

“I don't need lawyers who win at all cost.
I really need them to win, but calculate the costs ”

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FINANCE – SECURITIES

NEW PROFESSIONAL ACTIVITIES FOR SECURITIES COMPANIES

Although in fact many securities companies and investors have been conducting trading activities in the same session, using margin trading or opening multiple securities trading accounts through various ways, regulations guiding such activities have not come into effect until 1 August 2011 after Circular 74/2011/TT-BTC providing guidelines for securities trading was issued on 1 June 2011 by the Ministry of Finance.

Opening multiple trading accounts

Investors are allowed to open more than one securities trading account in some certain cases, for instance, the margin trading account of the investors; or fund management companies must open separate trading accounts for themselves and each of the securities investment fund under their management; or foreign investors being securities companies incorporated offshore under the foreign law are allowed to open one securities trading account at a securities company to manage securities of their own (self-trading) and other accounts for their clients (brokerage services); or wholly foreign owned insurance companies in Vietnam participating in securities trading must open two trading accounts at securities companies: one account for the investment using funds from the owners' equities and the other for investment made from insurance premiums.

Margin trading

Securities companies are allowed to conduct margin trading after having reported to

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the State Securities Commission. Investors wishing to conduct margin trading must open, and are allowed to open, one margin trading account at each securities company at which their securities trading account is maintained.

Purchase and sale of securities in the same trading session

Investors are allowed to conduct transactions going in opposite directions (purchase/sale) of the same type of securities in one day, provided that only one account at a securities company is involved for both sale and purchase orders ; the purchase/sale order, the opposite of which has been previously

accomplished, is only executed if the resulted balance of deposit is still retained at the statutory deposit rate, and that Securities companies together with depository bank are responsible for checking the validity of the purchase/sale orders of the investors.

In addition, it should be noted that an investor is not permitted to conduct transactions resulting in no change in ownership of the securities or to simultaneously place purchase and sale orders of the same securities within a trading session using one trading account or different accounts under his/her name.

LAND**SIMPLIFYING AND DETAILING A NUMBER OF ADMINISTRATIVE PROCEDURES RELATING TO LAND**

On 20 May 2011, the Ministry of Natural Resources and Environment promulgated Circular no. 16/2011/TT-BTNMT amending and supplementing a number of provisions on administrative procedures relating to land.

The Circular shortened the timeline involved in administrative procedures relating to land; particularly the timeline for the issuance of a Land Use Right Certificate , Residential House Ownership Certificate and Certificate on ownership of other assets attached to land, to households, individuals, residential community, overseas Vietnamese entitled to own residential houses in Vietnam, shall not exceed thirty-three (33) days; or twenty-eight (28) days for a similar certificate issuance to organizations, religious groups, overseas Vietnamese, foreign organizations or individuals. Previously, under clause 1, article 12 of Decree no. 88/2009/ND-CP, the respective timeline was no later than fifty (50) days.

The Circular also specifies a list of documents required for the administrative registration procedures on changes to the land usage such as the change in name of the owner of those assets attached to land; the reduction of land area due to natural landslide; changes on the limitation of right; changes of financial obligation; changes of construction area, usage area, height, main structure, rate of house or construction works; changes of in-

formation on forest ownership right, the issuance of a Certificate to the transferee of land use right, ownership of assets attached to land in cases of division, or merger of an organization; division of a household, a group of land users or group of owners of those assets attached to land.

Individuals or organizations using land must submit the original Certificate when completing the registration procedure on the conversion, transfer, inheritance, gift, lease, sub-lease of land use right or assets attached to land, or on the mortgage, capital contribution by land use right and/or assets attached to land, the owner of which possesses a , Certificate on the Land Use Right and the Ownership of Residential House and Other Assets Attached to Land, or a Land Use Right and Residential House Ownership Certificate,, or the Land Use Right Certificate, or Residential House Ownership Certificate, or a Certificate on the ownership of construction works.

The Department of Natural Resources and Environment may issue the Land Use Right Certificate if so authorized, or submit to the People's Committee at the same level to issue Land Use Right Certificate to the organization to which the High-Tech Park or Economic Zone Authority assigns or leases the land.

This Circular shall take effect as of 5 July 2011.

