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PRIVATE EQUITY SURVEY 2018

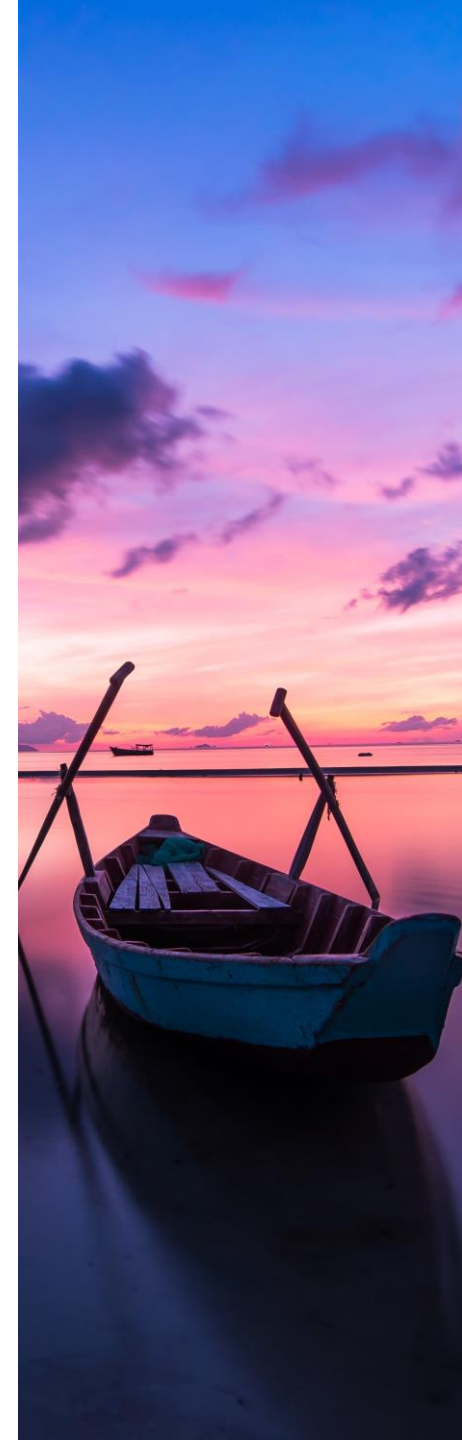
Structuring Private Equity Investments

HKBAV & BBGV

6 June 2018

AGENDA

- BACKGROUND
- SOME PRELIMINARY THOUGHTS FOR BUYERS AND SELLERS
- INVESTMENT / ACQUISITION STRUCTURES
- OTHER CONSIDERATIONS



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BACKGROUND

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- Investment climate
 - Role of the foreign lawyer is to work together with the “real” lawyers and try to make sense of it all
- Twin track
 - Normal transaction procedures
 - Regulatory and licensing procedures
- Improvement of investment environment
 - New laws and implementing provisions
 - Streamlined procedures



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SOME PRELIMINARY THOUGHTS FOR BUYERS AND SELLERS

SOME PRELIMINARY THOUGHTS FOR BUYERS AND SELLERS

- Alignment – speaking the same language
 - Do both parties understand each other?
 - Valuation methodology
 - Exit considerations
 - Ongoing management / post-merger integration
- Can it be done – regulatory considerations?
 - Some conditions apply to foreign investors
- But let's assume... that the hard work has been done and you need to structure a deal... what is the best approach?



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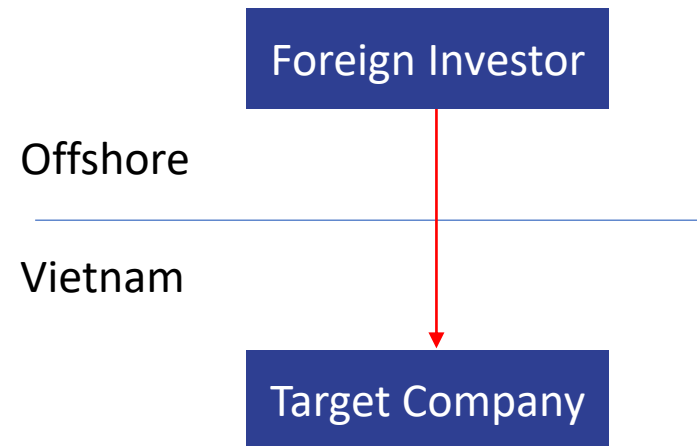
INVESTMENT / ACQUISITION STRUCTURES

