



# Doing Business and Getting Deals Done Compliant in Vietnam

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# AGENDA

- **OVERVIEW OF VIETNAM BUSINESS LANDSCAPE & ITS IMPENDING CHALLENGES AND OPPORTUNITIES**
- **DOING BUSINESS AND INVESTING IN VIETNAM**
- **HOW TO GET DEALS DONE COMPLIANT IN VIETNAM?**

# Overview of Vietnam business landscape & its impending challenges and opportunities

# Vietnam Economy at a glance

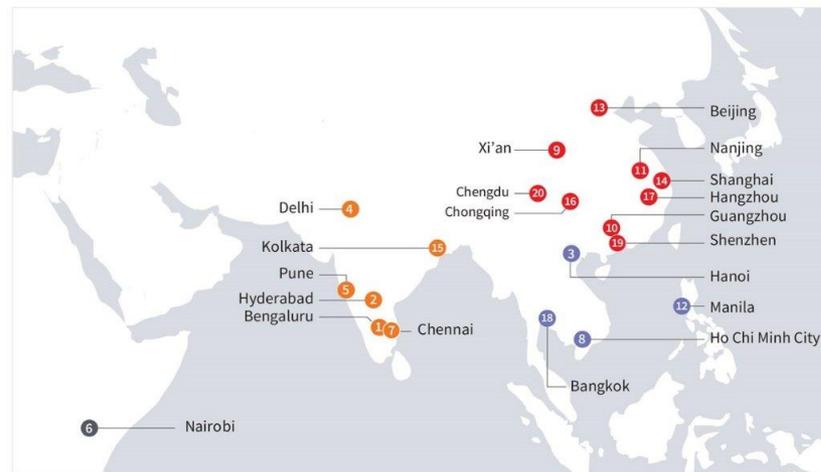


- Nominal GDP: US\$430 billion
- GDP per capita: US\$4,284
- GDP Growth in 2023 increased by 5.05%
- Inflation: 3.25%
- Population: About 98.9 million (as of late 2023)
- Labor force aged 15 and above: 59.1%
- Regional Minimum wage (Region I): VND 4,680,000 (US\$ 201.7) per month (effective from July 2022)
- Vietnam's median age: 32.8 years old

