

Luther.

Doing Business in Vietnam

A brief guide to better choices
for your investment



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Luther in Vietnam



Luther upholds a strong regional presence and has a substantial footprint in the ASEAN commercial ecosystem since 2008. As a full-service law firm of German origin, our offices in China, India, Indonesia, Malaysia, Myanmar, Singapore, Thailand and Vietnam enable stakeholders of all industries to stay ahead of the curb regarding the latest legal and commercial developments in the developing markets of Asia and Europe. With Luther Vietnam, we take on a pro-active role in the promising Vietnamese business and legal landscape alongside our international clients.

At Luther Vietnam, we commit to excellence and accessibility. We serve as reliable and trusted partners in Vietnam as one of south-east Asia's most promising markets. We are confident that we hold the expertise to add value to any law-driven decision that may arise during your market debut and business life cycle in Vietnam. We serve not only as one-stop-shop law firm, but as comprehensive business enablers, offering seamless business process outsourcing and actionable advice tailored to your practical needs at competitive prices.

When working with Luther Vietnam, our clients benefit from our experienced and dedicated foreign and domestic qualified legal and tax advisors. Luther Vietnam gives you access to reliable Vietnamese partners and allows you to team up with a network of renowned law offices across Europe and Asia that work hand-in-hand to deliver commercially practical solutions.

Our aim is your commercial success that requires your undivided attention. We are thus committed to ascertain that your legal, compliance and administrative matters tick all boxes and enable you to focus on growing your business in Vietnam's past-paced and dynamic business environment.

We look forward to meeting and working with you.

Yours faithfully,

Johannes Klausch

Our practice – your added value

Our local and international consultants provide you with legal and tax expertise across various disciplines and share this extensive knowledge of the particularities of the economic environment and the Vietnamese legal system.

We maintain close bonds with fully qualified Vietnamese lawyers who can defend and assert your rights before Vietnamese courts and in arbitration proceedings. Our certified accountants work hard to integrate local requirements seamlessly to your business routines. As we recruit and maintain tight bonds to expert lawyers in the Luther network, their expertise is readily available wherever your next business venture may take you.

As a result, we are able to provide comprehensive advice on all legal, regulatory and compliance aspects throughout the entire business life cycle, and whether your business qualifies as investment vehicle, NGO or part of the public sector.

Our expertise – your actionable advice

We believe that in-depth knowledge of the market in which our clients operate is essential to providing successful advice. As consultants, we aim to serve as reliable partners for corporate transactions and business endeavors in SEA.

Consequently, our lawyers and tax advisors focus on particular industries or the public sector and maintain professional specialisation in their respective legal or tax disciplines. Each consultant brings their own professional profile to the table and adds to the teams' expertise and performance. Whichever special requirements your next project may have – we can easily adapt and you can rely on our knowledge and experience. In our practice, we constantly strive for professional excellence in each assignment and provide bespoke solutions to your business needs.

In all areas of our legal services, we also conduct inhouse and remote trainings for the owner, management, and staff level. Training goals and concepts are tailored to your needs and may be recorded for your internal knowledge management. Where applicable, we certify the scope and volume of trainings to the participants and provide comprehensible material that facilitates self-study and repetition.

Our services – your competitive advantage

We render our services in weathered teams that boast years of experience and state-of-the-art expertise in their fields. This makes us capable partners for complex projects and allows us to produce creative and agile solutions. Your project team will be composed based on your specific needs from our pool of competent advisors.

During each project, your trusted point of contact will generally consist of one or two senior consultant(s) that are responsible for the entire process. Depending on the required experience and expertise, they will assemble a team of specialists and steer the team to ascertain efficiency and excellence.

This approach permits us to retain flexibility on pricing. Despite our competitive hourly rates, we are also open to alternative fee structures and ready to amend the proposed team and scope of work according to your requirements.



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Johannes advises German and international companies on their way to Southeast Asia, in particular on entering the Vietnamese market. His solutions focus on his clients' legal and regulatory compliance with international trade and commercial law. In addition, Johannes has many years of experience in advising on the interface of IP, data protection and IT law. Johannes acts as a central point of contact for founders and investors. He advises on e-commerce developments and rights licensing, helps clients avoid the legal pitfalls of digital business models and defends corporate assets in trademark and competition law disputes. Johannes is in regular contact with Luther's international Best Friends Network and coordinates cross-border projects. He regularly lectures on the legal opportunities and challenges of digitalisation.



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Vietnam's Business Environment

Building on its eventful past, modern Vietnam has proven itself an **aspirational emerging market** amidst the rapidly developing ASEAN community. A nation of more than 100 million people now boasts the region's fastest growing middle class and customer segment, an ambitious and well-trained work force, resulting in plenty of business opportunities and favourable conditions for market entry and business development.

The country is blessed with an exceptionally young workforce and ideal socio-economic and geographic conditions for most types of foreign investment. A dedicated government policy has done well to overcome the woes of the Covid-19-pandemic and committed the nation to leapfrog into the position of a technologically advanced regional export champion. Vietnam thus has all it takes to attract foreign investment and compete at eye-level with other **manufacturing and production hubs** in SEA. Moreover, Vietnam seeks to become a focal point of the rapidly changing global order in which the influence of China is rescinding and the so-called "**China+1**" strategy has become the legitimate key to diversifying and de-risking supply chains.

Vietnam has showcased its impressive growth capacity over the recent years during which the country's GDP reached an all-time high of 8% in 2022. Looking ahead, Vietnam's GDP is expected to continue growing at a steady pace of above 6% in 2024 and beyond. To support this trajectory, Vietnam has taken significant steps to strengthen its trade ties both regionally and globally. Its membership in the ASEAN Economic Community and the accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) have further expanded Vietnam's access to Southeast Asian and global markets. Vietnam continues to create new opportunities for trade and investment through currently 16 effective free trade agreements (FTAs) with more in the pipeline.

Vietnam itself is becoming a noteworthy consumer market (e.g., for food & dairy, tech & communications, electronics, automotive, renewables, education, textile and garments) and boasts partnership opportunities with its regional neighbours. Close ties also exist with industrialised heavyweights like Japan, South Korea, India, and Australia. Manufacturing, agriculture, hospitality and the service sectors are yet again picking up, with complementary digitalisation and finance/banking on the rise. With respect to FDI, the ASEAN+3 format and bilateral relations such as Double Taxation Agreements (**DTAs**) and FTAs with the EU, UK, US and several Asian partners underline this strong position. Vietnam is thus dubbed as **the next "Asian Tiger"**, roaring for an economically dominant position amongst its peers. Similar to most jurisdictions, foreign investment into

Vietnam is subject to particular regulations before, during and after commencing business activities in Vietnam. Compliance and effective communication with local authorities, therefore, remain a vital component to commercial success. As of now, Vietnamese authorities only allow correspondence in the Vietnamese language and often lack transparency and consistency. **Experienced and reliable advisers** are thus invaluable assets and provide a competitive advantage in approaching the market.

Long-term success in Vietnam evidently depends and rests on the first steps into the country, which is where most typical mistakes occur. The compliance, adequacy, and transparency of all operations will predefine the entire life cycle of your project in Vietnam. At Luther, we position ourselves as a partner that upholds renowned German standards of reliability, compliance, and diligence. We aim for a long-standing working relationship with our clients from day one and carry out our assignments under application of the highest ethical standards.

Market entry already begins before establishing a commercial presence or making an investment into the country. Depending on your particular industry, the adequate **corporate strategy** of governance and control, and the operational trajectory of your footprint in Vietnam can vary. **Structure, legal and formal requirements** and streamlined implementation of business decisions are therefore a vital part of doing business in Vietnam. Some industries are restricted to foreign investment and, therefore, subject to further regulation, while others may be inaccessible. As **longstanding experts for foreign direct investment (FDI)** in Vietnam, our team provides in-depth market and legal know-how to help you navigate these obstacles.

Immigration laws and work permit procedures have been subject to recent revisions and thus remain uncertain. Vietnam's economic policy prioritises production and manufacturing, as well as the investment into the high-tech and sustainability segments. Also recently overhauled, the existing visa exemptions and a novel e-visa procedure have increased the convenience for most EU citizens in entering the country. However, labour law restrictions on foreign investors in Vietnam to date are at a work-in-progress level and require a case-by-case analysis to provide reliable solutions.

Vietnam's **banking and finance sector is rapidly** developing and clusters around the HCMC Stock exchange (**HOSE**). The HOSE is still relatively young and currently on the verge of qualifying as "emerging market". Besides insurance companies, E-sports, real estate, tech and the renowned consumer food enterprises, recent years have shown a trend of local companies towards IPOs after a short time.

Vietnam is benefitting from well-educated young talents returning from overseas, who enjoyed international education. The start-up mindset they bring with them combines well with local know-how and regional networks. This allows them to tap into the local industries to develop a South-East Asian start-up ecosystem. Specifically, Ho Chi Minh City supports the rapid development of numerous start-ups that have garnered international attention and is a point of interest for Venture Capital investors. We see this as a chance for significant growth and the acceleration of service quality and infrastructure which also benefits traditional businesses.

The enclosed investment briefing aims to provide you with an overview on chances and challenges of

- (i) making your market entry into Vietnam a success story,
- (ii) maintaining compliant operations throughout the life cycle of your business and
- (iii) closing shop and leaving Vietnam with added value in different exit scenarios.

In all of the above, we focus on our core competency: the legal and regulatory framework for your project in Vietnam. The race of the Asian Tigers is still undecided – and law and regulations are at the helm of this regional competition. Digitalisation and a stronger narrative to battle corruption and nourishing trust increase the likelihood to attract long-term investment prospects.

We at Luther are proud of our track record of successful foreign business establishments, foreign investment projects and foreign-local partnerships across Asia. As a large law firm with strong roots in Germany, our commitment to excellence, reliability and expertise has supported Asian operations for more than 15 years. Our office in Ho Chi Minh City is backed by a successful partnership and serves as a one-stop-shop with lawyers and accountants that serves all clients' needs.

In this publication, we share our views and introduce our services. We believe that we can enable you to make well-informed establishment and out-sourcing decisions when setting up your business in Vietnam. We trust you will find the enclosed briefing a useful resource for your first (or next) steps in Vietnam – and we look forward to collaborating with you in this exciting market.