KEEPING IT SIMPLE

- Traditional approach
 - Investor buys capital contribution from seller
 - Subscribe for capital contribution in target company
 - Convertible loan

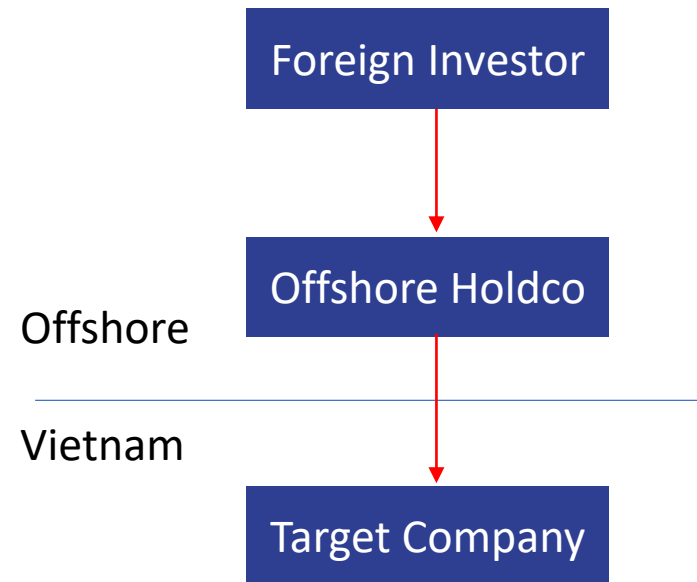
- Exit
 - Exit by selling onshore capital contribution

- Issues
 - While this approach may appear simple, parties often decide to interpose an entity: sometimes onshore, sometimes offshore sometimes both



INTERPOSING OFFSHORE

- Preferred legal framework
 - More flexible legal structure
- Exitability
 - Simpler process, but tax considerations (see below)
- Ring-fence liability
- Issues
 - Restructuring local shareholders offshore
 - Naughty but nice