# Welcome to the most dynamic country on this planet: Vietnam!

## JLL City Momentum Index

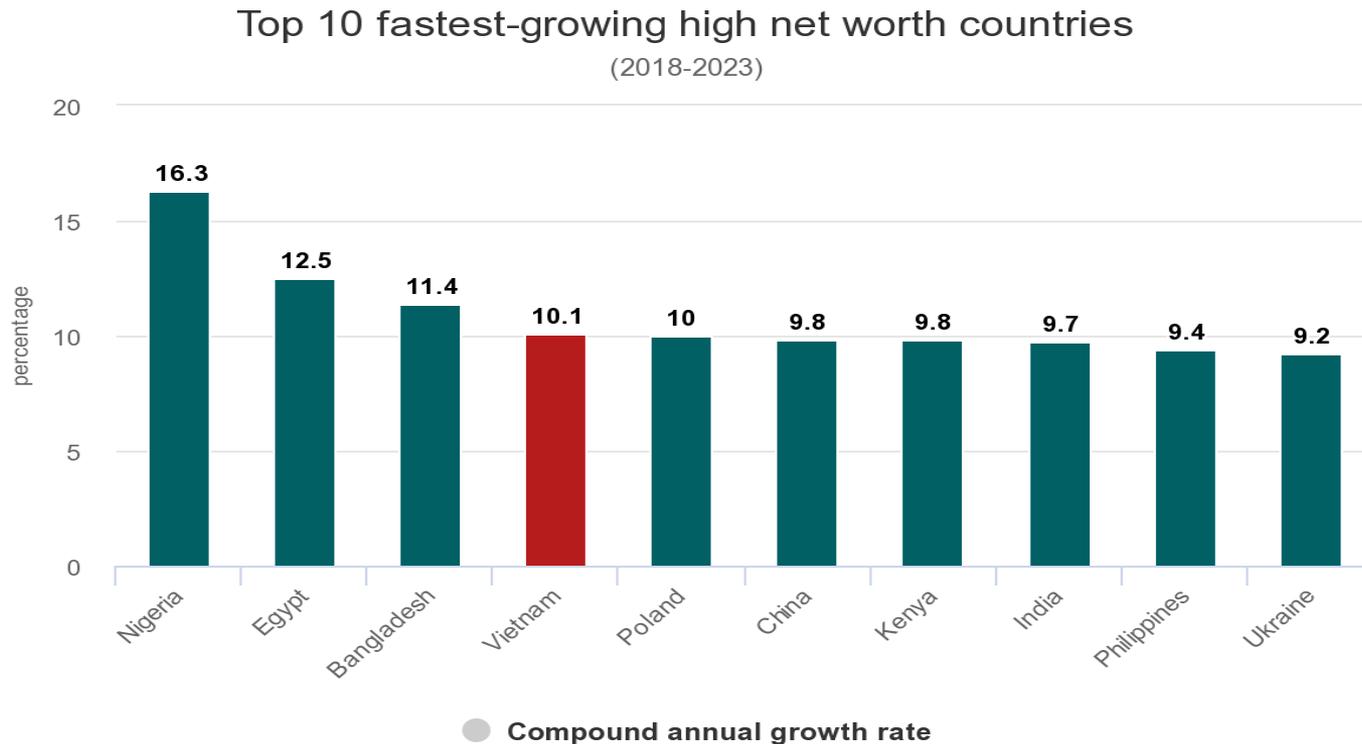
The World's Top 20 Most Dynamic Cities



1 Bengaluru	6 Nairobi	11 Nanjing	16 Chongqing
2 Hyderabad	7 Chennai	12 Manila	17 Hangzhou
3 Hanoi	8 Ho Chi Minh City	13 Beijing	18 Bangkok
4 Delhi	9 Xi'an	14 Shanghai	19 Shenzhen
5 Pune	10 Guangzhou	15 Kolkata	20 Chengdu

● India   
 ● China   
 ● Other Asia   
 ● Africa

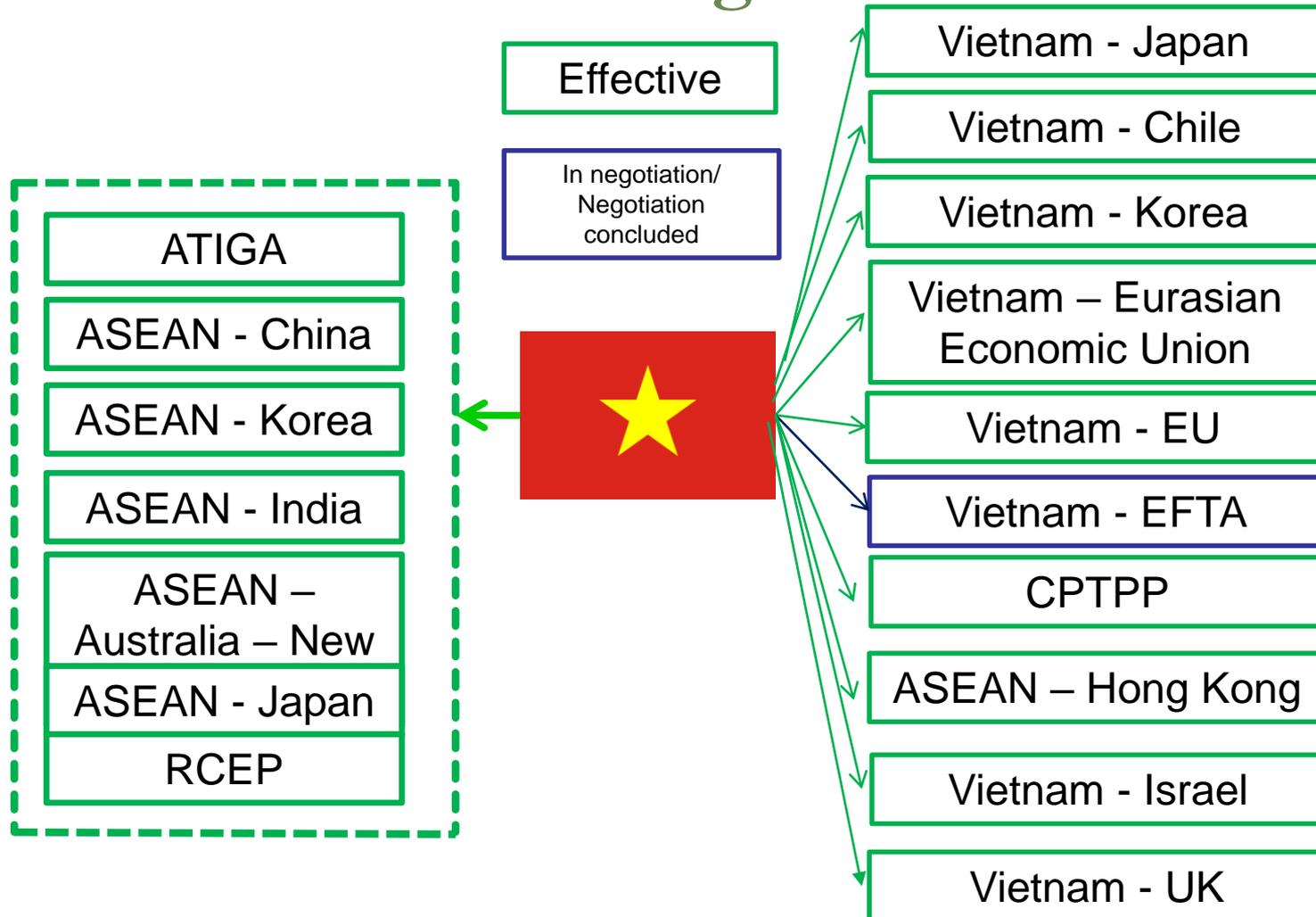
# The 4th fastest-growing high net worth country



