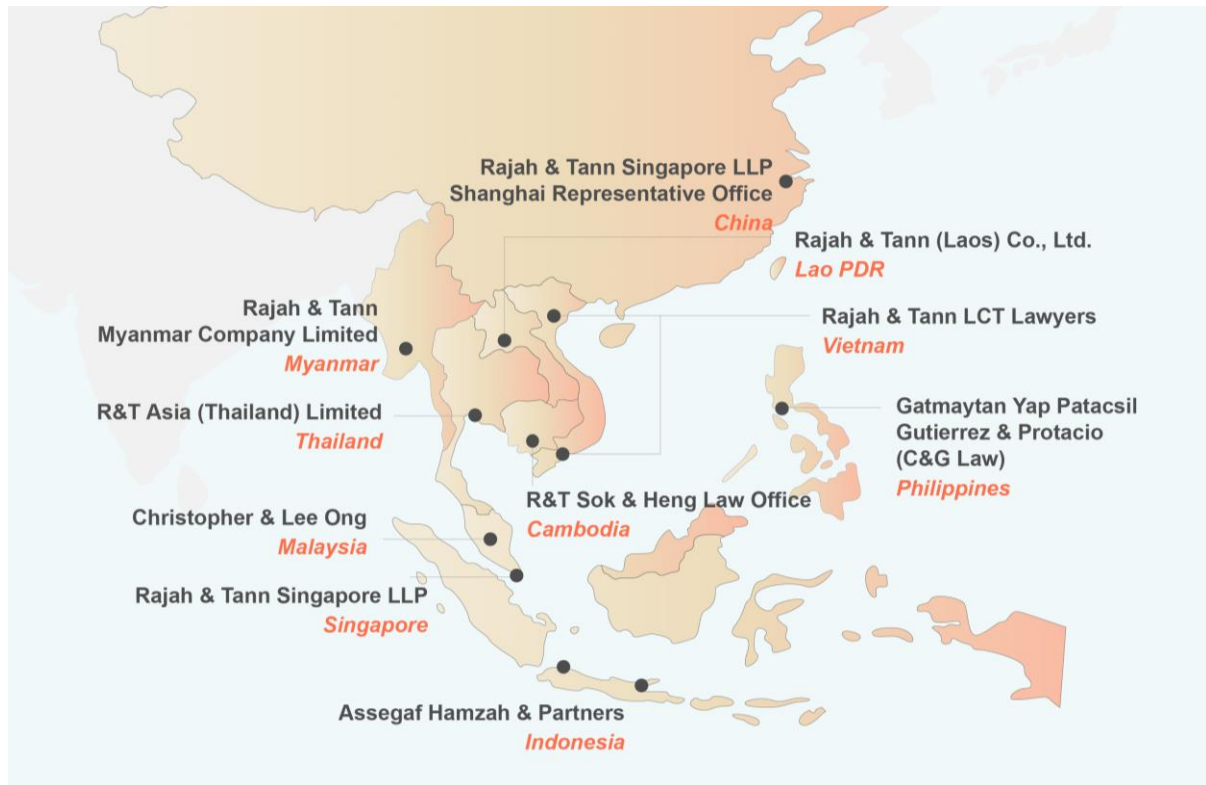
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