COMMERCIAL FINANCE COMPANY

Technical Requirements & Establishment Procedures

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FIRM

INTRODUCTION

In-depth Legal Consulting for Finance, Tax and M&A
LOCAL INSIGHTS MEET INTERNATIONAL EXPERTISE

- A full-service law firm with a seasoned team of multi-disciplinary professionals
- in-depth understanding of the legal system, business environment, and cultural background in Vietnam.
- Offices: Hanoi and Ho Chi Minh City
- Professional staff: 25
- Languages: Vietnamese, English, Japanese, French, Chinese, Korean
INTERNATIONAL AWARDS

Legal500, Chambers & Partners, IFLR 1000 and Legalese’s Tax Director Handbook (global legal directories & ranking agencies) and international professional magazines list VCI Legal among the top law firms in Vietnam for: M&A, competition law, banking and corporate, insurance, taxation, intellectual property, investment.

Acquisition International Magazine:
• Vietnam Corporate Law Firm of the Year 2012-2014,
• M&A Vietnam Law Firm of the Year 2013,
• Real Estate Law Firm of the year 2012-2013

ACQ Global Magazine:
• Vietnam Banking & Finance Law Firm of the Year 2012-2013
• Vietnam Capital Markets Law Firm of the Year 2012-2013
• Vietnam Corporate Law Firm of the Year 2012-2013
• Vietnam M&A Law Firm of the Year 2012-2013

Financial Monthly – Law Firm of the Year 2011-2013

Corporate LiveWire – M&A Vietnam Law Firm of the Year 2012-2013
Practice Overview

Full-service business law firm with business-oriented & specialized legal services:

- In-house Counsel Service™
- Finance, Legal & Stock Market Engineering Service;
- Investment Structuring & Placement
- Legal, Insurance & Risk Management Service;
- Intellectual Properties Strategic Management Service;
- IP Enforcement Service.
Key Practice Areas

Strategic practice groups built on our “In-house Counsel Service” platform

1. Corporate | M&A | Investment Structuring;
2. Securities | Banking & Finance
3. Real Estate | Construction
4. Tax | Transfer Pricing | HR Management & Labour
5. Petroleum | Mining | Energy
6. Infrastructure
TECHNICAL REQUIREMENTS

COMMERCIAL FINANCE COMPANY ESTABLISHMENT
APPLICABLE LAWS

- The Law on Credit Institutions 2010, amended and supplemented in 2017 ("LOCI");
- Decree No. 39/2014/ND-CP on Operation of financial companies and financial leasing companies ("Decree 39");
- Decree No. 141/2006/ND-CP legal capital levels for credit institutions ("Decree 141");
- Decree No. 10/2011/ND-CP Amending & supplementing Decree 141 ("Decree 10");
- Circular No. 17/2018/TT-NHNN Amending and supplementing licensing, business network and FX operations of credit institutions and foreign bank branches ("Circular 17");
- Circular No. 30/2015/TT-NHNN of SBV licenses, organization and operation of Non-bank credit institutions ("Circular 30")
Definition

• **CFC**: A non-bank financial service company which performs the function of
  • using own capital, mobilized capital and other capital sources for lending, investment, supply of financial and monetary consultancy services and
  • several other services in accordance with provisions of LOCI.

• **3 Specialized SFC**: payment guarantee, consumer finance & leasing
  • **Leasing CFC**: a type of CFC whose principal operation is financial leasing with more detail regulations
Key CFC operations

- **Banking operations:** once approved by SBV’s on license
  - Taking deposits of **organizations**;
  - Providing loans (including loans and consumer loans);
  - Issuing credit cards, factoring, financial leasing and other forms of lending, etc.

