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Vietnam: Equitisation of Mobifone

Equitisation in Vietnam involves converting State Owned Enterprises ("SOE"s) into joint stock companies with a portion of the shares being sold at public auction or to strategic investors. Equitisation is an important component of the restructuring of the Vietnamese economy. This briefing provides an overview of equitisation in Vietnam and specifically looks at the equitisation of Mobifone with a focus on the key issues that potential investors should be aware of.

Mobifone spin-off

In April 2014, the Prime Minister instructed the preparation of a restructuring plan to spin off Vietnam Mobile Telecom Services Company ("VMS" or "Mobifone") from Vietnam Ports and Telecommunications Group ("VNPT") to be an independent company under the direct control of the Ministry of Information and Communication ("MIC"). The spin-off was completed on 10 July 2014 under Decision 877/QD-BTTTT dated 27 June 2014 of the MIC. The second phase of the restructuring plan is to resume the equitisation process of VMS.

IPO in 2015

Following the spin-off of VMS from VNPT, the MIC is responsible for proposing the equitisation plan of VMS to the Prime Minister for approval in 2014 and to arrange an IPO in 2015.

Equitise up to 25%

- Although the equitisation plan has not been published by the MIC, it appears from Decision 37/2014 of the Prime Minister that the State will hold more than 75% of the charter capital of VMS given its key role in the communications sector as a telecom facilities based operator. As such, whilst VMS would be permitted to equitise up to 25% of the company's share capital, it is not yet known what the size of the sale to public investors will be, although it is expected that an offer to employees and private investors may be made prior to the sale to strategic investor(s).
- In addition to the valuation, the equitisation plan would be expected to name the selection criteria and shortlisted strategic investor candidates, if any.

Equitisation in Vietnam

- Equitisation is the process of converting a 100% SOE into a joint stock public company with a more diversified ownership base. The process of converting SOEs into shareholding companies is currently regulated by Decree 59 of the Vietnamese Government dated 18 July 2011, as amended by Decree 189 dated 20 November 2013 (collectively "Decree 59").
- To date, the equitisation process has generally involved the majority of shares in each newly established shareholding company being retained by the State, with a small portion sold at public auction to public investors, sold to employees of the SOE, and/or to selected strategic investors. Strategic investors are defined broadly to mean domestic and foreign investors with financial capability, who are committed to a long-term interest and who can support the equitised enterprises by new technology transfer, human resource training, development of financial capability, enterprise management, supply of materials and/or development of consuming markets. Successful precedent equitisations include those of the Vietnam Dairy Products Joint Stock Company ("Vinamilk"), Vietnam Insurance Corporation ("Bao Viet"), Hanoi Brewery Corporation, PetroVietnam Finance Company and Vietnam Bank for Foreign Trade ("Vietcombank").

Attractive environment for strategic investors

The issuance of Decree 59 in replacement of the earlier legislation has provided a consistent legal framework to create an attractive environment for strategic investors. Notably, under Decree 59 only State-owned enterprises with State capital exceeding VND500 billion (equivalent to US$23.58 million) and conducting business in specialised sectors (such as insurance, banking, communications, aviation and rare mineral exploitation) and who seek to select a strategic investor in advance of a public auction, are required to report to the Prime Minister for approval of the equitisation plan. In other cases, the relevant Ministries or People's Committee levels approve the equitisation plan. Decree 59 also sets out the mechanism for selection of investors even before the public auction, whereby the Prime Minister will decide the criteria to select the strategic investors, sales method and number of shares to be sold to strategic investors, applicable to SOEs with capital of more than VND500 billion in certain specific sectors (including, among others, telecommunications services). The number of strategic investors in each equitised SOE is now limited to three, who are subject to a 5-year lock-up period, except to the extent a transfer of shares is approved by the General Meeting of Shareholders of the equitised SOE. For the purpose of equitisation, most of the SOEs must be evaluated by licensed valuation organisations.

The sale price for strategic investors will be determined subject to the particular sales mechanism as explained below.

Before public auction

In the case of a direct agreement before a public auction, or an auction amongst strategic investors satisfying the criteria and registered to purchase shares prior to the conduct of the public auction, the price shall be the price agreed between the parties (in the case of an agreement) or the successful auction price (in the case of an auction amongst strategic investors). The price must not be lower than the commencement price approved by the body authorized to make the decision on the equitization plan.

