



**By Nguyen
Thi Tu Anh**



Ho Chi Minh City Office – Unit 305, 3rd Floor, Centec Tower
72-74 Nguyen Thi Minh Khai, Ward 6, District 3, Ho Chi Minh City, Vietnam
Tel: (84) 8 3823 9640 / Fax: (84) 8 3823 9641 / Mobile: (84) 987 977 557

E: anh.nguyentu@indochinecounsel.com

Hanoi Office – Unit 705, 7th Floor, CMC Tower, Duy Tan Street, Cau Giay District, Hanoi, Vietnam
Tel: (84) 4 3795 5261 / Fax: (84) 4 3795 5262

E: hanoi@indochinecounsel.com W: www.indochinecounsel.com

New regulation on conditions for securities investment and business on the Vietnamese securities market

On July 1, 2016, the Vietnamese Government issued Decree No. 86/2016/ND-CP regulating the conditions for securities investment and business. The Decree applies to many agencies and entities involved in the Vietnamese securities market, including branches in Vietnam of securities business organisations and foreign organisations to own charter capital of a securities business organisation in Vietnam. Besides this, Decree 86 solves the problems of implementation of Decree No. 60/2015/ND-CP by supplementing a number of new contents related to the main problems, such as ownership by foreign investors, and establishment and operation of a branch in Vietnam by a foreign securities company.

Conditions for a foreign organisation to own 51 percent or more of the charter capital of a securities business organisation in Vietnam

To own 51 percent or more charter capital of a securities business organisation in Vietnam, a foreign organisation must meet requirements applicable to shareholders and capital contributing members of a securities business organisation stipulated in Decree No. 58/2012/ND-CP, among other conditions. These include: the purchase of shareholding or of the capital contribution portion must be passed by both members' council/owner of the foreign organisation and the securities business organisation in Vietnam; only equity and other lawful sources shall be used to purchase shares or capital contribution; especially, financial statements for the

most recent year of the foreign organisation must be prepared and audited in accordance with the law of the foreign country in conformity with international accounting and auditing standards.

“The Decree solves problems related to ownership by foreign investors, and establishment and operation of a branch by a foreign securities company”

Conditions, application filing and procedures for establishment and operation of a branch in Vietnam of a foreign securities company

A foreign securities company is only permitted to establish one branch in Vietnam on satisfaction of the following conditions on capital to the branch: the operational duration in the licence (if any) of the foreign securities company, risk management rules and rules on undertaking the securities activities, ownership ratio of shareholder or capital contributing member of charter capital of a fund management company in Vietnam.

In addition, the branch must meet the additional requirements: it is currently lawfully operating and is not undergoing consolidation, merger, separation, dissolution or

bankruptcy; it is permitted to conduct the securities activities which it proposes to register for its branch in Vietnam; and the specialised branch regulator of the home country of such company has signed a unilateral or bilateral cooperative agreement with the State Securities Commission of Vietnam for the purpose of exchanging information and coordinating in management, inspection and supervision of securities and securities market activities.

Conditions for establishment and operation of a branch in Vietnam of a fund management company

A foreign fund management company that wishes to register establishment of a branch in Vietnam must not be in the process of consolidation, merger, demerger, dissolution or bankruptcy. It must be currently legally operating and licensed for public fund management activities; it is not a shareholder or capital contributing member owning above 5 percent of the charter capital of a fund management company in Vietnam; the branch of the foreign fund management company is only permitted to provide services of managing assets raised overseas.

The branch that the foreign fund management company proposes to establish in Vietnam must have sufficient material facilities and staff satisfying the conditions stipulated by the law on establishment, organisation and operation of fund management companies as applicable to domestic fund management companies, and must satisfy conditions on the legal capital for the branch of a foreign fund management company in Vietnam which is required to be VND25 billion and the capital contribution in order to establish the branch of a foreign fund management company in Vietnam which must be in Vietnamese dong.