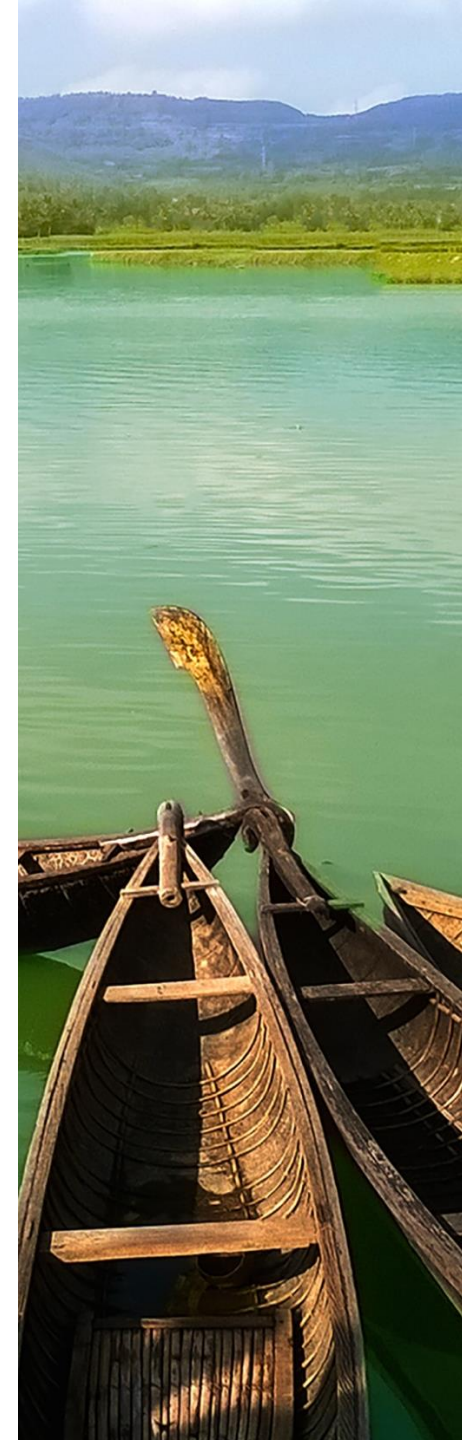
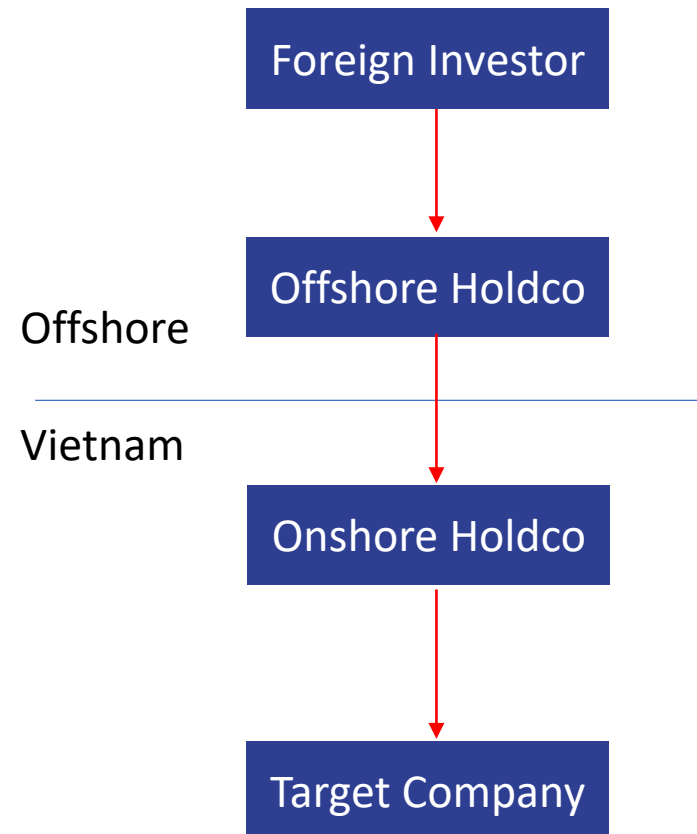


INTERPOSING ONSHORE HOLDCO

- Multiple onshore business activities
 - Ring-fence liability

- Consolidated onshore financing
 - Debt financing
 - Equity financing

- Onshore Employee Stock Ownership Plan (ESOP)
 - Issuance of local management shares (if JSC)

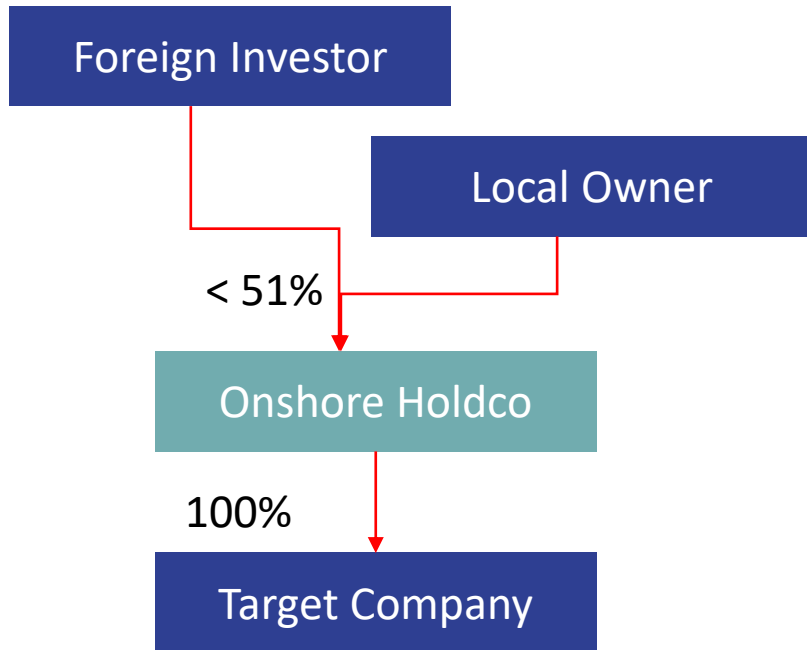


WHAT'S THE PROBLEM WITH CONDITIONAL SECTORS?