Luther Vietnam's strengths lie in:

- choosing the best legal framework for your business;
- approaching local business partners for joint ventures;
- preparing transaction documents, translations and applications;
- providing expat mobility services;
- registering trademarks & protecting intellectual property;
- advising on cross-border commercial and corporate transactions (mergers, acquisitions, import/export);
- freeing resources by taking on business administrative and general corporate compliance tasks;
- negotiating commercial agreements with Vietnamese partners;
- resolving disputes with Vietnamese counterparties through mediation or arbitration;
- providing bespoke tax and accounting services to all types of foreign-owned entities;
- and much more.

Please feel free to reach out – we look forward to working with you.



Navigating the Legal Framework in Vietnam



I. Vietnam's Legal Ecosystem for Foreign Investment

The **legal ecosystem for foreign investment** is diverse and subject to frequent changes. Its pillars are the regulations that govern the incorporation of new investment vehicles and the acquisition of existing enterprises, as set forth by the Law on Enterprises 2020 (**LOE 2020**), and the Law on Investment 2020 (**LOI 2020**). Both have entered into effect on 1st January 2021, and are flanked by numerous guiding regulations that come in the shape of decrees, circulars and other governmental ordinances.

Other investment forms, such as the formation of branch(es) and representative office(s) are governed by the Law on Commerce, whereas public-private partnerships (PPP) are regulated by the Law on PPP Investment.

Vietnam regulates access to its market for foreign investment at its sole discretion. Nevertheless, it has made many commitments under bilateral and multilateral, such as Vietnam's accession to the WTO in 2007. These commitments open certain sectors to foreign investments and are amended under the influence of Vietnam's membership to a vast matrix of currently 16 FTAs. Where Vietnam has made a commitment, it does **not** mean that no restrictions and/or further requirements and conditions apply. Rather, these conditions must be applied on a non-discriminatory basis, as they would be applied to Vietnamese investors.

Corporate set-up procedures generally require one to six months from the date of filing a complete and correct application, but may take up to 18 months depending on sectoral and local conditions. Based on practical experience, we have seen such establishment procedures fail (in rare cases) despite being permissible in theory. It is therefore indispensable to evaluate each investment project based on its particularities prior to its kick-off.

For now, applications for establishment of a corporate set-up (including mandatory notice of any corporate changes) must be submitted (entirely) in Vietnamese. Because Vietnamese procedures are typically highly formalistic, submissions must be signed and stamped adhering to the specific local authorities' requirements. Authorities and their forms are subject to change and depend on the location of the project in any of the 63 provinces or their dedicated industrial clusters. The **diverse landscape** of the provincial administration may result in variations depending on whether you are setting up a business in – for instance – Hanoi, Da Nang or Ho Chi Minh City.

Working with partners that are familiar and up to date with the respective local requirement is therefore crucial to a successful application process. It also means that the choice of location is one of the first steps in a project, prior to application for its establishment. While foreign investors are free to authorise any local agent for submitting applications on their behalf, or to do it themselves, it may be advantageous to lodge the entire process with a single point of contact in the interest of time and procedural efficiency. Vietnamese company establishment is thus an iterative process which should be outsourced to a trusted and experienced partner.

1. Chances & Challenges under the LOI 2020

Foreign investors and their commercial undertakings in Vietnam are regulated in the LOI 2020 and its guiding regulations. This relatively new law aims to govern and control domestic and foreign investment, which is generally welcome and necessary to achieve domestic growth aspirations. However, the LOI 2020 also serves to protect critical infrastructure or sensitive industries. It sets forth a strict regime on how investments may be implemented and the size and scope that they may assume. Like most local laws, the regulations of the LOI 2020 are not always clear-cut and are subject to authoritative discretion on a case-by-case basis. For the foreign investor, this translates to a certain degree of uncertainty and opacity during

establishment procedures, which can require a protracted back-and-forth between advisers and the concerned Vietnamese authorities.

Generally, any foreign investment is subject to registration prior to commencing operation in a two-step procedure. Certain operations may then require additional licenses after incorporation. Establishment may, in other cases, be contingent on satisfaction of inherent requirements, such as proof of expertise of key personnel, entity capitalization, or facilities that cater to the specific industry needs. When advising on market entry, we usually recommend to get a clear picture of the path ahead with a comprehensive legal memorandum. This way you receive input on structuring options, difficult or sensitive business areas and red lines that pose potential obstacles to the project or extend the time and cost disproportionately. This will enable informed decision-making and enable necessary adjustments to investment strategy. It also helps to manage expectations and ascertains clear communication with headquarters offshore.

Luther Vietnam accompanies **comprehensive business life cycles**. Depending on specific needs, we take an **extensive approach** and support projects from the idea to **post-transaction procedures**. Whichever vehicle you choose, it will be embedded in a complex regulatory environment. We believe in providing comprehensive advice to show options and risks before decisions are made. We provide systemic support in each business process (legal, tax, accounting, employment, etc.). Consequently, we consider our services most beneficial if rendered single-handedly and launched at an early stage.

The LOI 2020 provides for the following general categories of investments:

- **prohibited** investments: any commercial activity with regard to substances (banned chemicals, minerals, drugs) and items (endangered species);
- **conditional** investments which are required to satisfy certain conditions for reasons of national defence and security, social order and security, social ethics, or public health;
- **eligible** investments for (special) **investment incentives**;
- investments **restricted** for foreign investors.

Without distinguishing between foreign or local investors, Appendix IV of the LOI 2020 contains a list of 227 conditional business lines with specific regulations that concern national defence and security, social order and public safety, social ethics or public health. These sectors impose further requirements on all types of investors. Some investment forms may be subject to prior in-principle approval from central high-level authorities (Prime Minister, National Assembly, (provincial) People's Committee).

Another important and far-reaching aspect is the potential eligibility for FDI incentives. This depends, *inter alia*, on the

category of investment, the business sector the project will engage in and the selected project location. In other words: a project's location can have relevant implications for the investment and should be given ample consideration.

In light of the above, the journey with Luther Vietnam usually begins with a pre-assessment of the most suitable business vehicle, governance structure and project location before the actual establishment process is launched.

2. Forms of foreign investment

We see investment vehicles as living instruments or as a shell to grow and nurture your business in. This includes the transformation or sale of this shell once your ideas have outgrown their initial form. With some exceptions and particularities, Vietnamese legislation on incorporation and commerce allow flexible approaches to customers and business partners. This can be carried out from the security of a (limited-liability) investment vehicle, directly through branches or as indirect stakeholder as may be familiar from your domestic legal framework.

From a cross-border perspective on inbound investments, we generally distinguish between foreign *direct* and *indirect* investment (FDI and FII). The most common forms for FDI in Vietnam today are briefly described below, with a more detailed focus on the limited liability company (LLC) in the next chapter. However, if you have a specific set-up in mind that is not mentioned below, or if you are contemplating to engage in a project without establishing a commercial presence in Vietnam, feel free to get in touch. We are available to enter in-depth discussions on market entry strategies.

The most common legal forms for market entry in Vietnam include:

2.1. Limited Liability Company (LLC)

The Vietnamese limited liability company (LLC) is standard. It is paramount for small and medium sized business establishments in Vietnam, both domestically owned or with foreign capital involvement. The LOE 2020 regulates the structural and organisational characteristics of the LLC, while maintaining a certain degree of flexibility to create a customized vehicle for your operations. The LLC's is a legal entity in its own right and creates a liability shield for its owners. This makes the LLC a relatively safe and reliable tool to work with. Its transparency, as well as tax and accounting compliance requirements are relatively comprehensive. In any case, they are proven and known to the stakeholders, as is the related establishment procedure.

Owners of an LLC are referred to as "Members" under local laws. They are bound by the provisions of the LLC's company charter. Members contribute the charter capital, and participate

in decision-making through their delegates in the members' council (that consists of more than one representative). There is no board of directors in the specific sense. However, the members' council is often referred to as such, as it has the power to resolve any matters not assigned to the director function. Directors execute the members' council's decisions subject to their fiduciary duties. In relation to one another, members are subject to a statutory right of first refusal when one of the members intends to exit the LLC. This may in some cases limit flexibility, but also serves as protective measure when the identity of the partner (member) is essential.

For FDI that does not require a minimum domestic ownership, the single-member LLC is the go-to-option for a 100% foreign-owned legal entity in Vietnam.

2.2. Private partnership (PP)

Under the LOE 2020, a private partnership is required to have at least two natural persons as partners (**General Partners**, only individuals eligible). General Partners carry unlimited liability for debts incurred by the partnership. In addition to the General Partners, the partnership may have further members (**Limited Partners**) who only pay into the capital, and their liability is limited to such contributed amount of capital.

2.3. Joint Stock Corporation (JSC) - listed or unlisted

The structure of Joint Stock Corporations (JSC) generally includes the following corporate bodies under either of two basic governance structures:

Structure 1

- General Meeting of Shareholders (GMS)
- Board of Directors/Board of Management (BOD)
- (General) Director
- Supervisory Board (only mandatory in certain cases)

Structure 2

- GMS
- BOD in which 20% of its members must be non-executive and independent directors
- (General) Director
- Audit Committee

Different from the PP and LLC, JSCs are the only form of entity whose charter capital is divided into equitable shares subscribed by **at least three different shareholders**. In this sense, the term *shareholders* applies only in the JSC, whereas in an LLC it would be "members" and in a PP "partners".

Shares are, differently from LLC and PP, more easily tradeable and transferable. A JSC's BOD must hold ordinary board meetings four times a year, at least one per quarter. The GMS convenes annually. Further requirements apply to public JSCs under the Law on Securities. If your investment stakes include JSCs, we are happy to provide more in-depth information directly.

2.4. Foreign-domestic Joint Venture (JV)

If investors require local know-how or if FDI engagement in specific business lines prescribes domestic co-ownership, entering or setting up a domestic-foreign JV may be a win-win situation. Individuals and entities may, pursuant to their principal JV agreement, incorporate a multi-member LLC. They may also set up any other form of entity that serves the mutual business' purpose. The JV's stakeholders are subject to mostly the same regulations that apply to the respective entity form, plus their contractual agreement on how to govern the business.

Since the JV opens doors to business lines subject to domestic ownership, it is crucial to have a clear understanding of the relevant thresholds to not give away more control than necessary. This also makes it essential to evaluate your JV business partner prior to engagement by conducting thorough due diligence assessments.