Wealth-X (2019)

Source: High Net Worth Handbook 2019, Wealth-X

# Vietnam's Free Trade Agreements



## Vietnam's Free Trade Agreements

- Viet Nam has negotiated, signed and put into effect a number of bilateral and multi-lateral FTAs with almost all the big economies in the world.
- Of the figure, 16 FTAs involving more than 60 partners have become effective, covering all continents with a combined GDP accounting for nearly 90 percent of global GDP, making Viet Nam one of the countries in the region taking the lead in joining bilateral and multilateral economic cooperation frameworks.

## Challenges

- **Restrictions of foreign currency:**
  - Need to exchange foreign currency into VND for indirect investment in Vietnam.
  - Overall, transactions, payments, quotations, advertisements, and other forms alike should be done in Vietnamese currency.
  - The inflow of foreign currency into Vietnam has been more open with minimum restrictions. Similarly, remitting money overseas has also been less burdensome.

## Challenges (cont.)

- **Business setup requirements:**
  - Need to deal with several requirements to set up a company in Vietnam.
  - The licensing procedure can be quite challenging. Especially when engaging in some conditional business sectors.
  - In general, the procedure for creating a business usually takes about 01 months (applied for setting up companies with normal activities: trading, IT) and maybe up to 4 months (applied for setting up companies with conditional sector activities such as tourism, retail sale).

# Opportunities

- **High-growth economy plus potential market:**
  - Vietnam is one of the top countries in terms of growth and development.
  - In particular, the participation in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the EU-Vietnam Free Trade Agreement (EVFTA), and the EU-Vietnam Investment Protection Agreement (EVIPA) has brought positive values for Vietnam's market as well as foreign investments. From an international trading and investment perspective, Vietnam is unmatched when it comes to partnership and openness of market access.

# Opportunities (cont.)

- High-growth economy plus potential market (cont.):

WTO analysis of liberalization of market access

Country	Limitation of market access*	Country	Limitation of market access*
Malaysia	medium	Myanmar	high
Indonesia	medium	Cambodia	medium
Philippines	medium	Laos	medium
Singapore	low	India	high
Thailand	medium	China	medium
Brunei	high	Vietnam	low

\* Typical restrictions: number of opened sectors, JV requirement, limits on foreign-owned shares, permission requirement

## Opportunities (cont.)

- **Continuously improving legal framework:**
  - The Vietnamese Government is committed to constantly improve its legal framework and institutions related to business and investment. Important laws (Law on Enterprises, Law on Investment, etc.) are constantly amended and supplemented to keep up with the economic improvement of the country.
  - Incentives given to investors are clearly defined in the laws with many favorable incentives on taxes, relevant fee, etc.
  - New legal instruments in relation to business and investment were introduced in 2023 like the Personal Data Privacy Decree (PDPD), Power Development Plan VIII (PDP 8), etc.

