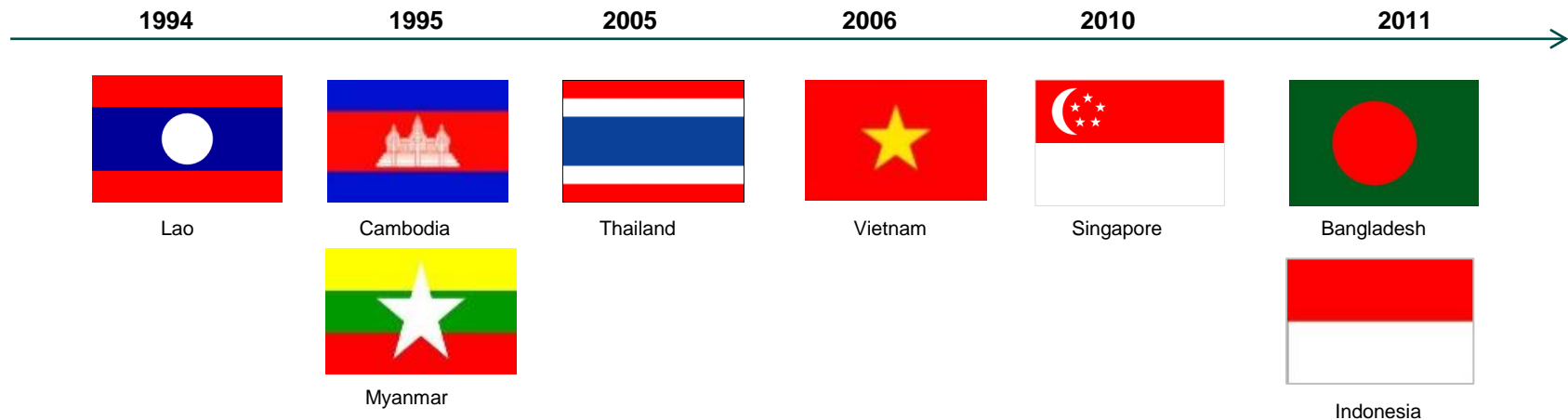




InfoDev workshop for tech startups
“INCORPORATION STRATEGY FOR TECH STARTUPS”

Hồ-Chi-Minh-City, VIETNAM
28th September 2013

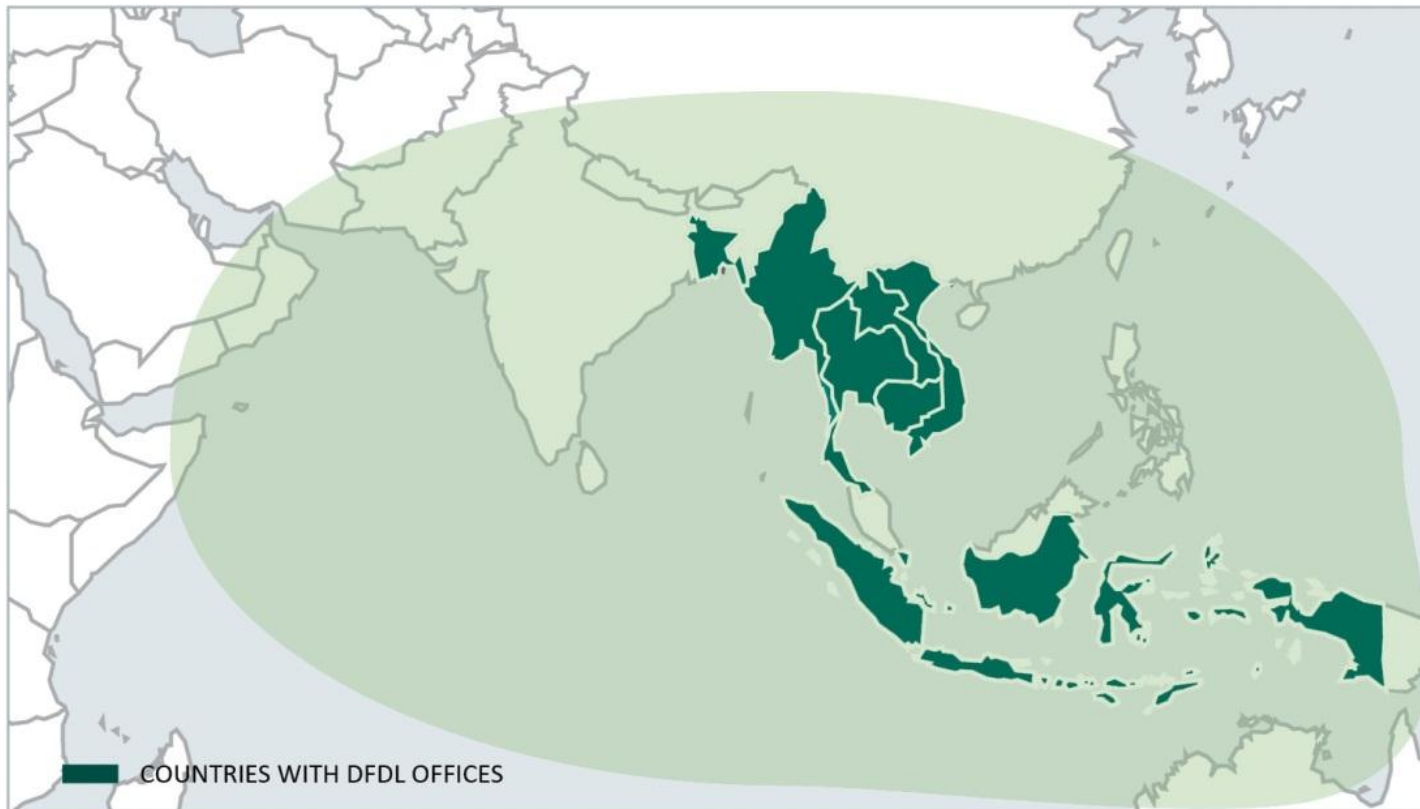
“We are pioneers in emerging markets”