As the JV is a contractual framework under which the operational JV company may be established, similar timelines apply to the establishment procedure once the partners have reached an agreement. Respective procedures as described above for the individual vehicles (e.g. LLC) must be observed. Note that – in case of a JV - documentation must be prepared, collected and processed from two parties, potentially increasing the need for alignment and extending the project timeline.

2.5. Public Private Partnership (PPP)

Taking the JV concept one step further, in public-private partnership (PPP) models, one of the partners would be a state-owned entity or a public institution with legal capacity to enter into business projects.

Commonly, this form is used to participate in infrastructure projects, most recently telecommunications, (renewable) energy, highway and railway connectivity or air- and sea ports. Selection is administered in a bidding process, where overseas know-how and accessibility are a competitive advantage, but language and cultural barriers must be overcome. It is common to bid as a JV with a domestic business partner to meet conditions of the LOI 2020.

PPPs are often classified in certain abbreviated types descriptive of the scope and aim of the project. However, projects are highly individualized and the state agency in charge will have sole discretion to change and adapt as needed. If you target specific tenders or if your prospects require PPP, a thorough understanding of the legal framework will be crucial. Please reach out should this field be of interest to you.

26. Business Cooperation Contract (BCC)

The hallmark of a business cooperation contract (**BCC**) - as compared to the JV and PPP – is, that **no joint entity** is established under the BCC concept. In certain business fields, the foreign and the Vietnamese investor may collaboratively govern the project and share the profits generated from operations on a contractual basis without establishing a legal vehicle. The Vietnamese legal framework allows the parties to make autonomous decisions on the subject, content, interests, obligations and responsibilities and relations between them, and to specify these in their (private commercial law) contract.

Foreign investors aiming at a BCC structure are required to obtain an investment registration certificate for this undertaking, similar to the first phase of establishing a company.

A steering board can be set up, if necessary, with the function to coordinate the daily operation of a BCC. From a tax perspective, the considerations on capital contribution, tax liabilities and the agreed profit-sharing scheme are critical matters which the contracting parties need to take into account and reach a clear mutual agreement prior to commencing operations in this format. BCCs are typical in the construction sector of temporary projects, and are more common amongst domestic companies, as they impose similar registration requirements on the FDI partner as a company establishment.

27. Representative office (RO) and branch office (BO)

Representative Offices (RO) is not a commercial presence and can be set up without committing investment capital. They are very limited in scope and currently allowed to solely conduct activities of ancillary or supportive nature to the overseas operations of the foreign entity they belong to (Principal). In any case, an RO may not conduct business operations that generate revenue, but may engage only in:

- researching the relevant market parameters
- networking on behalf of and its foreign principal's business to establish customers.

The concept behind the branch office (BO) is to forego the investment and effort of a full-capacity legal entity, and still mirror the complete business scope of its foreign principal. This is possible if the Principal has been active in the industry for five years prior to opening the branch and engages in particular business lines. The establishment licence of a BO can be issued within a month from submission of documents to the authorities. It is, however, not mandatory to establish a BO in order to legitimately conduct business as a foreign entity in Vietnam.

A BO is able to act independently in sales and purchase of goods and services on a licence-basis. It may engage in profit remitting activities and may recruit and hire own staff and open bank accounts, lease property and purchase equipment.

However, the BO office will not be treated as an autonomous legal entity separate from its foreign principal. Visualise the branch as an extended arm reaching into the Vietnamese market, rather than setting foot across the border. Its actions trace back to the foreign principal. Consequently, all contracts it enters into and the respective legal obligations, debts and liabilities arising thereunder shall be binding and enforceable against the foreign principal.

Any changes relating to the representatives and other details of the foreign principal, and its audited annual financial accounts must be disclosed and filed with the local authorities in Vietnamese language.

The actual impact of RO and BO for your investment or market entry strategy lie in their impact on prospective company establishment. Having first established a BO or RO may impose difficulties on the foreign trader's plan to incorporate a commercial entity in parallel. The expert heading a BO or RO may not simultaneously head a company. Winding up a BO or RO can be a very time-consuming, tedious exercise during which all operative activity must be suspended. Because of such difficulties, we emphasize the importance of a well-advised investment strategy in full knowledge of the options and associated risks.

The BO opens opportunities for direct limited access to business from abroad but lacks the protection of a liability shield. Some corporate information of the foreign principal must be disclosed regularly in Vietnam. The RO is a pre-investment vehicle that only allows investors to get familiar with the market.

3. Location matters: Privileged investments, economic zones & disadvantaged areas

Vietnam, governed from Hanoi, is organized in 63 provinces, each with its own regulatory authorities. Your choice of where to establish or invest will determine the relevant local authorities for years to come. The provinces further distinguish zones for industrial establishments, export-processing, high-tech and economic projects (**Zones**). These Zones have the privilege to govern and decide on their internal matters including licensing and implementing investment policy. They are in constant competition and generally fond of reputable foreign investment projects, each at their terms. The structure and location you choose will determine which type and level of the local authorities must be involved and what type of approvals, certificates or registrations have to be obtained before going operational.

Vietnam employs a decentralised concentration scheme by establishing special zones and categorising the areas across the country into groups based upon their socio-economic

performance and conditions. **Business settlement in designated economic zones comes with benefits** in terms of policy, taxation, network, symbiosis and leverage. However, it may be subject to additional licensing and local formal requirements

The locality, the business line, and the legal form of your business will determine the relevant authorities to involve for years to come. These should be conscious and well-informed choices.

Eligibility to settle in a Zone will depend on your industry sector and capacities as well as local policies, e.g., the recent (change of) focus of the competent Zone's management board from textile & garments to technology & manufacturing. We recommend to set yourself apart with the options early in the process, as later changes of production sites may cause timely and costly set-backs. Part of our added value is to navigate this terrain for you, and to connect you to the local business community, as well providers for location scouting services.

In order to bolster the development of disadvantaged areas or under-performing industrial sectors, Vietnam tries to nudge foreign investors in terms of locality and innovation potential. In recent policies the government incentivizes preferred investments by granting certain tax and duty exemptions or reliefs for specific investment sectors or scale. Specific (underdeveloped) areas were identified in which investors willing to settle and help to develop business infrastructure may be eligible for preferential tax rates or exemptions or be granted attractive conditions for long-term land use rights.

Going forward, eligibility for tax incentives will have to be carefully assessed as Vietnam proceeds to implement Pillar II of the UN base-erosion principles by drafting national regulation accordingly to secure the top-up tax remaining after global minimum tax is applied.

On the other hand, privileged Zones adjacent to major infrastructure may include air and sea ports, power grids and pipelines, national highways and border-crossings, or may focus on high-technology industries. Several such Zones are currently under development in Vietnam, one being the deep sea port of Ho Chi Minh City. Certain industries may be privileged if not exclusively permitted here, such as import/export, warehousing, transport, provision of services regarding hazardous goods, raw materials and packaging, freight forwarding, fuel and power supply. In any case, investors should carefully assess the local authorities' preferences for business types in the envisaged Zone.

When assessing an investment application, the Zone's management board will consider certain qualitative and quantitative criteria of the proposed investment project, such as creation of employment opportunities, technology transfer, export, energy and water demand and the reputation of the investor. These are often non-regulatory, but purpose-based, and may change at no notice. The specific internal guidelines on formalities and administrative practice for every Zone provide details regarding the application, orders, and procedures, specifying the economic activities that may be operated in the Zone and the requirements for obtaining the relevant licenses. It is crucial for the projects' success to establish and maintain a close correspondence with stakeholders and decision-makers.



II. Market Entry

From a legal perspective, the most common ways available to foreign investors to enter the Vietnamese market may be:

- acquisition or incorporation of a locally registered foreign-owned company;
- establishment of locally registered representative or branch office(s) of the foreign investor;
- partnership with a Vietnamese co-investor in a joint venture;
- direct investment activity without local establishment.

Each of the above offers specific chances and comes with challenges. We at Luther Vietnam make it our passion to navigate you through the particularities and help you find your individual best fit.

1. Choosing between business vehicles

The commonly known principles of severally liable, self-content entities exist in the present Vietnamese business law ecosystem.

To commence business operations from a safe and familiar vehicle similar to a German GmbH or UK Limited, with functions resembling your domestic structure, most foreign investors of large or SME backgrounds tend to establish an LLC for their initial business activities in Vietnam. LLCs combine familiar benefits of severability, risk mitigation and control with flexibility and access to most legitimate business activities under Vietnamese laws. Liability is limited to the paid-up charter capital of the respective member.

Alternatively, if the intention behind the investment includes raising capital by issuance of shares, then the JSC might be more suitable. A shareholder's liability is similarly limited to the contributed capital, as would be in the LLC.

For the construction and public infrastructure sector, new FDI opportunities have opened up with the Law on Public Private Partnerships (effective on 18th June 2020) which allows foreign contractors to bid on projects in partnership with the respective national agencies. This can be seen as a significant step towards the national privatisation agenda recently emphasised by Vietnam's central authorities.

A viable alternative to incorporation and acquisition may be to register a branch or representative office for duly established and existing foreign corporations wishing to test the waters prior to larger investment or to carry out low-key business activities in Vietnam while finding their bearings.

2. Incorporation of an LLC



If foreign investor(s) mutually contribute(s) more than 50% to the charter capital of a LLC, it qualifies as foreign-invested (FDI) entity and falls within the scope of the LOI and further FDI-specific regulations in addition to general corporate regulations. Establishing a new FDI entity – irrespective of the foreign ownership ratio – is considered an investment project that requires registration with the (provincial) Department of Planning and Investment (**DPI**), or the competent Zone's **Management Board** which will issue a so-called Investment Registration Certificate (**IRC**).

Investors may apply for establishment themselves, but experience shows that it helps to liaise with a local partner familiar with the local authority's orders and procedures implementing the LOI's general relevant provisions for the licensing process, and administrative practice.

An FDI entity engaging in business lines without market access limitations for foreign investment may be fully owned (100%) by foreign investors. This means that the total charter capital of an LLC may be foreign-held entirely. In sectors where market access is conditional to foreign investors restrictions under the LOI 2020 include:

- ratio of foreign and domestic investors' charter capital, or minimum domestic ownership requirement;
- limitations of investment forms and scope of investment
- business partners joining the investment activity;
- (financial) capacity of the investor; and of partners participating in the investment activities;
- and other conditions stipulated under international treaties;
- with Vietnam as subscriber, and Vietnamese laws.

