

REPORT OF GOVERNANCE & INTEGRITY WORKING GROUP

*Presented by
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The Governance and Integrity Working Group has had a busy year. We successfully collaborated with Towards Transparency and the Centre for Social Governance Research (CENSOGOR) on a research project that provides a snapshot of high risk business behaviors investors face in Vietnam and then on two workshops to share the results of and discuss that work with Government counterparts and other stakeholders. The research results identified that while corruption risk remains a growing challenge for investors doing business in Vietnam, more and more companies are investing in training, best-practice codes of conduct and, most importantly, oversight and enforcement of the same. This illustrates the increasingly-common understanding that clean business is not simply ‘nice to have’ but makes positive economic sense. Many participants agreed that any perceived short-term costs associated with business integrity are in fact outweighed by long-term business benefits. Integrity and trustworthiness have become increasingly important keys to global integration and competitiveness.

With this in mind, the G&I WG again calls on the Government to speed up finalization of the amended Penal Code with inclusion of the previous terms criminalizing bribery involving non-State entities and persons. This, together with appropriate oversight and enforcement, will send an important message and will bring Vietnam into line with most of its regional neighbors and OECD countries. At heart, the goal is to improve the competitiveness of the private sector in Vietnam, and particularly of small and medium-sized enterprises who need and deserve a level playing field to succeed.

For our part, the C&I WG will continue to work with partners to develop tools and best practices for companies to manage risks in Vietnam and look for opportunities to engage with the Government to support its anti-corruption and business integrity initiatives.

Also central to leveling the playing field is strong corporate governance. Corporate governance is most often associated with large and public companies, however small and medium-sized businesses and their investors also benefit. Strong corporate governance is beneficial for companies, their stakeholders and the economy as a whole. Benefits include high levels of transparency and efficiency, the ability to attract strong management, less corruption and greater sustainable profitability.

Business integrity married with strong corporate governance are twin pillars to enhancing Vietnam’s reputation and attracting more investment dollars interested in long-term sustainability and not only quick profits at the expense of the greater good.

With this in mind, the G&I WG will participate in the new National Advisory Council on Corporate Governance, part of the Vietnam Corporate Governance Initiative. Jointly led by the State Securities Commission and the International Finance Corporation, the Advisory Council has a number of short-term goals including working on a Corporate Governance Code for listed companies. It will

also engage with the ADB's ASEAN Corporate Governance Scorecard initiative to quantify and enhance Vietnam's corporate governance standards.

Business integrity and corporate governance cannot be addressed in isolation however. They must be considered in a cohesive and coordinated manner together with other policy and legislative measures. For example, the G&I WG supports both the concept of formal fast-track administrative procedures – paying higher official service fees in return for a more certain timeline and a proper receipt – and higher, more effectively punitive penalties for breach of regulations, particularly those that impact transparency and integrity issues of under the table payments. There are a number of examples where existing penalties are too low to be an effective deterrent and we urge the Government to assess this.

For example, Decree 108/2013 provides for maximum monetary fines of just VND100 million for breach of corporate governance rules by senior managers and board members of public companies. This is too low to be an effective punishment for what could be serious misconduct and it should be increased. Re-examining penalties like this will both help the Government achieve its legislative and policy goals and fairly generate revenue for the State.

Additionally, limiting use of cash in transactions would contribute to tackling corruption. While there are currently laws limiting the ability of State agencies and State-invested companies to use cash to make transactions, there are no corresponding restrictions on receiving cash. We recommend changing this and also putting in place a blanket ban on using cash for transactions above a certain threshold.

Finally, the G&I WG calls on the Government to speed up the process of aligning the Vietnam Accounting System with the international financial reporting standards. Just as importantly, we also call on the Government to widen the scope of companies subject to VAS reporting and compulsory audits. At present, only listed companies, State-owned companies and foreign-invested companies are subject to compulsory external audit obligations, and such audits are often used as another avenue to collect illegal payments. The current rules leave hundreds of thousands of private domestic companies outside the scope of effective accounting oversight and, as a consequence, the door open to fraud and misreporting. The impact is felt both on the State budget which is missing out on what it is due and by foreign-invested companies that are at a disadvantage competing with domestic firms not subject to the same level of oversight and control.

The G&I WG proposes that the rules for compulsory external audits of private companies be revamped along international standards to focus not on the nationality of ownership but on the total asset size or turnover of the entity. Such a change would help redress the current imbalance between competing entities, enhance efficiency of the market and boost State coffers without overly burdening young or small entities.

We look forward to continue to work with both the Government and private sectors to grow the level of good governance and integrity in the business environment in Vietnam.