REAL ESTATE LEGAL UPDATE

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Shinhan Securities

The Law on housing (amended) and the Law on real estate trading (amended) were officially passed, expected to improve the transparency of real estate industry

On November 27, 2023 and November 28, 2023, the Law on housing (amended) and the Law on real estate trading (amended) were respectively adopted with many new points related to Social Housing and Real Estate transactions. We provide a summary assessment of the impact of the two Revised Laws on listed real estate corporations in general and stocks on our watch list (NLG and VHM) in particular.

We summarize some of the main approved contents as follows:

Law	New regulations	Old regulations
Law on real estate trading (amended)	The housing deposit must not exceed 5% of the selling price	The Law on real estate trading (2014) does not have specific requirements.
	The party transferring all or part of a project must fulfill the financial obligations related to land	Resolution 42 does not regulate
	Prohibiting the transfer of land use right in form of dividing lots, selling vacant land for people to build their own houses in urban a reas of type I, II, or III, and in wards, districts and cities within special urban areas	The Law on real estate trading 2014 does not provide specific regulations
	Other regulations help the real estate market to be transparent and flexible for homebuyers	N/A
The Law on housing (amended)	Expanding the target group eligible for social housing support policies and increasing the standard profit for overall social housing projects	Decree 188/2013/ND-CP sets the profit for the overall project at 10%.
	There is no regulation on the duration of apartment ownership	There is no regulation on the duration of apartment ownership

The amended Law on housing and the amended Law on real estate trading are expected to take effect from January 1, 2025, to improve the legal framework and harmonize with the amended Land Law, which is expected to be passed next year.

The amended Law on real estate trading introduces a number of regulations to control real estate transactions, protect homebuyers, and contribute to the purification of the market. Meanwhile, the amended Law on housing increases incentives for developers, encouraging the development of social housing.



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Some new points of the Law on real estate trading (amended)

The housing deposit must not exceed 5% of the selling price

The following regulations are passed regarding deposits:

- The maximum deposit amount is 5% of the sale price when the off-the-plan buildings meet the requirements to be put on the market.

- The deposit agreement must specify the sale price and floor area.

- It is not permitted to authorize other developers to sign the deposit agreement.

The Law on real estate trading (2014) does not address deposits, but only stipulates that the initial installment do not exceed 30% of the agreement value. This allows developers to exploit loopholes to raise capital indiscriminately, sometimes up to 90% or 95% of the contract value. In the event that the project could not be completed, the buyer would bear the risk and loss.

The regulations on the time of receipt of the deposit and the amount of the deposit contribute to (1) clarifying the source of funds from the sale of off-the-plan real estate, (2) limiting indiscriminate capital mobilization, and (3) increasing the responsibility of the developer, limiting the risk for the buyer.

However, this regulation does not completely prevent developers from exploiting loopholes to raise capital through other forms such as escrow agreements, etc. On the other hand, only allowing deposits when off-the-plan buildings meet the requirements to be put on the market will no longer have the meaning of a deposit, but rather the nature of installments.

We believe that companies with strong financial position such as NLG and VHM may be less affected by this regulation. Specifically, NLG typically has a deposit policy of 5% to 30%, depending on the project. However, NLG often obtains a sales permit early so that it can sign a purchase agreement with customers and collect payments early. VHM, on the other hand, has a deposit policy of around 5% of the value of the house, and the time from the deposit to signing the purchase agreement is only about one month. Therefore, we believe that VHM will not be affected by this new regulation.

Tightening the rules on the transfer of part or the entire project

The Vietnamese Parliament has passed a new regulation that requires the transferor of a real estate project to complete all financial obligations related to the land (land use fees, taxes, etc.) before transferring part or the entire project.

Many delegates proposed allowing the transferee to pay the fees on behalf of the transferor, but this proposal was not passed. This regulation is intended to limit the practice of developers who do not have sufficient financial capacity, speculate, and transfer projects for profit.

However, this regulation still has some shortcomings as (1) not yet legalizing Decree 42 on the handling of bad debts, making the transfer of real estate by financial institutions less efficient, (2) limiting the transfer of projects to developers with the capacity to implement them, which could lead to more "suspended" projects, and (3) disrupting the flow of capital for developers who need to sell off real estate projects.

We expect that this regulation will have little impact on the large companies in our recommendation list, which are NLG and VHM. This is because (1) in recent years, NLG and VHM have primarily engaged in capital transfers within project companies, and (2) their strong financial capacity can help them fulfill financial obligations to the government regarding land (in the case of project transfer).

Restricting land division and sale vacant land in major cities

The Vietnamese Parliament has passed a regulation that prohibits the transfer of land use right in form of dividing lots, selling vacant land for people to build their own houses in urban areas of type I, II, or III, and in wards, districts, and cities within special urban areas.

We believe that this regulation is intended to restrict the practice of land division and sale to individuals in large cities for the following reasons:

1) The division of land for individuals to build houses without following the proper schedule and design can damage the urban landscape.
2) Dividing lots and selling vacant land in major cities contributes to pushing high-rise housing projects further away from the center, creating many housing projects with poor infrastructure connectivity and primarily meeting the needs of speculation and investment.
3) Dividing and selling land generally makes the real estate market more dynamic, but it also drives up secondary market real estate prices beyond their true value, which affects social security.