Additionally, the investment project itself will be assessed to ascertain its compliance with sector-specific conditions. These typically comprise of

- proof of expertise; and
- legitimate engagement or satisfaction of protective requirements as specified in the laws.

Such requirements may include submission of the investor's licences, credentials, certificates and written confirmation or approval of local authorities, environmental impact assessments and reports for projects with potentially environmentally adverse effects (e.g., high-level approval projects, land conversions in national parks, biosphere, national preservation or world heritage sites, historic, cultural or scenic sites).

2.1. Foreign investment registration certificate and high-level in-principal investment approval

If the application is successful, the DPI or the Zone's Management Board will issue the IRC for the investment project being the establishment of the LLC. Exemptions may apply to the establishment of small or medium-sized start-up enterprises and start-up investment funds in accordance with the Law on Small and Medium-sized Enterprises.

The IRC marks a critical first step in the licensing process. The time frame for this step is generally one month of preparation and another one to three months from submission of the complete application dossier until the IRC is issued. However, delays often occur as the required documents are not readily available or need to be changed during the process. It is often helpful to make the foreign entity group management aware of the pending process in Vietnam as to refrain from non-urgent changes of signatories etc. in the meantime.

In certain cases of engaging in sensitive industries or other defined matters of national interest (scale, type or impact), it may be required to obtain a high-level pre-approval prior to entering the licensing process for the IRC. In such cases – typically very large infrastructure projects – the licensing procedure will be significantly longer significantly more complex.

2.2. Assembling the application dossier for an IRC

When applying for the IRC, investors will be required to produce some of the corporate documents themselves, such as resolutions to establish, financial information and representation powers. We may support with drafting templates for these if required. Other documents must be retrieved from stakeholder in the country of origin, such as audited financial statements. This process of retrieval determines the preparation phase and the overall timeline of establishment and should be well prepared.

Generally, except for statutory forms of the application dossier, any accompanying document intended for submission to Vietnamese authorities must be a notarised (pursuant to domestic laws) and authenticated (local court or other competent authority), translated (certified translator) and legalised (Vietnamese embassy) version of the originals. We support in each of these steps with trusted partners.

The application dossier to be filed for the IRC generally comprises the following documents and information, subject to local and industry particularities:

- information on the foreign investor:
 - certificate of incorporation,
 - company register excerpt,
 - evidence of business and financial conditions (FS),
 - shareholders' list,
 - company profile
- type of proposed investment, business organisation form;
- certificates of technical experience, proficiency in the industry, qualification of key personnel;
- detailed list of foreign capital to be brought in and of local capital to be contributed;
- employee plan with data on foreign and local employees;
- business plan, annual investment schedule, sales plan
- evidence of financial capacity;
- signed lease agreement or reservation agreement, together with land ownership documents of the lessor.

Depending on the business line and the impact the investment project may have on the area of establishment (e.g., large-scale production plants or import/export of hazardous materials), authorities may request additional documentation such as:

- quality management documentation, equipment certification, monitoring and auditing certificates, standards and guidelines;
- (preliminary) environmental impact assessment report;
- evidence of arrangements for the proper storage and handling of chemical materials;
- proof of qualification of responsible engineers,
- fire prevention plan,
- accident reaction plan,
- map of location and layout of relevant sites;

- annual production plan;
- lists of equipment, machinery and construction materials to be imported and purchased locally;
- electricity and water requirements.

2.3. Enterprise registration certificate and further conditions

Once the IRC has been obtained, the foreign investor may continue with the incorporation process for the business vehicle by applying for an Enterprise Registration Certificate (**ERC**). By law, such ERC should be issued within three working days upon submission of a complete and sufficient dossier. In practice we allow at least two weeks for this step.

After the ERC is issued and the company seal (stamp) has been obtained, mandatory registrations and administrative obligations are triggered (with time limits). These include tax registration and payment of fees, injection of the charter capital and the submission to National Business Registration Portal (**NBRP**), employment related approvals and – depending on the field of industry of your business – further licences may now be applied for before operations may commence.

Such operational licences must be obtained from the relevant local authorities governing the particular field of business, and may involve consultation of the relevant ministerial level. As this step may only begin after establishment is completed and the obligation to inject the charter capital is in effect, it is crucial to have assessed eligibility of the project to obtain such operational license before starting the establishment. Otherwise, chances are that a dormant shell, a costly vehicle without function has to be managed.

The entire process should be prepared and approached well-informed in advance to scheduled business transactions. For one, a vehicle cannot act in its own capacity before concluding the ERC process. Secondly, each step, though notice and decision periods may be defined, may take between weeks and months at a time and cannot be cut short given their consecutive nature.

That being said, the licensing process remains of iterative nature, and cannot be compared to the level of transparency and reliability that can be expected in developed jurisdictions, such as Germany or Singapore.

The Vietnamese National Business Registration Portal (NBRP) contains electronic publicly accessible register of companies. It exists only as a pilot and still lacks actuality, reliability and accuracy. Entries to the NBRP are made by the enterprises themselves and no formal public control applies. Until a comprehensive level of digitalisation has been achieved, all amendments and changes to an existing company must be re-registered with the IRC and ERC authorities by means of submitting hard-copies.

Both, IRC and ERC are essential before commencing business activities as a foreign invested entity in Vietnam. The process takes on average three months, but longer in specific cases. Stamps showing the registration number may be issued after completion of the registration and are a key tool for official company correspondence. If the specific business requires further licensing, operations may not commence before these have been obtained.

Business vehicles must have a valid official office address in Vietnam that is registered with the authorities and enables receipt and processing of official notices and mail. Established shared office space and mailbox service providers are common practice. However, authorities have recently taken a stricter approach and requested to submit copies of commercial lease agreements, bank statements and utility bills as evidence of a real-life office establishment. It is thus crucial to ensure the provider will forward incoming mail and can provide any documentation required for the set-up process until clients establish their own premises. Since authorities are de-centrally organised, moving office or production sites across the country must involve the relevant local authorities at the original and the destination business residence.

2.4. Our support for licensing and establishment projects

We offer corporate law advice and corporate business outsourcing services to help navigate the process of choice and establishment of a suitable business vehicle in Vietnam. Tailored to your needs, we provide actionable advice for particular queries or deliver the entire process as a package service. For ease of action, we guide you through the collection of relevant data, and assembly of documents by providing:

- A questionnaire on details of designated office/production site, industry, investment to help making sound choices and applying successfully;
- A draft company charter;
- The application dossier documents in English and Vietnamese;
- Support in obtaining certified copies of local ID (Vietnamese) or passports of the members, the designated director(s) and designated accountant (if any);
- Support with obtaining legalisations of the corporate documents (e.g., company register excerpt and/or certificate of incorporation, FS) in your home country.

We correspond with you as you wish in English, German, French, Chinese (Mandarin) or Vietnamese. The above documents need to be submitted in Vietnamese and translations need to be certified. We assist in this process if required. Generally, it is not required for the investors' representatives to attend in person.



3. Acquisition of shares or equity interest in existing enterprises

An alternative to establishing a new company is the acquisition of all or part of an existing Vietnamese entity – for instance an LLC or a JSC.

Due to the formalistic and oftentimes unpredictable legal landscape for this kind of transaction, even experienced foreign investors may experience difficulties in navigating an acquisition process in Vietnam. Due diligence procedures are relatively new to the local business community, which means that the seller may not (be able to) provide sufficient information on the target. Vietnamese-invested or state-owned targets tend to be reluctant to disclose information and may only do so after the intervention of a trusted business reference. Documents may be provided in varying degrees of quality, actuality, and accuracy. Disclosed details and information may differ, or lack clarity and reliability which requires further adjustments in the due diligence phase.

Gathering information and verifying knowledge about liabilities, licensing status or litigation involvement of a target thus remains a time-consuming endeavour. Though public search engines and databases exist, they are often run by private providers, limited in scope, accessibility, consistency and accuracy. Because no unified public resource is available, most information is uploaded by the respective business or may be available only to qualified parties. To account for these systemic weaknesses, we work together with highly professional business intelligence providers. Suitable partners can assist with conducting your due diligence process efficiently and act as an effective risk management tool.

Before an acquisition can be consummated, clarity must be obtained on the targets' (active and registered) business lines.

It is not uncommon to register a business for more or broader business lines than the business factually operates. However, since certain business lines are conditional or closed to foreign investment, any such dormant registered business should be carefully considered as disposable prior to commencement of the transaction.

Vietnamese corporate law (i.e., the LOE 2020) does not provide for “shelf companies” which are created and held in stock as ready-to-sell entities. Each company registration is made with a specific scope of business. This purpose is reflected in the company ERC. Generally, the business must be put into operation after incorporation in order to avoid the risk of license revocation.

It is feasible to acquire a target with simple, broad business scope, and later apply for an extension or change of the registered business lines. However, this approach cannot be guaranteed to succeed and may take longer than establishing a (new) company in an FDI context. Each change or extension of business is subject to the same criteria as the establishment procedure for new entities.

3.1. DPI pre-approval requirements

Equivalent to the first step to establish a foreign-owned company in Vietnam – the IRC process – an acquisition of equity/shares including foreign participation in the target may be subject to approval. In case of cross-border acquisition of a Vietnamese target, this pre-approval is called “**M&A Approval**”. Essentially, it addresses the same aspects as the IRC application. Where applicable, the M&A Approval procedure requires the investor to collect, prepare and submit certain financial, legal, and business-related documentation. Procedurally, obtaining M&A Approval sets the investor at the same stage as receiving an IRC. Like all Vietnamese entities, the target already holds an ERC. The target’s ERC will subsequently be amended to reflect the new investor(s) and the target’s owner(s). This, however, does not always suffice to open the full scope of business activities to the newly invested company. If (part of) the business is subject to FDI restrictions, the target must either cease operating (and deregister) these business lines, or obtain the licenses and maintain the relevant conditions accordingly.

It is important to note that – in any type of investment strategy – there is a latent risk that the selected investment vehicle cannot be used for the full scope of intended business. To avoid such adverse outcomes, early preparation, information, and risk management remains the only adequate response.