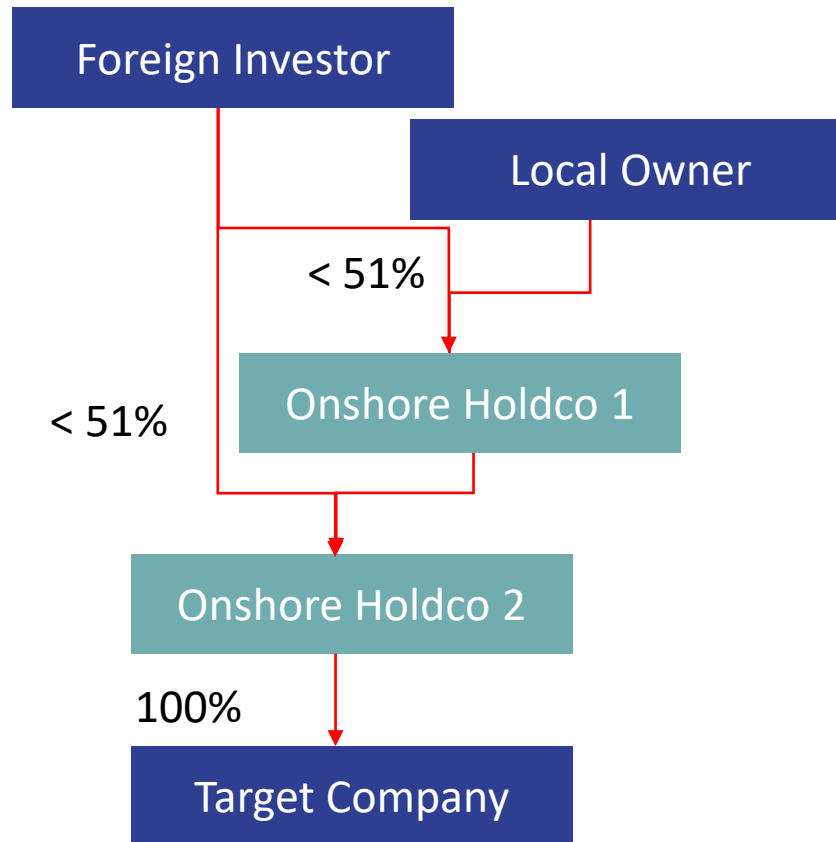
- Certain conditional sectors place restrictions on foreign ownership
- Investment Law 2014 seems to allow certain work around structures as the following is deemed to be domestic investor



