

# NEW POINTS OF VIETNAM LEGAL FRAMEWORK THE PUSH OR CHALLENGE FOR M&A MARKET?

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- I. Why M&A
- II. Popular types of M&A (in real estate projects) in the market
- III. Expectations from the new regulations

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# WHY M&A?

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1. Land
2. Timing for many licensing procedures (investment, master plan, land, environment, construction, selling, etc)
3. Financing
4. Development capacity
5. Market

# POPULAR TYPES OF M&A IN THE MARKET

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# Popular ways to have LUR for real estate projects

Ways	Local	Foreign Invested
Receiving a lease from the State with land rental payment	Yes	Yes
Land allocation by the State with land use fee payment	Yes	Yes
Obtaining LUR as capital contribution by a Vietnamese individual, household, company	Yes	By Vietnamese company to a JV
Acquiring a part or the entirety of the project (attached to land) from other investors	Yes	Yes



# Popular ways to have LUR for real estate projects

Ways	Local	Foreign Invested
Acquiring land from others	Yes	NO
Leasing land from others ( <i>except for cases of land-subleasing in IZs</i> )	Yes	NO
Acquiring equity of project company having land	Yes	Yes
Acquiring assets (land and landed assets)	Yes	NO

# Asset deals

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## ■ Assets

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- Land/ LUR
- Land and landed assets
- Project (a part or the entirety, attached to land)

## ■ Key Points

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- LURC
- Infrastructure
- Limitation to foreign investors

# Asset deal – Buyer prefers

Seller	Buyer
To ensure asset be eligible for transfer	Transparent: asset valuation, asset legal status
To get all required complicated approvals for selling asset	To continue the project smoothly
To issue red invoice, declare and pay tax (usually very high, 20% CIT)	Transaction value may be fully allocated in the project costs



# Equity Deals

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## ■ Equity

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- Contributed capital/ shares in project company
- Contributed capital/ shares in holding company

## ■ Key Points

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- “**As-is where-is**” basis
- (Completed) land compensation

# Equity deal – Seller prefers

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Seller	Buyer
Simple and fast procedures (M&A Approval, ERC amended)	(Legal, Finance, Tax, Operation) DD is required Many hidden things
Tax optimized (e.g. 0.1% for individual share transfer)	Acquiring shares with (high) premium
Project to be sold on “as-is where is” basis	Must conduct continuously many licensing procedures



- Why more equity deal in the market
- Combination of asset deal and equity deal
- Asset deal/ equity deal and project financing
- Equity deal at holding company level to hold projects
- One project – one company

# Asset deal + Equity deal

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# EXPECTATION FROM THE NEW REGULATIONS

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Clear out some conflicts under Law on Investment and Law on Housing (especially for housing and township projects)

- Investment Policies (*Chấp thuận chủ trương đầu tư*)
- Investor Identification (*Chấp thuận nhà đầu tư*)
- Investment Approval (*Chấp thuận đầu tư*)

Clear steps to be done and shorten timeline for licensing

# Investment procedures

# Amendment of investment projects

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**More workable options  
for M&A transactions**

To transfer a part or entirety of project

To merge projects

To split, separate one project into more projects

To contribute LUR, landed assets belonged to project to establish company/cooperative



## More conditions for M&A applicable to foreign investors

- Conditions relating to defense, security
- Land in islands, in border/coastal communes, wards or towns, other areas which may have affect on defense, security

# Merger Filing requirement

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## ■ Economic concentration

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- Merger
- Consolidation
- Acquisition
- Joint venture
- Others



# Merger Filing requirement

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## ■ Notification Thresholds

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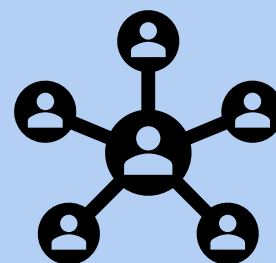
Criteria	Thresholds
Total assets in Vietnam market	≥ VND 3,000 billion
Total revenue in Vietnam market	≥ VND 3,000 billion
Transaction value	≥ VND 1,000 billion
Combined market share	≥ 20% of the relevant market

# Others

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Investment through  
local nominees



Set up 03-layer  
companies to “hide”  
foreign invested status



Auction and bidding



# THANK YOU

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