Based on the applicable regulations, obtaining M&A Approval from the relevant local licensing authority is obligatory if the envisaged acquisition:

- leads to an increase in foreign ownership ratio in the target company conducting businesses where market access is conditional to foreign investors, or

- first leads to an increase in foreign ownership ratio in the target company of more than 50% of the charter capital, or
- targets a company holding land use right certificate(s) in areas deemed vital to national security (e.g., islands and in border and coastal communes, wards, and towns).

After receiving the application for M&A Approval, the DPI will involve other authorities, and then notify the investor about its appraisal. Upon obtaining the M&A Approval, and depending on the particularities of the deal, further authorities may have to be involved. Based on the corporate structure of the target, company internal corporate bodies may have to approve the transaction and amend the members’ registry.

The target’s registration authority will amend the target’s ERC according to the new owner/member structure. The transfer of membership or shareholder status will only become effective upon its official registration.

3.2. Purchase price & tax implications

The share or equity interest price for the target is negotiable. However, it is also subject to the tax authorities’ scrutiny and local particularities in accounting requirements. To pass this test, the purchase price should reflect an arm’s length market value and follow the tax departments rulings on deductible costs. This avoids mark-ups on the self-declared capital gains tax and eliminates the risk of tax law violations and delays in closing the transaction.

If the completion of the transaction is conditional to payment of the purchase price, such proof of payment may have to be submitted to the competent authority for pre-approval additionally. This can cause trouble with subsequent purchase price adjustment mechanisms (if any). Hence, any elaborate purchase price structure requires close observation and correspondence with the relevant authority from the outset, as to ascertain compliance and avoid a stalemate during the transaction.

Any payments under M&A contracts (other than cross-border loans) owed to a Vietnamese resident (natural person or entity) must be made in the local currency (Vietnam Dong – VND). Applying foreign currency may violate Vietnamese foreign exchange control regulations and proposes a risk that can stifle the transaction.

3.3. Timing and merger control

Depending on the pre- and post-deal ownership structure of the target, additional requirements may be triggered. These may consist in merger control clearance, operational licenses or additional capitalization requirements. These requirements must be explored before the start of the transaction to account for additional time and procedural requirements. This also applies to the time between signing and closing which is not entirely under the parties’ control.

Vietnamese is the defining language of private contractual documents. Historic corporate documents of the target may also only be available in Vietnamese. To facilitate post-transaction integration of the target, the M&A investor should produce bilingual versions of relevant documents, decisions, meeting minutes and contracts. Reliable translation service providers are an asset that should be involved at an early stage of each transaction.

Additional merger control mechanisms apply, if:

- the envisaged transaction impacts a particular sector; and/or
- exceeds certain thresholds in terms of transaction value, market share or the purchase/sales revenue in the business year completed prior to the transaction.

| | | |
|---|---|-----------------|
| Transaction value | for on-shore transactions conducted in Vietnam | >VND 1 trillion |
| Total assets or total turn-over | in the Vietnamese market of the company or group of affiliated companies that the company is a member of in the previous financial year | >VND 3 trillion |
| Combined market share of the parties | in the relevant market in the previous financial year | > 20% |

III. Securing Effective Corporate Governance



Post-licensing, post-acquisition, corporate governance and shareholder control are essential. First-time foreign investors into Vietnam should be aware of the particularities for the Vietnamese legal system that regulates corporate entities. Control within a Vietnamese LLC is slightly **different from**

international standards of structure and corporate governance principles. Because the LLC is the most common investment vehicle for foreign investors, the below summary focuses on the LLC. We will gladly provide with governance advice for JSC and other set-ups upon specific request.

The **company charter constitutes the central governance tool** and sets out all specific rules that shall govern the enterprise. It serves as the core reference document throughout the LLC’s lifecycle and is comparable to the “articles of association”, the “memorandum of incorporation” or the “statutes” in other jurisdictions. It may reflect statutory and governance provisions with extensive reference to the applicable laws of Vietnam. Though foreign investors are not entirely free in their governance decisions, they may customise the charter to some extent. This specifically concerns the representational and governance powers of its appointed corporate bodies. The charter serves as the transcript of all rights and obligations pertaining to the roles within the LLC subject to statutory law. Any (personal and regulatory) changes must be reflected by amendments to the charter.

1. Corporate functions in an LLC set-up

The LLC must have a minimum of one (natural or legal) person (i.e., **member**) subscribing to its charter capital (to create a “**single-member**” LLC). A “**multi-member**” LLC may have two to 50 members, each contributing a defined portion to the charter capital. Generally, an LLC does not require a minimum charter capital. 100% foreign ownership is permitted unless the field of industry is conditional on Vietnamese (co)ownership.

Natural persons are authorized to represent the investor(s) to in the so-called called *members’ council* (see above). The members’ council comprises three to seven individuals and is headed by a “*chairman*”. In the single-member LLC, the structure may provide for a *president* to act on behalf of the investor. These two corporate functions are **general decision-making authority for internal matters** and have the capacity to resolve on topics as assigned to them by law or the LLC’s charter. This includes the capacity to appoint and revoke corporate positions, raise or decrease the charter capital and amend the charter. However, practically, control over business operations is divided between the members’ council and the company’s appointed (**general**) **director(s)**. The LLC’s owner has the capacity to override any decision or resolution of the corporate bodies.

For a **single-member LLC**, the investor can choose between two structures:

- a two-tier model where the power is divided between the *president* (of the LLC) and the (general) *director*, or
- a (more complex model) consisting of the members’ council, and the (general) *director*.

The General Director (“GD”) takes care of all **day to day business** decisions of the LLC. The GD also has custody of the company seal, which must be applied to any written statement with binding effect on the company. Further rights and obligations may be specified in the company’s charter and the director’s service contract.

A company may have **one or multiple legal representative(s)**. They may or may not be identical to the director and/or president or chairman of the members’ council. In some cases, a third person may be appointed to represent the company. This position must be reflected in the company’s charter and registered with the DPI. We encourage investors to appoint multiple legal representatives to ensure the LLC’s legal capacity at all times. If the GD is not simultaneously also appointed as legal representative, the LOE 2020 allows him/her to sign certain internal documents. The GD must personally attend meetings with local authorities that concern the company’s affairs.

The LOE 2020 requires at least one legal representative of the LLC to reside in Vietnam. When this person leaves the territory of Vietnam, another person must be authorized in writing to act on behalf of the LLC. When the company’s sole legal representative is absent from Vietnam for more than 30 days without due authorisation to another person (or if s/he is incapable of fulfilling his/her duties under the LOE 2020), the company must appoint a new legal representative. In practice, working with providers of personnel services based on power of attorney for particular matters can resolve this issue, if GDs are required to make longer trips outside of Vietnam. For expats appointed as legal representatives, we recommend to pay particular attention to their tax residency status to avoid double

Financial control may be effected by the inspection committee. This corporate body is comparable to a (financial) “supervisory board”. However, under the LOE 2020, the **inspection committee** is not mandatory unless the LLC qualifies as (wholly or partly) state-owned enterprise. Unless otherwise stated in the charter, a member’s legitimate influence corresponds with its investment interest. However, in a multi-member LLC voting rights may be disproportionately assigned among members by assigning specific portions of the contributed charter capital. Members’ liability is limited to the capital contributed according to the charter. Other (participatory and defensive) rights derive from its member status according to the charter’s provisions on members. Minority members’ rights exist to some extent. In an LLC members may dispose of their capital contribution to a third party only upon prior offering to the other members, and rejection/lapse of waiting time (statutory right of first refusal). The GD is not by default identical with the legal representative (but may be authorised accordingly) and generally has the following rights and obligations:

- implement resolutions and decisions of the members’ council or the president;
- handle everyday operational matters of the company;
- recruitment of employees;
- implement business and investment plans;;
- implement internal rules and regulations;
- appoint/dismiss company executives on lower levels;
- propose of changes to the company’s organisational structure;
- submit annual financial statements and propose plans for use of profits or settlement of business losses to the owner(s) via the members’ council or the president.

A member’s power to govern the LLC comprises the assigned voting rights in the members’ council that decides on amendments to the company charter and has the right to appoint and revoke directors and legal representatives. In a single-member set-up the “council-model” may be replaced by a “president-model” that allows unilateral control and streamlined decision-making.

taxation (as far as possible). Legal representatives may be held personally liable for breaches of duty and for defaulting on public regulatory obligations.

The members’ council may further appoint a company secretary who is responsible to keep proper corporate records and maintain the requisite corporate registers as well as the corporate filings required under the LOE 2020. The company (except micro enterprises) must appoint a chief accountant to oversee the bookkeeping and is the responsible person for signing the company’s accounts. This person should hold a Chief Accountant Certificate and may not be identical to the director. In order to ensure the timely discharge of tax duties, it is common practice to outsource these functions to external service providers.

2. General Corporate Compliance

Compliance concerns all non-operational duties to be discharged in order to ensure the company does not violate any laws, administrative or court orders and overarching regulatory requirements, and the company’s functions follow internal rules and policies.

In this framework, mistakes can easily occur, and the complexity of some of the requirements may easily exceed the in-house resources of a company. Hence, we generally recommend to consider outsourcing certain responsibilities. Especially at the outset of a new business/entity, this may represent a viable alternative, until the company internal structure matures.

What is commonly known as (corporate or company) secretarial services refers to a number of managerial and administrative tasks that ensure compliance of the company's processes and documents with external regulatory requirements. These may be imposed by laws, administrative orders or the policies of banks and other business partners. Relevant compliance intervals may be daily, weekly, monthly, quarterly or annually. In any case, they put a strain on managerial positions in the company that are responsible for these duties and remain responsible even if the tasks are duly delegated to competent staff. Outsourcing to flexible, professional, and reputable providers is best practice and works towards individual and temporary needs of the business. We are happy to support with tailored solutions for your outsourcing needs.

The Vietnamese legal ecosystem is known to be formalistic, which means that e-signature solution is still in their infancy. Vietnam does have regulations on electronic signatures and allows remote signing in principle. To process documents for public filings, only specifically accredited service providers may be used and upon pre-registration of each party, which reduces the practicality of the available solutions. Hence, corporate and transaction documents still mostly require wet-ink signatures. Initialing each page of corporate and transaction documents is common and Vietnamese registered entities can only validly sign through their legal representative or based on power of attorney. Using the company seal is no longer a mandatory requirement for validity, but often enough a formal requirement imposed by the other party such as banks and business partners.