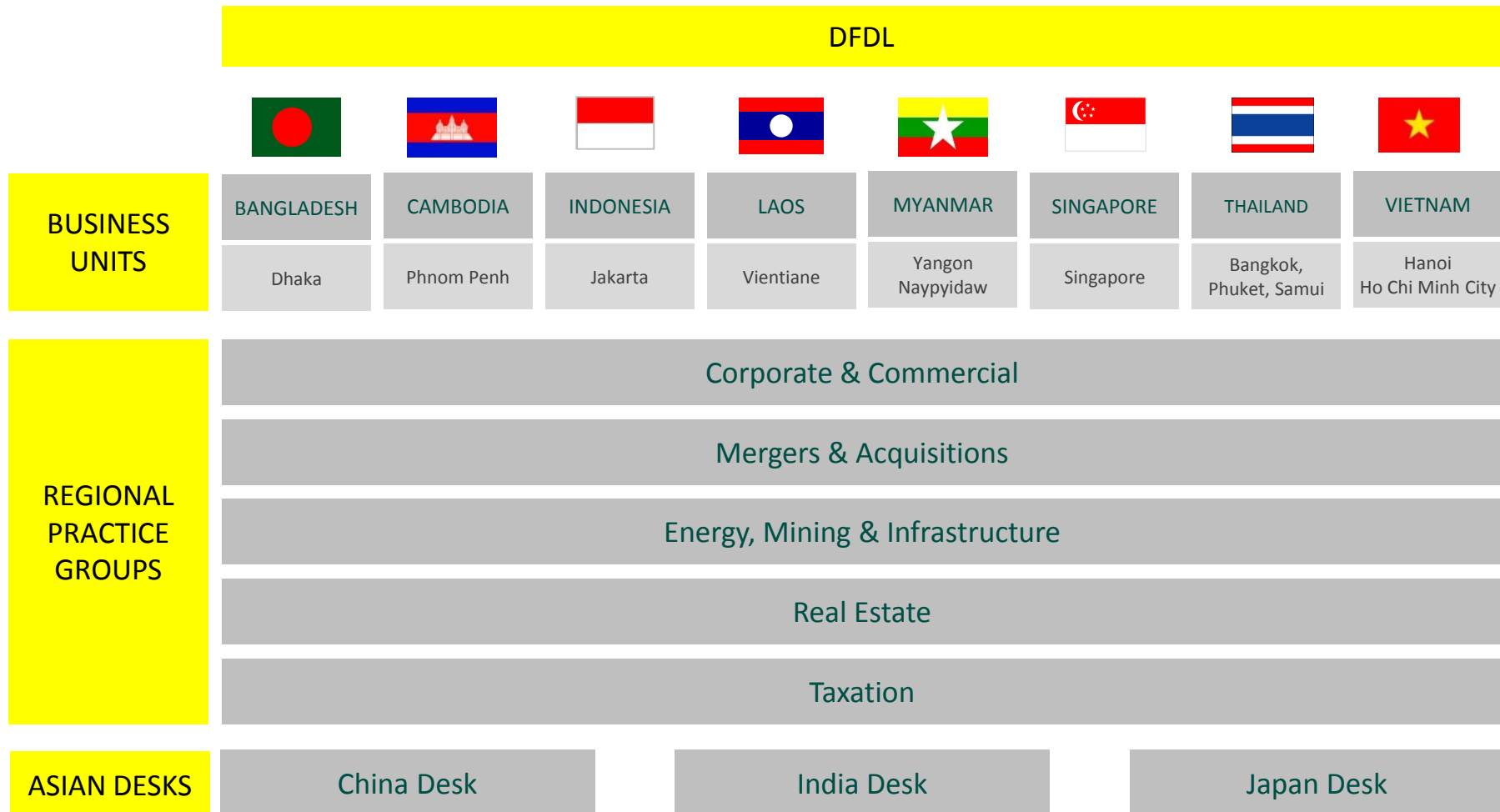
Our Strategy

Not “Go Where our Clients Go”, BUT “Go BEFORE you Go”.

From Southeast Asia to the Middle East



- **250 staff**
- **120+ advisers**
- **8 countries**
 - Bangladesh
 - Cambodia,
 - Indonesia*
 - Myanmar
 - Laos
 - Singapore
 - Thailand and
 - Vietnam
- **12 offices**
 - Dhaka
 - Phnom Penh
 - Yangon
 - Naypyidaw
 - Vientiane
 - Jakarta
 - Bangkok
 - Koh Samui
 - Phuket
 - Hanoi
 - Ho Chi Minh City
 - Singapore



Our clients

From local entrepreneurs, international financial institutions, private equity institutions to global top 100 multinational corporations





Project Finance

Deal of the Year



Myanmar

Law Firm of the Year



Emerging Markets

Law Firm of the Year



2010 | 2011 | 2012 | 2013

Tier 1
General Business Law

Myanmar
Cambodia
Lao



2010 | 2011 | 2012 | 2013

Tier 1
Tax

Vietnam



2013

Tier 1
Financial & Corporate

Myanmar



Regulated by Vietnam's law on enterprises:

- **LLC** = Limited Liability Company
- **JSC** = Joint Stock Company
- **Partnership**
- [**Private enterprise** = owned by one individual who shall be liable for all activities of the enterprise to the extent of all his or her assets. Each individual may only establish one private enterprise]

What should you ask yourself first?

- Alignment of interest with your partners?
- Money available/needed now vs. in 3m, 6m, 1y?
- Do you want/do you need outside investors? Now? in 3m, 6m, 1y?
- Where are your partners/investors?
- Giving away equity vs. debt?
- IPO/listing down the line? Where?

Types of legal corporate entities available

	Required numbers of members	Required capital	Members' shares	Members' Liabilities
LLC	1-member LLC, or multiple member LLC (2 to 50 members)	Determined by the members	A portion of the contributed charter capital	Liable for the debts and other property obligations of the company only within the amount of capital contributed to the enterprise
JSC	3 shareholders minimum	Determined by the shareholders	A percentage of shares	Liable for the debts and other property obligations of the company only within the amount of capital contributed to the enterprise
Partnership	2 partners minimum	Determined by the partners	A portion of the contributed charter capital	Unlimited (to the extent of all of their assets) or limited liability (as above)

Which structure suits you best?