## Opportunities (cont.)

- **Competitive labor cost:**
  - Vietnam has a young population and a potential workforce. Remarkably, the country's average wage cost is more competitive than the neighboring countries like China.
  - According to statistics, the manufacturing labor cost per hour in China was US\$6.5, while in Vietnam the cost is only around US\$3, half as much as that of China.
  - 60% of Vietnam's population are working age.

# DOING BUSINESS AND INVESTING IN VIETNAM

## Investment environment in Vietnam

- Main governing laws: Investment Law, Enterprise Law and their implementing documents
- Forms of doing investment in Vietnam:
  - **Economic entity establishment;**
  - **Business cooperation contract:** a contractual arrangement between two or more investors without creating a legal entity
  - **Public-Private Partnership;** a contractual agreement between competent state authorities and investors, an enterprise project in order to implement an investment project;
  - **purchase of shares** or capital contribution.

## Investment environment in Vietnam

- Forms of enterprises in Vietnam
- **Limited liability company:** members are liable to the extent of their capital contributed
- **Shareholding Company:** charter capital (authorized share capital) is divided into shares and members are liable to the extent of their capital contributed
- **Partnership:** established between two or more partners;
- **Business Cooperation Contract:** an agreement without constituting a legal entity and each party is individually responsible for paying taxes.
- **Branch:** a branch of a foreign company permitted to conduct commercial activities
- **Representative Office:** represents the parent company, no actual business operations. A suitable tool for market research

## Investment procedure under 2020 Investment Law

- Under the Investment Law and Enterprise Law: **2 separate steps** - Application for Investment Registration Certificate (“IRC”) and Application for Enterprise Registration Certificate (“ERC”)
- **Step 1: IRC**
  - IRCs for projects required to obtain preliminary approval of the National Assembly/ People’s Committee are issued within 05 working days upon issuance of such approval
  - For other projects, IRCs are issued within 15 days upon receipt of the application dossier
- **Step 2: ERC**
  - Submit an application dossier to the licensing authority upon issuance of the IRC
  - ERCs are issued within 03 working days upon receipt of the application dossier

# INVESTMENT INCENTIVES

Items	2024	
	Inside SEZ	Outside SEZ
<b>Tax rates</b>	10% for first 15 years	20%
<b>CIT Holidays</b>	04 years	2 years
<b>CIT reduction</b>	50% for subsequent 09 years	50% for subsequent 04 years

- Carrying forward losses
- Reduction or exemption of land rental, land use fee
- Incentives for enterprises employing female workers

# Personal Income Tax

- **For foreigners being resident individuals:**
  - i) being present in Vietnam for 183 days or more in one calendar year or in 12 consecutive months from the first day of entry within Vietnam; or
  - ii) having a permanent residence in Vietnam, including a place to live under permanent residence registration or a rented house in Vietnam under a term lease
- income tax regime is applied for income from business, salaries and wages with rates specified by Partial Progressive Tariff in article 7.2 of the Circular 111/2013/TT-BTC
- **For foreigners being NON-resident individuals:**
  - Income from business activities: 1% for goods trading; 5% for the service business; and 2% for production, construction, transportation and other business activities
  - Income from salaries and wages: tax rate is 20% of taxable incomes from salaries and wages

## Taxation in Vietnam

- Value-added Tax (“VAT”)
  - Tax applied to goods and services used for production, trading and consumption in Vietnam (including goods and services purchased from abroad)
  - Tax rate: 0-10% depending on types of goods and services
- Other taxes: special sales tax (applied to luxury goods or amusement places), natural resources tax, land and housing tax, etc.

## How to get deals done (1)

- Check whether the target company operates in a conditional business sector.
- Determine the total charter capital foreign investor(s) will hold in the target company (51% or more?).
- It then decides whether the foreign investor must file a registration application to the local DPI or the target company only needs to conduct procedures to change members/ shareholders at local DPI.