3. Accounting

Vietnam employs its own Vietnamese accounting standards (VAS) which any locally registered business must apply. Additionally, foreign-invested businesses may opt to have a second set of records compliant to international accounting standards (IFRS). They may also opt to convert only their relevant financial statements to IFRS before forwarding to their foreign shareholders or members. Experienced accounting service providers also offer conversion or mapping of accounts as a service. Current reforms to the legal framework suggest that IFRS will be adopted by Vietnamese registered entities in the near future. This is proposed to be mandatory for state-owned, large or listed entities and optional for SMEs and other vehicles from 2025 on.

Currency and language of corporate documents may be international if easily convertible to Vietnamese and VND currency. The charts of accounts as well as the content of reports must follow local standards.

The financial year is the calendar year but can be altered to start with each quarter. The audited financial statements must be submitted by the last day of the end of the quarter following the financial year respectively. Audit requirements change

frequently and foreign-invested entities are under particular pressure to comply. This makes outsourcing a viable and attractive alternative to ensure compliance and save resources. In any case, independent auditors must be engaged to audit the annual financial statements of foreign-invested entities.

All personal and corporate income tax must be finalised at the time of filing the audited annual financial statements. Copies of accounting documents for submission must be retained by the company. Based on recent innovations, e-submission of statements is now possible. Submissions must be made to several authorities separately.

The Vietnamese entity may only disburse profits to its members, shareholders or stakeholders after payment of contributions and (tax) obligations under Vietnamese laws are satisfied and the company achieves after-tax profits.

4. HR & payroll

Employers are usually responsible to deduct, declare and pay personal income tax for their employees and to file relevant calculations and declarations accordingly on their behalf. Employers must contribute to mandatory social insurance (unemployment, retirement, maternity, accident, health and incapacity) for all local employees and foreign employee with indefinite local employment contracts.

Outsourcing payroll, tax calculation and tax filing are best practices for FDI businesses, and expats travelling to Vietnam for business. We are happy to advise on structuring and efficient solutions and answer all questions regarding taxation and compliance.

In an FDI context, immigration is another complex aspect of corporate compliance and HR tasks. Assigning expats to work in the Vietnamese entity or bringing qualified personnel into the country to train local staff may require the company to sponsor a business or work visa, apply for work permits or documents to prove work permit exemptions apply. For long-term engagements the residency status should be adapted accordingly. We have capacity to support in all visas, immigration and related matters with our expat mobility services. For details refer to our briefing on immigration and labour regulation.

5. Tax compliance

Locally registered business presences are subject to Vietnamese taxation. Even without a local commercial presence, transactions of a foreign entity within Vietnam or revenues from Vietnam are taxable in the view of the General Department of Taxation (GDT) under the Ministry of Finance.

Providing services or importing and selling goods in Vietnam, require to disclosing company data, transaction data and tax information to the GDT. Local partners are likely to withhold

amounts payable to the GDT from purchase price amounts where applicable.

The most common types of taxes include:

- value added tax (VAT) - which currently stands at 8% for most services and may be 10% for certain goods and services;
- corporate income tax (CIT) at generally 20% on company profits, with preferential tax rates of 10.15 or 17% in certain eligible cases.
- Individual's personal income tax (PIT) applicable to employees ranges from 20% flat for non-residents to 5-35% progressive rates of residents.
- Other types of taxes:
business license tax, import and export duties, special sales tax, environment protection tax, natural resources tax.

Tax compliance within Vietnam extends to monthly, quarterly, and annual reporting obligations which are closely monitored by banks and authorities. Incompliance with tax (or reporting) obligations can become particularly sensitive if investors decide to wind up their local presence. Before dissolution, the entity must obtain proof of full clearance of all tax obligations which implicates the company's entire lifecycle.

Our team offers comprehensive tax compliance services as part of our business process outsourcing services to ensure on-going tax compliance according to the latest tax regulation as applicable to your specific business. For more details, please refer to our briefing on taxation and tax compliance in Vietnam.



IV. Vietnam's FTAs and their impact on Foreign Investment

Free Trade Agreements (FTAs) have become an accelerator for foreign investment in Vietnam in recent years. New FTAs are reliable indicators of the origin and landscape of foreign investors entering the business ecosystem in Vietnam. FTAs are considered milestones in the opening policies of the country and expected to bolster domestic reform, and innovative legislation as a reflex of the ambition to live up to international standards.

Expectations are high regarding the impetus of the latest FTAs to help Vietnam transition from the low-wage, low-complexity, low-quality exporter towards a high-tech manufacturer. Vietnam aims to claim a higher rank on the value-chain and at becoming a digital service provider and a supplier of more complex mobility and medical appliances. Through the latest generation of FTAs, the import of products and components becomes easier and allows for a boost in domestic manufacturing capacities.

The import of high-quality know-how increases Vietnam's chances to succeed in competition with its regional peers. While other countries in the region experience an alarming brain-drain of skilled and qualified employees, knowledge and technology migrating to Vietnam could nurture a step up the production chain to high-end products made-in-Vietnam. A higher demand for skilled workers and executive personnel incentivizes domestic educational institutions to provide a better trained, English-speaking workforce.

Vietnamese laws still have a reputation for being poorly drafted, giving away the chances for regulatory integration, consistency, quality, and continuity. The latter are crucial for the improvement of stability and reliability and form the basis for investment confidence. Implementation of new regulation is often sluggish, not closely monitored and subjected to provincial level discretionary interpretation. Regulatory quality and efficiency thus often stays behind the promises of international treaties' and conventions' (e.g., for labour, human rights, environmental protection, corruption and judicial recourse). Broad reform and an improvement of the local legal framework is also expected to be the most effective driver for IP protection in-country.

From the legal advisor's perspective, FTAs may have a significant impact on bilateral recognition of non-discrimination commitments. A reliable legal ecosystem is essential to attract sustainable foreign investment and to establish a competitive advantage over regional peers. Singapore as role model for judicial transparency and reliability showcases this potential. Vietnam's 16 FTAs are a step in the right direction and one of Vietnam's biggest assets with regard to attracting foreign investment.

1. Owning, protecting and transferring commercial use rights in Vietnam

Vietnam still bears the stigma of the "south-east Asian copycat" despite some regulatory efforts to protect intellectual property (IP).

The Vietnamese Intellectual Property Office and the Copyright Office still lack reliability and the local enforceability of IP remains an issue across the board.

With a milestone overhaul of the applicable regulations for IP, the Vietnamese National Assembly officially approved the amended Intellectual Property Law on 16 June 2022. This marks the third time the Vietnamese IP Law has been amended and supplemented since its promulgation in 2005. Its latest update contains revisions and supplements more than 100 articles, marking the most expansive overhaul of this law to date. Vietnam's accession to the WTO and bilateral agreements are currently the best chance to stipulate awareness for the potential hidden in commercial use rights and its effective protection. From an international perspective, Vietnam is a subscriber to the Paris Convention, the Rome Convention, the Hague Agreement, the Madrid Protocol, TRIPS, WIPO, the Patent Cooperation Treaty, the Geneva Universal Copyright Convention, the Berne Convention. More recently FTAs such as the CPTPP, UK-Vietnam and EU-Vietnam FTA also carry implications for Vietnam's IP protection ecosystem. These commitments each bear potential for improved IP protection through international leverage. This also shows that Vietnam is well on the way to accept the value of IP and is willing to afford this asset class the necessary protection.

If IP violations demand action, claims may be filed to the National Office of Intellectual Property (**NOIP**), a department of the Ministry of Science & Technology. Claims can be based on patents, industrial design, brands, names, or trademarks.

2. Private sector dispute settlement

Vietnam is a traditionally "high-risk" destination for foreign investment due to its lack of accountability in dispute resolution. Yet, the Vietnamese system for dispute resolution has made progress in terms of transparency, reliability, accountability and enforceability and is rapidly gaining sophistication.

Despite these positive developments, reality still shows evident weaknesses of the judicial system. To accommodate international arbitration proceedings, Vietnam is a subscriber to the New York Convention and has formally committed to enforce overseas arbitration awards. The Vietnamese Law on Arbitration (LoA 2010) incorporates these general principles and allows foreign investors to pursue their claims in front of arbitral tribunals, where applicable.

The Vietnam International Arbitration Center (**VIAC**) and the Vietnamese national court system can be equally addressed by foreign investors and foreign-invested vehicles as claimant pursuant to Article 14 LOI 2020, and may also sue public regulatory agencies in Vietnam.

Business partners may, under the provisions of the Law on Commerce No. 36/2005/QH11, agree to apply a foreign jurisdiction as the governing law of their commercial relationship. However, such foreign statutes do not apply if found to be contrary to the "fundamental principles of the laws of Vietnam" – which opens up space for case-by-case discretion of the Vietnamese courts.

3. Special public - private dispute settlement

A major driver in terms of accountability of state institutions' compliance is the sanctioning mechanism for a breach of agreed investment rules and freedoms under the existing FTAs. Individual businesses may bring such violations to the attention of courts in an attempt to enforce rights as investors in Vietnam.

Based on the rapidly expanding matrix of FTAs that Vietnam is signing onto, the importance of transparent, efficient and reliable dispute resolution becomes evident. Vietnam is thus pushing for favourable investment conditions and aims to emerge as an advantageous destination for foreign investment in the region.

While the practical relevance of this type of investor-state dispute resolution remains low, foreign investors are generally protected under various FTAs' provisions against discriminatory treatment. Any violation of guaranteed preferential investment conditions or other breaches of agreed legal principles can result in Vietnam's liability under the respective FTA. In case of violation of these principles, investors may sue the State for any action of any of its public facilities, departments, institutions, or agents. The title in such case is enforceable against and within the State.



V. Wrapping up – Risk Management for Divestment from Vietnam

A well-informed investment decision also takes into account the risk of having to close a business that does not meet expectations. It is therefore vital to explore the requirements (time- and cost-wise) of a withdrawal from Vietnam – including any related liabilities and the repatriation of assets.

1. Dissolution of an entity

1.1. Procedure & timeline

A foreign-owned entity must undergo a formal dissolution procedure. This begins with the public announcement based on a formal decision of the entity's corporate bodies pursuant to its charter or an administrative order.