	Advantages	Disadvantages
LLC	<ul style="list-style-type: none">▪ Possible conversion to a JSC▪ Corporate governance structure is relatively simple	<ul style="list-style-type: none">▪ Assignment of the capital may be done in limited circumstances and such procedure may involve onerous administrative procedures
JSC	<ul style="list-style-type: none">▪ Ability to mobilize the capital through the issuance shares▪ Ability to issue multiple classes of shares▪ Freely assign shares	<ul style="list-style-type: none">▪ Corporate governance structure is more complex than a LLC
Partnership	<ul style="list-style-type: none">▪ Corporate governance structure is relatively simple▪ Suitable for small structures	<ul style="list-style-type: none">▪ Risky when unlimited liability partnership (personal assets involved)▪ Unusual

	Management structure	Required license	Eligible for foreign and local investors	Accounting
LLC	Members' Council (MC), Chairman of the MC, and one General Director (GD)	Registration with the provincial department of planning and investment	Yes	Required to comply with Vietnam Accounting standards
JSC	General meeting of shareholders (GMS), Board of management (BOM) and General director (GD)	As above	Yes	As above
Partnership	Partners' Council (PC), Chairman of the PC, general director (GD) or director	As above	Yes	As above

Documents required to apply for a certificate of business registration (BRC) for a Vietnamese company

Timeline

- **request for business registration** in the standard form published by the authorized business registration body;
- **charter** of the company;
- **list of members/shareholders/partners** and ID documents;
- **practicing certificates** of the director or general director and other individuals in respect of enterprises conducting lines of business for which a practicing certificate is required by law.

10 working days
from receipt of
complete dossier
by licensing
authority

NOW (current legislation)

General CIT rate: 25%

Tax incentives apply to:

- ✓ Newly established enterprises

Only few companies (restrictive list) in 'Sciences and Tech' benefit from incentives

Incentives:

- ✓ CIT rate: 10% for 15 years
- ✓ 4 years tax exemption + 50% reduction of CIT payable for a maximum of 9 years

TOMORROW (new legislation effective from Jan 2014)

General CIT rate: 22% (20% from 2016)

Tax incentives apply to:

- ✓ New investment projects
- ✓ Expansion projects

The list of 'high tech' enterprises entitled to the incentives considerably extended

Incentives (no change):

- ✓ CIT rate: 10% for 15 years
- ✓ 4 years tax exemption + 50% reduction of CIT payable for a maximum of 9 years

From 1 January 2014:

- Income from new investment projects in areas with especially difficult socio-economic conditions: economic zones, high tech zones
- Income from newly-invested projects in scientific research and technological development, application of high-tech as specified; high-tech incubation and high-tech incubator enterprises; venture investment in the development of high-tech as specified; investment in construction and commercial operation of high-tech incubation and high-tech incubator enterprises; investment in development of specially important state infrastructure
- Income of agricultural enterprises that use high-technology

Tax incentives applicable to investment expansion

Entities currently operating in areas and business sectors that grant tax incentives may choose:

- Keep tax incentives according to currently operating projects for the remaining period (if any); or
- Apply a tax exemption or reduction on any incremental income.

What is 'High Tech'?

Definitions under the Law on High Technologies:

- ✓ An high-tech enterprise means an enterprise turning out high-tech products, providing high-tech services and conducting high-tech research and development activities.”
- ✓ High technology means a technology which has a high scientific research and technological development content; is integrated from modern scientific and technological achievements; can turn out environmentally friendly products of superior quality and utilities and high added value; and plays an important role in the formation of a new production or service industry or the modernization of an existing production or service industry.
- ✓ Hi-tech activities means hi-tech research, development, seeking, transfer and application; hi-tech human resource training; hi-tech incubation or hi-tech enterprise incubation; hi-tech production and hi-tech service provision; and hi-tech industrial development activities.
- ✓ Hi-tech product means a product turned out with high technology, which is environmentally friendly and has superior quality and utilities and high added value.”

- ✓ Manage the expectations of your partners , investors, bankers/lenders
- ✓ Document it well
- ✓ Compliance, compliance, compliance (regulatory, tax, corporate, contracts, HR)

Thank you



Jerome BUZENET

*Partner; Managing Director, Vietnam
Head of Regional M&A Practice Group*

Jerome.buzenet@dfd.com

Excellence · Creativity · Trust

Since 1994