



## Fundraising Activities by Not-for-Profit Organizations Under Vietnamese Law

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### Overview: Legal Framework for Fundraising

## Vietnamese NPOs: As contemplated by Law

- **No “Common” Legal Definition, Status or Scheme:** Vietnamese law does not use or define the term “NPO” (or any related term) as a “classifier” for organizations and, consequently, NPOs (as defined below) do not enjoy a fully unified legal and regulatory scheme.
- **Forms of NPO under Vietnamese Law (de jure and de facto)**
  - Social relief organizations (Decree 68-2008, Decree 81-2012)
  - Social and charitable funds (Decree 30-2012)
  - (Non-profit) Associations (Decree 45-2010, Decree 33-2012)
  - Scientific and technological organizations (“STOs”) (Decree 08-2014)
  - International non-governmental organizations (Decree 12-2012, Decree 93-2009)
  - Unlicensed NPOs (not recognized by law, such as volunteer groups)

## NPO Fundraising Activities: General Comments

- **Legal Issue:** NPOs must raise funds to exist; however, Vietnamese law does not define “fundraising activities” or provide detailed guidance on legally permissible forms of fundraising. As a consequence, an NPO’s fundraising activities exist under a “**Regulatory Risk Spectrum**” (i.e., from **Legal Comfort—to—Legal Ambiguity—to—Legal Risk**).
- **Legal Comfort (direct unsolicited donations):** Vietnamese law is clear that all domestic NPOs are permitted to fundraise with funds contributed directly by NPO members, domestic and foreign organizations and individuals, and foreign aid organizations.
- **Legal Ambiguity (fundraising campaigns):** It is not clear under Vietnamese law whether STOs, Associations and INGOs may actively campaign for donations, whereas Vietnamese law is perfectly clear that Social and Charitable Funds and Social Relief Organizations may actively campaign organizations and individuals for donations.
- **Legal Risk (events and business):** NPOs organizing cultural events or conducting business (or otherwise engaging in any activity that is regulated in Vietnam) are subject to the same regulations as all other organizations and persons in Vietnam (and, relative to other jurisdictions, Vietnam heavily regulates public events and business activities – although not as stringently as it regulates NPOs).

## **Preliminary Observations and Recommendations for Fundraising under the Regulatory Risk Spectrum**

Until Vietnamese law provides more clarity on the extent and limits of NPO fundraising activities, NPOs must rely on:

- (1) Regulatory Practice (i.e., the regulator's consistent interpretation of the law, when available);
- (2) Institutional experience;
- (3) Shared and credible experiences (e.g., LIN Memos to be updated from time to time);
- (4) Building consensus-based relationships with regulatory stakeholders; and
- (5) Moving the bar of "regulatory practice" (and hopefully the law) forward towards consistency and clarity by combining the first four approaches with coordinated advocacy.

**Thank you.**