This includes:

- A notification of closure,
- the decision on dissolution and the liquidation of the entity's assets (with exact records of the assets of the entity),
- a plan on debt settlement sent directly to any party with whom the entity upheld commercial or legal relations (creditors, suppliers, employees and all authorities concerned within seven days of issuance).

The business registration authority shall publish such decision together with relevant documents on its website and mark the status of the entity as "in dissolution process". The entity may then proceed to close all its accounts and to terminate recurring obligations like loans, office lease and labor contracts.

Another crucial step is the clearance of any outstanding tax payments, which will be deemed fulfilled only upon written confirmation by the tax authority. Similarly, the insurance department will have to confirm that all payments for social insurance contributions for

All employees that have been terminated must be compensated. All branches and representative offices of the company must be deregistered. The entity will also need to prepare one final audit of its closing accounts to be submitted to various authorities.

Only once all mandatory documents have been submitted, will the DPI update the entity's legal status from "active" to "dissolving".

The dossier to the DPI comprises of:

- dissolution notification;
- asset liquidation report;
- creditors' and credit clearance list;
- confirmation by tax authority on settlement of all tax obligations;
- confirmation of the customs authority on settlement of all customs duties;
- confirmation of insurance department on settlement of all social insurance contributions;
- confirmation of bank on settlement of all debt and payables and on closure of all accounts;
- and other documents as requested by DPI.

The entity's seal must be invalidated by the local authorities upon written request, ending the capacity of the entity to issue valid documents in Vietnam.

The entity's name will be deleted from the NBRP upon submitting the dissolution notification dossier with all the previously prepared statements and certificates.

The dissolution process may take anything from six to twelve months from the date the owners issue the resolution on dissolving the entity. However, the process can be prolonged depending on recent business activities and other particularities.

1.2. Reasons for termination

Naturally, the owner(s) of an entity may conclude on the termination of operations in Vietnam as it is at their sole discretion. Alternatively, the initial investment strategy may have a time-limit which is explicitly mentioned in the charter and ERC, and the members/ shareholders decided not to extend this time limit.

Other (involuntary) reasons to terminate a company also exist. For instance, the business registration certificate may have a time limit and could not be extended (or has been revoked for other reasons). In a multi-member LLC, a cause for termination of an investment project may also be that the number of members is below three for six consecutive months.

1.3. Insolvency proceedings

In the event of bankruptcy or insolvency, the case will be filed to and handled by the People's Court at the place of establishment. The court may decide to proceed or to reject the case within 30 days of receipt of the complete file. If an

insolvency procedure is opened, the entity must prepare an inventory of assets, a list of creditors and a list of debtors to be published before commencement of a meeting of the entity's creditors and assets shall be liquidated in order to satisfy quotas as set forth in the procedural decisions.

2. Suspension of business operations

If the situation demands a break rather than a complete cessation of operations, business operations in Vietnam may be suspended for up to one year. Once this year has lapsed, the company may continue suspending its business (which may not exceed two years).

Within three days of notifying the entity's responsible DPI by submission of a form, the formal decision of the corporate bodies and the reason for suspension, the authority may approve and confirm in writing – or reject and request additional documents which the entity shall submit.

Once approved, the entity remains responsible to observe basic requirements depending on the activity it conducts. Tax filings are due within the usual timelines if the suspension period is effectively shorter than the entity's business year.

3. Winding up a branch or representative office

Winding up a BO or RO follows a separate set of rules and can sometimes be completed faster than closing down a commercial entity, such as an LLC.

As a condition, all tax obligations and payments to social security for employees must be settled by the principal through the BO or RO. The registration certificate and stamp must be returned. Additionally, the RO must submit a report of its activities from its date of commencement to the filing date.

Our legal & tax advisory services

For better investment decisions

Our international and Vietnamese lawyers provide comprehensive legal advice in all areas of corporate and commercial law equipping you with the relevant background to make profound, risk-controlled decisions:

Foreign direct investment and market entry

- tailored assessment of regulatory investment conditions
- actionable advice and risk assessments on market entry regulation & restrictions for your specific business scope
- correspondence & representation vis-à-vis authorities
- drafting & submission of application dossiers
- support collecting required supporting documents
- inhouse presentations on Vietnam as a market for your business

Establishment of a business presence in Vietnam

- advice on types of investment vehicles
- corporate & tax structuring
- registration of branch or representative offices
- establishment of Vietnamese-foreign joint ventures and PPP projects
- incorporations of foreign-owned limited liability companies

Corporate house-keeping

- capital measures (increase and reduction in charter or share capital), filing of relevant amendments to the charter
- changes of company name, charter, capital (transfer of shares, issuance of shares), shareholders/members, directors, representatives, auditors, office address
- shareholders' or members' agreements, resolutions
- charter, rules of procedure drafting
- out-of-court dispute resolution measures
- corporate documents (minutes, resolutions, notices)
- submissions to and correspondence with authorities
- support with authentication and legalisation of documents

Termination & suspension of business operations

- liquidation of entities
- support in bankruptcy proceedings
- de-registration of branch or representative offices

Mergers & acquisitions

- M&A transactions
- domestic and cross-border asset or share deals
- full-scope legal and tax due diligence
- corporate restructuring measures
- post-merger / closing integration

Finance regulation advice

- banking, finance and insurance law
- corporate finance & tax structuring
- loan and security agreements
- local business bank accounts
- legal opinions for envisaged transactions
- cross-border lending and State Bank regulation
- State bank loan approval applications and monitoring documentation

Real estate

- sale and purchase of land use rights
- commercial lease agreements
- construction contracts and
- financing structures
- tax incentives and land lease fee advice

Compliance

- anti-corruption & anti-money-laundering compliance
- corporate governance and corporate compliance measures
- advise on best practice corporate governance
- regulatory compliance
- tax compliance

Employment and labor law

- employment contracts
- secondments, probation
- internal labor regulations and employment policies
- out-of-court dispute resolution
- correspondence with labor authorities
- work permit and work permit exemptions
- foreign labour demand applications
- regulatory compliance

Immigration law

- business and work visa
- dependent visa
- temporary residence cards
- visa-exempt entrance
- police registration of residence

Contract law and contract administration

- drafting and structuring of all types of domestic and cross- border commercial contracts
- incoterms and int. contract framework
- FTA advisory services
- customs regulations, import and export restrictions
- structuring of e-commerce business models
- review of general terms and conditions

Intellectual property, business secrets & privacy law

- development and implementation of IP protection strategies
- registration of trademarks, designs and patents
- licence agreements, research and development agreements
- cross-border data transfer risk assessment (TRA)
- data protection requirements under GDPR for global services

Tax advice and tax structuring

- cross-border tax advisory services
- direct and indirect taxes
- tax structuring of M&A transactions
- transfer pricing
- e-commerce tax collection
- Foreign contractor withholding tax

Tax compliance

- commercial tax and special goods tax
- corporate income tax and withholding tax
- applications for relief under double taxation agreements
- liaison with the relevant authorities and internal accounting departments
- digital economy taxation
- stamp duty and other local special taxes

Environmental Protection Law

- assessment of investment locations under environmental regulation aspects
- advise on applicable EIA regulation & restrictions
- correspondence & representation vis-a-vis authorities

Luther in Asia

Expertise

Legal advice – especially in Asia – is more than explaining the legal system to you. We are here to do more. We make a true effort to understand your business. We devise and help you implement legal and tax structures that work and let you focus on being successful in the world’s most dynamic economic region.

Our Vietnam office works closely together with the other Luther offices in Asia and Europe. We take a holistic approach, dealing with Asia-wide compliance issues, assisting with the creation of international holding structures and ensuring tax-efficient repatriation of profits.

We provide the complete range of legal and tax advice to clients doing business in and from Asia. To offer a seamless service, we have teams in Europe as well as in Asia, led by partners with many years of experience on both continents. That way, we can immediately answer questions concerning investment decisions and provide our clients with an accurate assessment of the particularities of their projects, no matter where they are located.

Our lawyers unite substantial practical knowledge in important legal areas and cover the entire spectrum of law in Asia and beyond. We support foreign investors in the assessment of location and investment criteria, the structuring of investment projects, acquisitions and joint ventures. Finding and implementing solutions for sensitive areas like technology transfer and know-how protection also form part of our work. Alongside our clients we negotiate with future partners and local authorities and ensure the enforcement of their rights, in and out of court as well as in arbitration proceedings.

The services of our lawyers are complemented by our accountants, HR professionals and tax consultants offering all the services one would necessarily associate with a “one-stop shop” concept, from outsourced administration to accounting, payroll and tax compliance. Additionally, we provide corporate secretarial services, especially in Asian “common law” countries.

Collectively, our lawyers, tax consultants and professionals combine the competence and experience necessary to comprehensively assist comprehensively on all business matters in Asia. Our tax experts advise on individual and corporate tax compliance as well as on withholding tax issues, on Double Taxation Agreements and on complex international tax structures. Our accountants and professionals carry out the time-consuming administrative tasks of accounting and payroll functions a business must undertake, allowing our clients to concentrate on growing their business.

Singapore

Singapore is a leading international trade and financial hub. As such, it serves as Asian headquarters for many international companies operating within the Asia-Pacific region.

With a staff strength of more than 90, Luther is by far the largest continental European law firm in Singapore. More than 26 lawyers from Singapore, Germany, France and other jurisdictions cover the full range of corporate and commercial legal work as well as the structuring of investments within South and South East Asia.

Our team is supported by excellent local Singaporean lawyers, notary publics, tax advisors, accountants, corporate secretaries and other professionals.

Shanghai

Shanghai is the main hub for doing business in China, and with a team of more than 20 international lawyers, Luther is the largest German-speaking law firm in the city. Our China team consists of German and Chinese legal experts most of whom have over a decade of experience in developing and entering the Chinese market.

Luther Shanghai is fully authorised to offer legal services including litigation and provides advice on all questions of Chinese law. Our legal team is supported by Chinese tax advisors, accountants, corporate secretaries and other professionals.

Region

Our two principal Asian offices in Singapore and Shanghai are complemented by offices and teams in Yangon (Myanmar), Bangkok (Thailand), Delhi-Gurugram (India), Ho Chi Minh City (Vietnam), Kuala Lumpur (Malaysia) and Jakarta (Indonesia).

This network of Luther offices is further strengthened by the long-established business relationships that we have successfully developed both locally and with our regional partners in Australia, Hong Kong, Japan, New Zealand, the Philippines and South Korea.