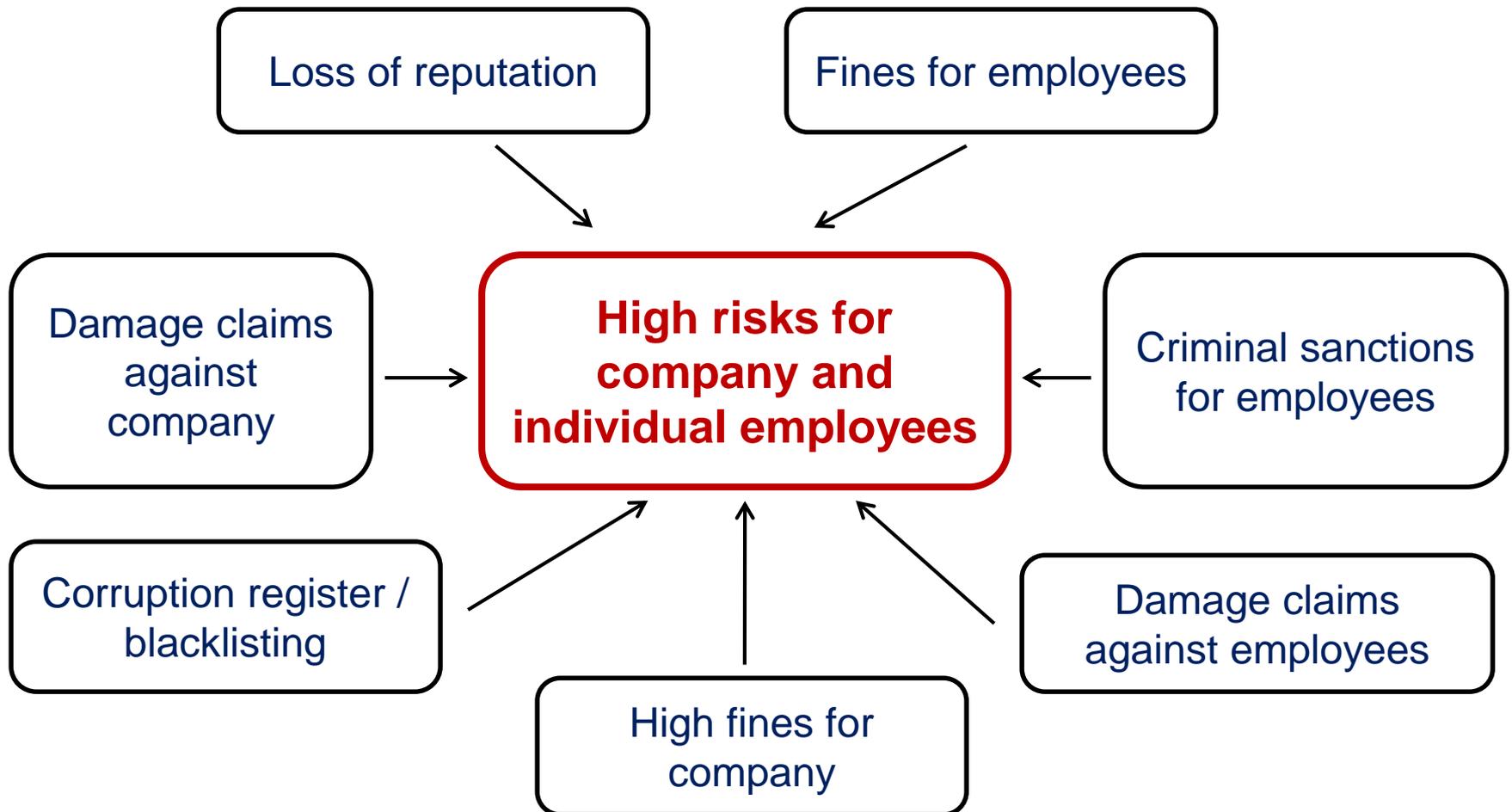
## How to get deals done (2)

- Conduct a careful Due Diligence (including legal and financial)
- Make sure all business lines of the target entity are transferred to the new entity upon the deal completion
- Note that M&A activities are administered by the Foreign Department under the Department of Planning Investment and dossiers are subject to very strict examination



# How to get deals done compliant in Vietnam?

# Why is compliance important ?



## Compliance Issues

- Competition
- Employment
- Anti-Corruption/Bribery
- Anti-Money Laundering
- Seal Management
- Record Retention
- Insider Trading
- Intellectual Property
- Promotion
- Advertisement
- Website
- Foreign Exchange
- Foreign Loans
- Tax

Et cetera . . .