LAND

APPLYING THE SIMPLIFICATION AND SPECIFICATION OF A NUMBER OF ADMINISTRATIVE PROCEDURES RELATING TO LAND IN HO CHI MINH CITY

In order to specify administrative procedures as well as ensure the conformity of the legal documents issued by the central and local agencies, the People's Committee of Ho Chi Minh City issued Decision no. 29/2011/QĐ-UBND on 19 May 2011 in part abolishing Decision no. 54/2007/QĐ-UBND of the People's Committee of Ho Chi Minh City dated 30 March 2007 stipulating the orders and procedures on the issuance of Land Use Right and Residential House Ownership Certificate, Residential House Ownership Certificate, Land Use Right Certificate in Ho Chi Minh City.

Accordingly, the People's Committee of Ho Chi Minh City abolishes the requirement of some documents on the establishment of residential houses and residential land, which are considered as the legal basis for the issuance of the Certificate as prescribed in point c of clause 2 of Article 10, clause

2 of Article 11, clause 1 of Article 12, and point c of clause 1 of Article 14 of the Decision no. 54/2007/QĐ-UBND dated 30 March 2007 of the People's Committee Ho Chi Minh City; these documents are composed of:

- Minutes of acceptance of the completed residential house work, which is ready for use;
- Minutes of acceptance of the quality of construction work;
- Minutes of acceptance of the completion of technical infrastructure construction investment and handover to the People's Committee of district level or the Department of Transport & Public Works for management and put into use.

This Decision shall come into effect after 10 days as of its signing date.

ADMINISTRATIVE

SANCTIONS AGAINST ADMINISTRATIVE VIOLATIONS IN THE ACCOUNTING FIELD

On 26 May 2011, the Government issued Decree no. 39/2011/ND-CP ("Decree 39") amending and supplementing a number of articles of the Government's Decree no. 185/2004/ND-CP dated 4 November 2004 on sanctions against administrative violations in the accounting field ("Decree 185"). In general, Decree 39 amends and supplements the following issues:

Firstly, Decree 39 increases the sanction rate for violations in accounting documents and records, accounts and accounting practice, etc. For instance, an act of forging and falsifying accounting records will be fined from VND 10-30 million instead of VND 5-20 million as previously prescribed in Decree 185. The highest sanction rate will be increased to VND 30 million from VND 20 million.

Secondly, Decree 39 defines more acts of violation which are subject to sanction, such as violation of the provision on finalization report, violation of or-

ganizing training and granting certificates on training for chief accountants.

Thirdly, this Decision empowers more officials to impose sanctions. Accordingly, finance inspectors at all levels who are on duty shall have the right to impose fines up to VND 500,000 instead of VND 200,000 as previously prescribed. The Chief inspector of the Department of Finance and the Chief inspector of the Ministry of Finance shall have the right to impose fines up to VND 30 million instead of VND 20 million as previously prescribed. In addition, Chairmen of the People's Committees of commune level shall have the right to impose fines up to VND 2 million, Chairmen of the People's Committees of district and provincial levels shall have the right to impose fines up to VND 30 million instead of VND 20 million as previously prescribed.

Decree 39 will be effective as of 1 August 2011.

ADMINISTRATIVE**AUTHORITY TO CERTIFY CONTRACTS AND TRANSACTIONS
WITHIN HO CHI MINH CITY AREA**

On 20 May 2011, the People's Committee of Ho Chi Minh City issued Decision no. 31/2011/QĐ-UBND providing authority to certify contracts and transactions within Ho Chi Minh City area. This Decision becomes effective as of 1 June 2011 and replaces Decision no. 26/2010/QĐ-UBND dated 27 April 2010 on handing over the authority to certify contracts and transactions from the People's Committees of ward and district levels to notary public organizations within the city area.

Decision no. 31/2011/QĐ-UBND stipulates the handover of the certification of all contracts and transactions from the People's Committees of district

levels to notary public organizations. Accordingly, the People's Committees of district levels shall no longer have the authority to certify contracts and transactions from the date of handover.

With respect to the authority of the People's Committees of communes, wards and towns to certify contracts and transactions, this Decision prescribes that the People's Committees of communes, wards and towns shall certify wills (including the patrimony being real estate) and other contracts and transactions (except for the contracts and transactions under the authority of the above-mentioned notary public organizations).