- **Non Banking operations:**
  - Issuing deposit certificates, promissory notes, bills or bonds to raise funds from organizations;
  - Borrowing from domestic and overseas credit institutions and financial institutions;
  - Providing bank guarantee; etc.
Key Leasing CFC operations

- **Banking operations**: after obtaining SBV's approval on the license
  - taking deposits of **organizations**;
  - Extending credit in other forms.
- **Non Banking operations**: Financial leasing;
  - Lending for financial lessees & inject operating capital;
  - Issuing: deposit certificates, promissory notes, bills and bonds to raise capital from organizations.
Key Financial Transaction

- Taking deposits from organizations;
- Providing loans (amortized loans & consumer loans);
- Issuing credit cards & financial leasing;
- Providing banking, financial and investment consultancy services.
Other operations of CFC & Leasing CFC

- Receiving capital deposited by the Government, organizations and individuals for *investment in production and business projects*.
- Participating in the monetary market.
- Acting as insurance agents.
- Participating in bidding for treasury notes organized by SBV.
- Others.
Conditions of founding shareholders (Domestic Joint-stock Company)

Subjects/capacity

- At least 02 founding shareholders as organizations:
- Established according to Vietnamese law;
- profitable business for 03 straight years;
- fulfilled its tax and social insurance obligations;
- at least VND 500 billion in owner’s equity & VND 1,000 billion in total assets for 03 straight years; or
- Vietnamese commercial bank:
  - at least VND 100,000 billion in total assets,
  - Fully comply with risk management regulations
- Vietnamese individuals:
  - Have Vietnamese nationality;
  - Not banned from establishing enterprises
Conditions of founding members (Domestic LLC)

- at least VND 1,000 billion in owner’s equity,
- at least VND 2,000 billion in total assets for 03 straight fiscal years.
- In case of foreign credit institution
  - profitable business for 03 straight years;
  - at least USD 10 billion in total assets.
- Capital: At least VND 500 Billion
Other requirements

- **Charter**: Having a charter complies with relevant laws.
- **Business Plan**: establishment plan and a feasible business plan which
  - neither affects the safety and stability
  - nor creates monopoly or restrict competition or
  - create unfair competition
  within the credit institution system.
- **Personnel professional qualification**: Professional staffs with relevant qualification & professional capacity
Board of Directors conditions

- Bachelor’s degree or higher in economics, business administration or law, or
- At least 3 years as a manager of a credit institution/insurance/securities/accounting or audit business
- At least 5 years direct working in professional banking, finance, audit or accounting division

Internal Audit Committee

- Bachelor or higher degree in economics, business administration, law, accounting or audit and;
- At least 3 years working directly in banking, finance, accounting or audit.
Conditions for Management

Director General
- Bachelor’s degree/higher in economics, business admin or law;
- At least 5 years working as an executive or Director General (Director) or Deputy Director General (Deputy Director);
- At least 10 years working directly in finance, banking, accounting or audit.

Deputy Director General, chief accountant, branch director equivalent position
- Bachelor’s degree or higher in economics, business administration, law or the area in charge; or
- Bachelor’s degree or higher in a major other than the above & at least 3 years working directly in banking, finance or the area in charge
IT, facilities, equipment

- **Information Technology system**
  - comply with requirements for executive management, risk management regulations
  - E.G.: Information technology system must have the capacity for connection and integration with the management system of SBV for provision of information on request,
  - IT system support management information system effectively;
Application for License

- A written request for licensing;
- Draft Charter;
- For Joint Stock Companies:
  - Lists of founding shareholders, capital contributing shareholders;
- For limited liability companies
  - Lists of founding shareholders, capital contributing shareholders;
- Joint-venture contract;
- Capital contribution agreement between founding members;
- Application dossier shall be submitted at the SBV.
- Lead time limit for consideration/issuance of license: 180 days
Application for License

Domestic commercial banks, enterprises:
• Capital contributing members application;
• Reports on the process of establishment, operation and vision for development

Foreign credit institutions:
• Capital contributing members application;
• Written approval from competent agencies of home country
• Information about foreign company issued by competent agencies
• Credit rating document
Business project on establishment according to Cir 30/2015

- Documents proving capacity of expected Management and Control Board;
- minutes of establishment conference or the written report for the draft Charter,
- establishment project approved by the owners,
- list of expected management, control and executive titles and
- list of selected preparatory committee and preparatory committee head;
MORE QUESTIONS?

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