# *Employment*

## Internal Labor Rules (ILR)

- Cover details on working conditions
- DOLISA registration required for legal effect
  - Without registered ILR, disciplinary actions have no “teeth”
  - Risk of wrongful termination actions



# Labor and Employment

- **Hiring foreign employees:**
  - Vietnamese entity is permitted to recruit foreign workers to work as managers, executive directors, and experts where local hires are not yet able to meet production and business requirements.
- **Unions:**
  - Vietnam allows independent trade unions to operate as opposed to currently being supervised by the state-run Vietnam General Confederation of Labor (VGCL).
  - The independent union is required to get permission from state authorities to operate.



## Pieces of advice re. employment

- Register Internal Labor Rules
- Set up the Internal Trade Union
- Make a separate civil training agreement
- Maintain the records
- Be aware of different practice of different DOLISAs and labor authorities

# *Corruption*

## Gift giving – Vietnamese culture or a crime?



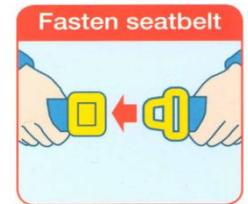
## Bribery under the laws of Vietnam

- No definition of ‘bribery’, only the act of receiving bribe is defined:  
“Those who *abuse their positions and/or power* to directly or through intermediaries receive or promise to receive any of the following benefits for himself/herself or for another person or organization as a condition *to act or not to act for the benefits or at the request of the bribe offerers* [...].
- State officials and employees are prohibited from receiving gifts that relate to the work they are in charge or whose purpose is not clear (Regulation on Gifts Giving and Receiving attached to Decision No. 64/2007/QĐ-TTg)

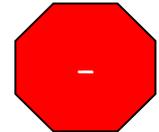
# Dealing with invitations, gifts, discounts -General aspects of invitations and gifts



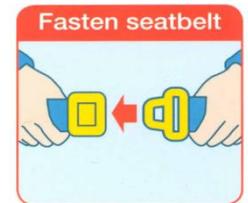
Invitations and gifts in the period before a contract award are particularly critical



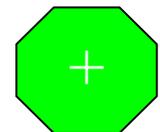
Cash gifts are strictly forbidden (exception de minimis amounts, e.g. for coffee kitty)



But: Regional customs to be considered

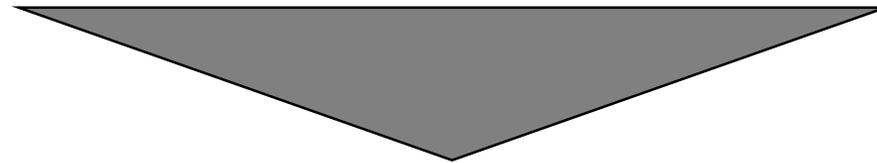


For special or unique occasions a more generous approach can be taken (e.g. company anniversary, project completion)



## Basic rule on invitations and gifts

**Transparency is the enemy of corruption.**



Employees should establish maximum possible **transparency** with regard to all invitations and gifts and in the event of doubts and misgivings

→ ask your supervisor

ask the Compliance Officer ←

*Financial and accounting records keeping /  
control*

## Tips of safeguards – Bookkeeping and financial control

- Ensure the expenditures are transparent and accurately recorded
- Obtain written confirmation that payment of expenses is not contrary to local laws;
- Provide no additional compensation beyond what is necessary to pay for actual expense incurred;
- Accurately record the expenses on behalf of the state officials.

# Record Retention Policy

## Retention terms

- **Lifetime of the enterprise:** License, certificate, approval, minutes and resolution, shareholders' profiles...
- **Definite term:** not exceeding 70 years

**Invalid documents** which include duplicate information and/or documents that are not necessary any more need to be destroyed. However, the destruction of documents must be recorded in minutes and such minutes must be saved by the company for at least 20 years from the date that they are destroyed.



## Red flags with third parties

- Excessive commissions to third-party agents or consultants;
- Unreasonably large discounts to third-party distributors;
- Third-party “consulting agreements” that include only vaguely described services;
- The third-party consultant is in a different line of business than that for which it has been engaged;
- The third party is related to or closely associated with the state officials.



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**Thank you very much!**

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