Hits the mark. Luther.

Luther Rechtsanwaltsgesellschaft mbH is one of the leading corporate law firms in Germany. With some 420 lawyers and tax advisors, we can advise you in all fields of German and international corporate law. In addition to having offices in every economic centre throughout Germany, we are also present in 11 locations abroad: in Brussels, London and Luxembourg in Europe, and in Bangkok, Delhi-Gurugram, Ho Chi Minh City, Jakarta, Kuala Lumpur, Shanghai, Singapore and Yangon in Asia.

Our advisory services are tailored to our clients' corporate goals. We take a creative, dedicated approach to achieving the best possible economic outcome for each of our clients. The name "Luther" stands for expertise and commitment. With a passion for our profession, we dedicate all our efforts to solving your issues, always providing the best possible solution for our clients. Not too much and not too little – we always hit the mark.

We know how crucial it is to use resources efficiently and to plan ahead. We always have an eye on the economic impact of our advice. This is true in the case of strategic consulting as well as in legal disputes. We have complex projects on our agenda every day. At Luther, experienced and highly specialised advisors cooperate closely in order to offer our clients the best possible service. Thanks to our fast and efficient communication, permanent availability and flexibility, we are there for you whenever you need us.

Luther has been named "Law Firm of the Year: Germany 2021" and also "European Law Firm of the Year 2021" by The Lawyer, one of the most well-known legal magazines worldwide.



About unyer

unyer, founded by Luther and Fidal in 2021, is a global organisation of leading international professional services firms. Besides law firms, unyer is also open to other related professional services, especially from the legal tech sector. unyer is based in Zurich as a Swiss Verein. unyer is globally connected but has strong local roots in their respective markets.

unyer has an exclusive approach and only accepts one member firm from each market. unyer members offer its clients full services across all jurisdictions with a compelling industry focus. The organisation has an annual turnover of more than EUR 650 million and includes over 2,500 lawyers and advisors in more than 10 countries in Europe and Asia. In September 2021, Pirola Pennuto Zei & Associati joined the international organisation.

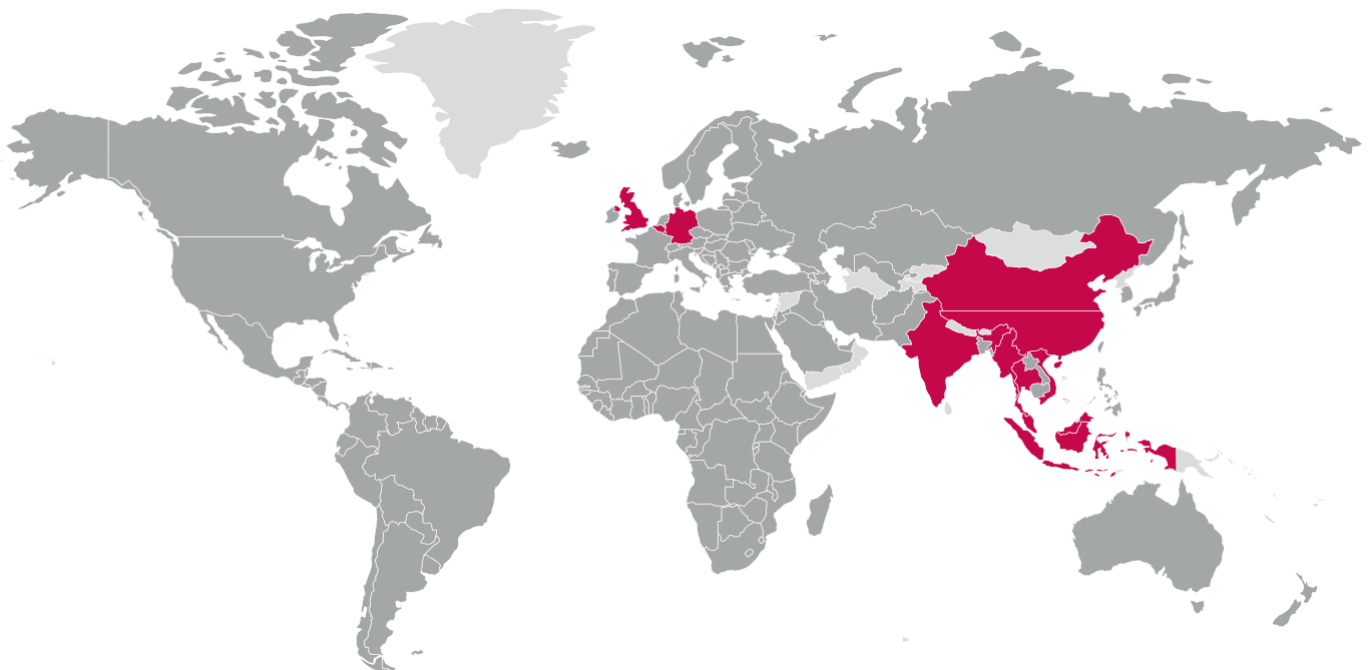
www.unyer.com



Our locations

We have a global outlook, with international offices in 11 key economic and financial centres in Europe and Asia. We also maintain close relationships with other commercial law firms in all relevant jurisdictions. Luther is a founding member of unyer (www.unyer.com), a global organisation of leading professional services firms that cooperate exclusively with each other. This way, we ensure a seamless service for our clients throughout their demanding international projects.

Our partner firms are based in Africa, Australia and New Zealand, Europe, Israel, Japan and Korea, the Middle East, Russia and the CIS, South and Central America, the US and Canada.



- Luther locations
- Best friends

Our locations

- | | |
|------------------|--------------|
| Bangkok | Jakarta |
| Berlin | Kuala Lumpur |
| Brussels | Leipzig |
| Cologne | London |
| Delhi-Gurugram | Luxembourg |
| Dusseldorf | Munich |
| Essen | Shanghai |
| Frankfurt a.M. | Singapore |
| Hamburg | Stuttgart |
| Hanover | Yangon |
| Ho Chi Minh City | |

Our awards



The Lawyer European Awards

Luther has been named “Law Firm of the Year: Germany 2021” and also “European Law Firm of the Year 2021” by The Lawyer, one of the most well-known legal magazines worldwide.



JUVE

In the 2021/2022 JUVE Guide to Commercial Law Firms, 45 lawyers from Luther were recommended, and 11 of these were also listed as “leading advisors”. The legal publisher JUVE published rankings for a total of 28 areas of law. In 2021, Luther was nominated for the JUVE award “Antitrust Law” and was named “Law Firm of the Year” by JUVE in 2019. In the past, Luther has already won “Law Firm of the Year 2017 for Environmental and Regulatory Law”.



The Legal 500

The Legal 500 Germany 2022 recommends Luther in 28 areas of law, with “Top Tier” rankings in two of these areas. 76 lawyers are being recommended, 10 of whom have been specially recognised as “Leading Names” or “Next Generation Names”. Luther has also been included for Germany in the first edition of **The Legal 500 Green Guide EMEA 2022**. This guide provides an overview of law firms’ engagement with sustainability, including both work for clients as well as firms’ own best practices and initiatives.



Chambers

In 2022, Luther was recognised by Chambers Europe for 12 practice areas in Germany as well as in two practice areas in Luxembourg. Moreover, 15 partners were included in the Individual Ranking. Additionally, in 2022, Luther was recognised by Chambers Global in four advisory areas in Germany, Luxembourg and Myanmar, while six partners were also included in the Individual Ranking.



Kanzleimonitor

Kanzleimonitor 2022/2023 recommends Luther in 25 areas of law and has also included 16 Luther lawyers among the recommended lawyers mentioned by name.

Best Lawyers

“Best Lawyers in Germany 2023”

For the year 2023, 111 lawyers have been recommended by Luther as “Best Lawyers in Germany 2023”, an award presented by the US publisher “Best Lawyers” in cooperation with the German *Handelsblatt*, including three partners as “Lawyer of the Year” for their area of law and 12 colleagues who have received the recommendation “Best Lawyers - Ones to Watch”.



WHO'S WHO LEGAL

WHO'S WHO LEGAL listed 18 lawyers in June 2022, four of whom have been recognised as Thought Leaders, which is the highest award, and two of whom have been named Future Leaders.



Global Arbitration Review

In 2021, the English professional journal Global Arbitration Review (GAR) included Luther once again in its global “GAR100” list of arbitration practices rated by GAR.

Our practice areas

Antitrust Law

Capital Markets &
Banking

Commercial &
Distribution Law,
Product Liability/
Product Compliance

Complex Disputes

Compliance &
Internal Investigations

Corporate/M&A

Data Protection Law

Employment Law

Energy Law

Environment &
Planning Law
Regulatory

Financial Services
Investment Funds &
Alternative Investments

Insurance Law

International
Trade Law

IP & Copyright Law

IT Law

Media & Entertainment

Notarial Services

Public Procurement
Law

Public Subsidies/
State Aid Law

Real Estate

Restructuring &
Insolvency

Start-ups & Venture
Capital

State, Administration,
Public Undertakings

Tax Law

Telecommunications
Law

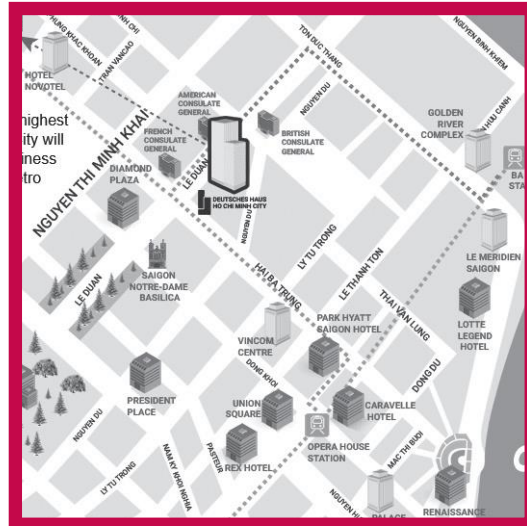
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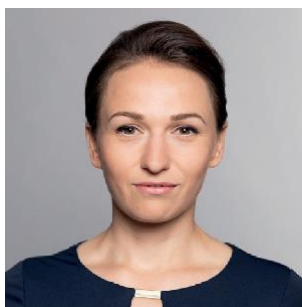
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Luther.

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You can find further information at:

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www.luther-services.com

