

# ***Vietnam – New regulations for trading activities conducted by foreign-invested enterprises***

***May 2013***

On 22 April 2013, the Ministry of Industry and Trade (MoIT) issued Circular 08/2013/TT-BCT detailing the scope of permitted activities relating to the sale and purchase of goods that can be undertaken by a foreign-invested enterprise (“FIE”) in Vietnam. The Circular takes effect on 7 June 2013.

According to the Circular, an FIE may only conduct trading activities that are specifically prescribed on its Certificate of Investment, business license or licenses required under other business related regulations, such as a license to operate a retail establishment.

There are a number of restrictions that specifically relate to import, export and distribution activity which should be noted. These include:

## **Import rights**

An FIE that is licensed for the right to import goods, but does not have the right to distribute goods, may only directly sell imported goods to a Vietnamese registered company.

An FIE with no right of distribution is not entitled to participate in a distribution network, unless otherwise specifically provided for by Vietnamese law or an international treaty to which Vietnam is a signatory party.

## **Export rights**

An FIE that is licensed for the right to export goods may only directly purchase goods from a Vietnamese registered company.

An FIE licensed for export may not set up its own purchasing network for export purpose, unless otherwise specifically provided for by Vietnamese law or an international treaty to which Vietnam is a signatory party.

## **Distribution rights**

An FIE licensed to distribute goods may only distribute goods imported into or produced in Vietnam in accordance with the specific provisions of its Certificate of Investment.

## **Export Processing Enterprises**

A foreign invested export processing enterprise (EPE) which benefits from investment, tax and financial incentives for its export production may not apply those incentives to its import, export or domestic distribution activities.

FIEs should immediately review their business undertakings against the scope of their licenses. This Circular may well be a precursor to increased audits and checks by the Vietnamese authorities on whether



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businesses are acting within their prescribed scope of trading activity. FIEs that are non-compliant may have their customs entries blocked by Customs.

Circular 08/2013/TT-BCT replaces Circular No. 09/2007/TT-BTM dated 17 July 2007 by the MoIT and Circular No. 05/2008/TT-BCT dated 14 April 2008 by the MoIT amending and supplementing Circular No. 09/2007/TT-BTM.

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## Contact us

If you would like us to talk to you about the impact of the above on your business, please contact your usual PwC contact, or our specialists for Vietnam:

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