After public auction

For a sale of shares to strategic investors after the public auction, the sale price will be agreed by the parties but must not be lower than the lowest successful bid at the public auction.

Process for the equitisation of Mobifone

Equitisation will see VMS converted from a wholly State-owned enterprise to a shareholding company (a joint stock company). The Prime Minister has decided that the State will hold 75% charter capital of major enterprises in the telecommunications sector, therefore 25% will be sold at public auction, sold to VMS's employees, and/or to strategic investors. The equitisation of VMS will be governed by Vietnamese law and specifically Decree 59 and its implementing Circular 127 of the MOF dated 5 September 2014.

Circular 127 details the steps required for conducting the equitisation process. The Prime Minister has directed the MIC to propose the VMS equitisation plan for approval in 2014. Although the MIC appears to have not proposed the equitisation plan to the Prime Minister, it is understood that the current intention is for the equitisation to be completed in 2015.

Key Issues for potential investors

Issues that need to be considered by potential investors include:

VMS related issues

- Increased competition from other communications operators. According to the official information reported by MIC, the market shares for 3G mobile phone service providers in 2013 are respectively: Viettel (44.05%), Mobifone (21.4%), VinaPhone (19.88%), Vietnammobile (10.74%), GMobile (3.93%) and SFone (0.01%).
- Separation of its activities and assets from the State's.
- According to public unofficial reports, VinaPhone may hold up to 20% of the shares of VMS after equitisation. It should be noted that, after the split, VinaPhone will also be a competitor to VMS in the telecommunications service sector.
- Shares of VMS will likely be considered as blue chip on Vietnamese stock exchange. The competition between potential investors might be stiff.
- The Vietnamese stock markets have fallen since May 2014. The IPO of Mobifone at the offering price of VND22,500 per share might not attract stock investors, which might result in a decrease of the stock price after the IPO.

General issues

- The State's continuing control and whether VMS's management will act solely on a commercial basis or be subject to political factors.

- The State's intention regarding its controlling interest.
- The equitisation agenda has not yet been published.
- The equitisation process is complicated (e.g. the registration procedure for the amendment of investment certificates/business registration certificates arising from an assignment of an equity interest is not clear).
- Transparency (especially in terms of company valuation and the availability of information). We note that the valuation of Vietnam Airlines for equitisation by two valuers resulted in two different values. In this case, the Government will have the power to decide the enterprise value for equitisation.
- Potential for the process to stall or fail.

Competition Law:

- Communication services activities are subject to the Competition Law, which legislates against dominant market positions and monopolies
- "Economic concentration", as a consequence of a merger, consolidation, acquisition of or joint venture between enterprises or other forms of economic concentration is prohibited if it results in the new entities combined market accounting for more than 50% of the relevant market. Approval must be sought from the MOIT if it results in a 30% to 50% share of the relevant market.

Background to Mobifone

VMS is a wholly state owned company which used to be under the control of Vietnam Posts and Telecommunications Group (VNPT) (since 1993). It was the first mobile communication operator of GMS 900/1800 under the brand Mobifone. VMS is Vietnam's second largest mobile communication operator, holding a 21.04% share of the market.

In 2009, Mobifone was valued at US$2 billion by Credit Suisse in the initial effort of equitisation, which did not go through. This value is believed to have increased due to the profits and revenue of VMS in recent years. In 2013 it made a pre-tax profit of VND6 trillion (approximately US$285.7 million) on revenue of VND41 trillion (approximately US$1.95).

If you have any questions in relation to the issues raised in this briefing please contact the authors below.

Table of the VMS (Mobifone) Equitisation process

	Prime Minister	
	In Principle Approval for Equitisation (2014)	
Selection of financial advisor	Decision – Establishment of Equitisation Steering Committee	Steering Committee MOF MIC MPI VMS
	Equitisation Plan (with criteria for Strategic Investor Candidates) and Valuation Proposal for Submission to MOT and the Government	
	Decisions - Approval of Equitisation Plan and Valuation	
	Prior Sale of Shares via Auction or Negotiation with Strategic Investor Candidates	

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