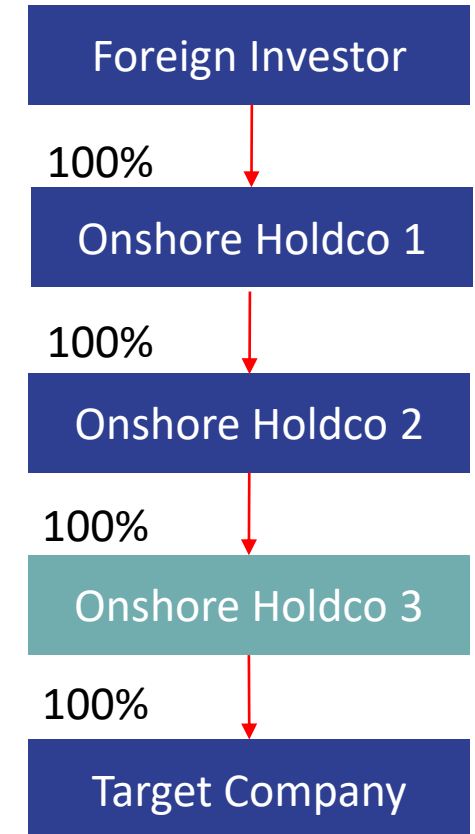
51% Shareholding



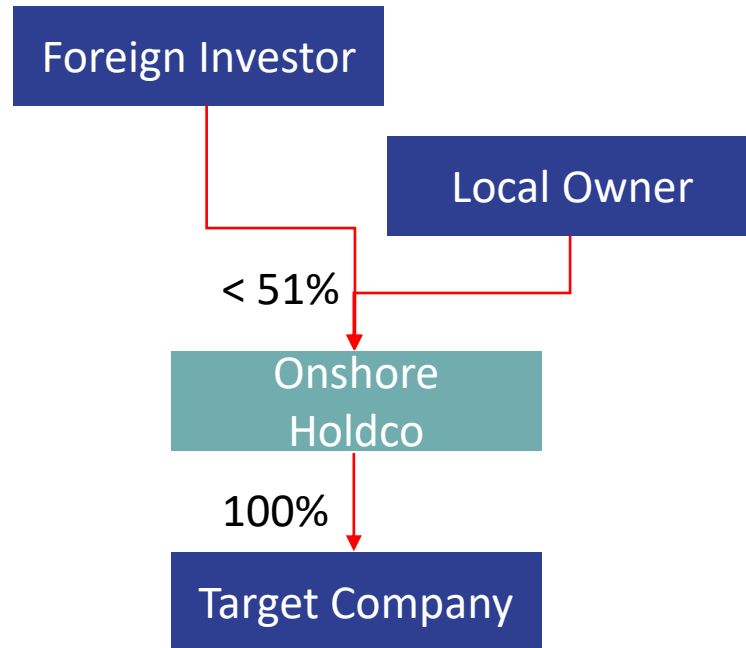
76% Shareholding



100% Shareholding

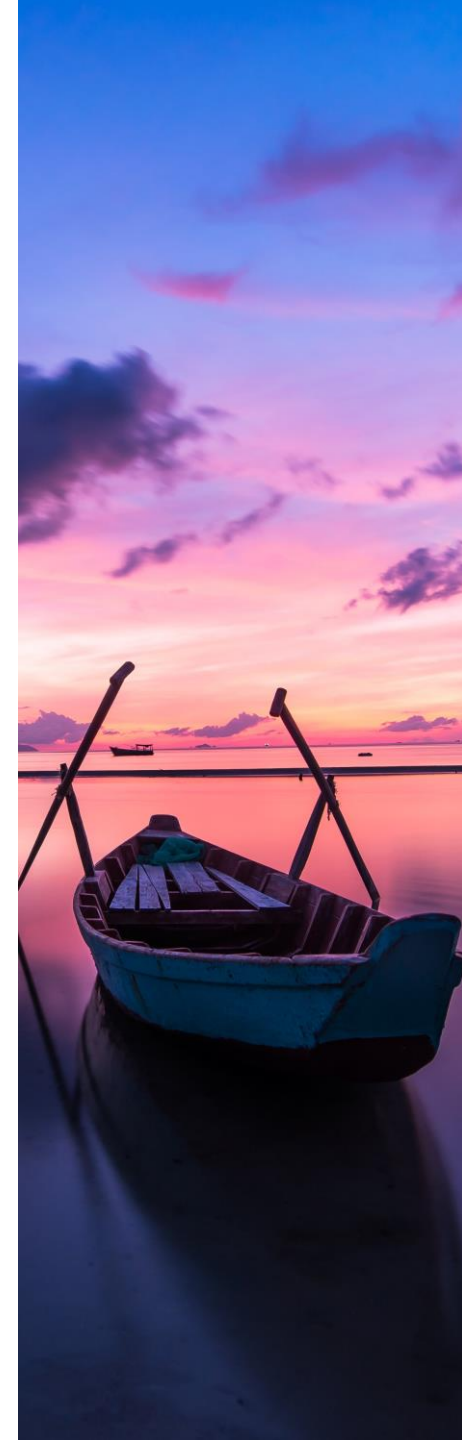


CASE STUDY



Target company:

- Retail services
- Pawnshop
- Health and wellness services



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OTHER CONSIDERATIONS

TAX CONSIDERATIONS

- Capital gain tax on offshore transactions with underlying assets / businesses in Vietnam
 - Sales of major retail supermarkets
 - A hotel chain in Vietnam with offshore holding company

- Old structure: offshore holding company placed in a country with favourable Double Taxation Agreement with Vietnam in respect of capital assignment
 - Singapore
 - Netherlands
 - Malaysia

Groupe Casino to pay \$220 million in tax after sale of Big C Vietnam

19:59 | 05/05/2016

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Groupe Casino may have to pay \$220 million in tax after selling the Big C Vietnam chain to Thai conglomerate Central Group.





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