As such, before the amended Law on real estate trading comes into effect in 2025, real estate businesses that trade in land lots can choose to accelerate their inventory or retain them to build low-rise housing according to the plan. However, the choice to build low-rise housing can affect the finances of the business, as it requires more capital investment than land trading.

Overall, this policy could impact businesses with land lots in urban areas that account for a large proportion of their revenue structure. However, we believe that this policy will have very little impact on NLG because: (1) Land lots only account for a small proportion of the company's revenue (2022: 0.27%) and (2) it is not a core product of the company in the coming years. VHM does not trade in this product, so we believe that the policy will have no (very little) impact on this company.

Other regulations help the real estate market to be transparent and flexible for homebuyers

The draft law supplements some provisions on the disclosure of real estate information for business, such as documents related to investment policies, land allocation/lease decisions, approved specific planning, basic design, construction permit, and documents on the completion of the foundation construction for apartment buildings and mixed-use buildings. These information are disclosed on the Housing and Real Estate Market information system.

The disclosure of more information related to the legal status of the project before it is put into market contributes to the transparency of the real estate market and protects the interests of homebuyers.

In addition, the amended Law only encourages, but does not require individuals to buy and sell real estate through a trading floors and they can choose to have or not have a financial institution guarantee the investor's financial obligations. The purpose of trading through the floor and guaranteeing the obligations of the developer is to protect the rights of homebuyers. However, many trading floors are not operating effectively, only performing brokerage functions. In addition, these two methods increase the cost of buying a house. Specifically, trading floor can increase the cost of buying a house by 2-8%, while the guarantee fee is usually around 1-2% of the value of the house.

The new regulation ensures both strictness and flexibility of choice for homebuyers. With a reputable developer, homebuyers can buy a house through the developer and do not need to go through a financial institution to guarantee to reduce the cost of buying a house. In addition, with the requirement of disclosing legal information on the Information System, which helps the market become more transparent, homebuyers with legal knowledge can examine the project and choose the form of sale. For real estate businesses, transactions that do not go through the floor help businesses be self-reliant.

The amended Law on real estate trading has introduced more stringent regulations to control the business activities of real estate businesses and protect homebuyers, who are the weaker party in real estate transactions. We expect that these regulations will help to cleanse the market and that reputable businesses with healthy financial structures, such as NLG and VHM, will be less affected negatively and will be able to continue to maintain revenue.

Some key points of the Law on housing (amended)

Expanding the target group eligible for social housing support policies and increasing the profit for overall social housing projects

The Vietnamese Parliament has approved the expansion of entities eligible for incentive policies on social housing to include civil servants, workers, and military officers. This will help to increase demand for this segment.

In addition, the amended Law on housing allows a profit margin of 10% for the social housing area and separate accounting of profits for 20% of the construction area of commercial facilities in the social housing project. Previously, under Decree No. 188/2013/ND-CP, developers were subject to a ceiling profit rate of 10% for the entire project (social housing area and commercial facilities). Therefore, the new regulation will help to increase the overall profit of social housing projects.

In 2023, Decree 33/ND-CP was proposed with the implementation of a VND 120,000 billion credit package to build at least 1 million social housing units. Therefore, we believe that the Law on housing has been adjusted to encourage developers to implement social housing projects. Although social housing often contributes a small proportion to the revenue structure of real estate developers, we believe that this is a necessary step for the recovery of the real estate market in 2024 when it is oriented towards large housing needs.

We expect that two companies on our recommendation list, NLG and VHM, could benefit in the near future. NLG is particularly notable for its EhomeS/Ehome (social housing, affordable condos), which contributed 8% of revenue in 2022. We expect the contribution of revenue and profit from this product segment to increase in the coming years; as NLG is planning to expand its Ehome/EhomeS in the Northwest of Cu Chi, Bac Giang, Bac Ninh, and Hai Phong. VHM currently has 4 social housing projects under the Happy Home brand in Hai Phong, Thanh Hoa, Quang Tri, and Khanh Hoa. The projects have completed the specific planning 1/500. The projects are scheduled to be implemented sequentially from 2024, with an expected contribution of VND 5,000 billion in revenue for VHM.

There is no regulation on the duration of apartment ownership

The amended Law on housing does not specify the ownership period of apartments, but only the useful life of apartment buildings. When the useful life of the apartment building expires or the apartment is seriously damaged, or in danger of collapse, or unsafe for its occupiers, then the value of use no longer exists but still has the long-term ownership value with the land for housing. At that time, the owner will be compensated in cash or resettled.

This regulation is remained as Housing Law 2013. The continuation of not limiting the ownership period of apartments contributes to stabilizing the psychology of homebuyers. We expect this regulation to help real estate transactions maintain/increase in the coming time, when the confidence of buyers is consolidated.

Effective date

The amended Law on housing and the amended Law on real estate trading will take effect on January 1, 2025 to wait for the Land Law to be passed and implemented in a synchronized manner with this Law. Accordingly, the Land Law is expected to be passed no later than May 2024.

Reference:

❖ How to handle the difficulties of real estate bad debts

https://shorturl.at/brLPW

The amended Law on real estate trading tightens the control of land division and sale. How will the real estate market be affected?

https://shorturl.at/bcpty

Looking back at the housing market in one year: Still continuing the old stories...

https://shorturl.at/jyBTU

The amended Law on housing was passed: Some new key points

https://shorturl.at/vDHUW

Comments on the amended Law on real estate trading

https://s.net.vn/ppyw

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