

Newsletter:

Understanding about the legality of e-commerce trading floor in Vietnam



Author

Nguyen Thi Hoa

Managing Partner

(+84) 974 682 139

hoa.nguyen@cdlaf.vn

In Brief

In an era of rapidly advancing technology and growing online shopping trends, e-commerce trading floors have become a cornerstone of the modern economy. Vietnam, with its youthful population and high internet penetration, is currently experiencing a significant surge in e-commerce activities. However, to ensure sustainable and transparent market growth, strict adherence to legal regulations is imperative. This article provides essential legal insights into the operation and management of e-commerce floors in Vietnam, helping businesses understand and comply with regulatory requirements while fostering trust with customers and partners.

Key Takeaways

1. What kind of website is defined as an e-commerce trading floor?

An e-commerce trading floor is defined as an e-commerce website that enables traders, organizations, and individuals (other than the website owner) to engage in part or all aspects of buying and selling goods and services. Currently, the law recognizes the following operational forms for e-commerce trading floors:

- **Booth-Based Platforms:** Websites that allow participants to open booths for displaying and promoting their goods or services.
- **Account-Based Trading:** Websites that permit participants to create accounts and enter into contracts with customers.
- **Buy-and-Sell Sections:** Websites that feature dedicated sections where participants can post information for the sale or purchase of goods and services.
- **Social Network Platforms:** Social networks that incorporate one or more of the above activities, where participants pay fees—either directly or indirectly—to carry out these operations.

Establishing and operating an e-commerce trading floor can vary based on the operational model and the type of website owner. Consequently, the legal procedures for registering an e-commerce trading floor are generally more streamlined for Vietnamese enterprises compared to foreign-invested ones. This difference is due to specific commercial law provisions governing business licenses for foreign-invested enterprises in the "e-commerce services" sector.

2. Responsibilities of the parties when operating on the e-commerce trading floor

The e-commerce law establishes clear responsibilities for all parties involved in operating or transacting on e-commerce platforms to ensure order and protect the interests and rights of all stakeholders, including consumers. However, due to the rapid growth of e-commerce, many emerging issues have yet to be addressed by the law, leading to confusion and concern among foreign businesses operating e-commerce trading services.

Under the current law, businesses providing e-commerce trading floor services are required to fully comply with the following obligations:

- **Website Registration:** Register to establish a website that provides e-commerce trading floor services in accordance with regulations, and display the registered information prominently on the homepage.
- **Operating Regulations:** Develop and publicly announce the operating regulations for the e-commerce trading floor on the website, and monitor their implementation to ensure compliance.
- **Seller Registration:** Require traders, organizations, and individuals selling on the e-commerce trading floor to provide the necessary information during the registration process in accordance with regulations.
- **Inspection and Supervision:** Implement an inspection and supervision mechanism to verify that sellers provide accurate and complete information.
- **Data Management:** Store registration information for all traders, organizations, and individuals participating in the e-commerce trading floor, and regularly update this information as necessary.
- **Contracting Mechanism:** Establish a mechanism that enables traders, organizations, and individuals to complete the contract signing process if the website supports online ordering.
- **Information Security:** Apply necessary measures to ensure the security of business secrets of traders, organizations, and individuals, as well as the personal information of consumers.
- **Removal of Prohibited Content:** (i) Prevent and remove from the website any purchase and sale information or services related to goods on the prohibited list, as well as those operating in industries and occupations banned from business investment by law. (ii) Remove any information regarding goods and services that violate the law within 24 hours of receiving a request from the competent state management agency. (iii) Coordinate with intellectual property rights holders to review and remove products that infringe on intellectual property rights, following the processes and procedures outlined in the Regulations on Operating E-commerce Trading Floors. (iv) Issue warnings or suspend/permanently refuse services to individuals, traders, or organizations whose business practices violate the law. (v) Implement any other measures as prescribed by the Regulations on Operating E-commerce Trading Floors.
- **Support for State Management Agencies:** (i) Provide information about entities exhibiting signs or engaging in actions that violate the law on the e-commerce trading floor to the appropriate state management agency upon detection or receipt of such feedback. (ii) Regularly update keywords based on recommendations from competent state management agencies and filter displayed information accordingly before it is shown on the website. (iii) Receive and respond to complaints, feedback, and disputes related to e-commerce trading floors via the Ministry of Industry and Trade's E-commerce Activities Management Portal at online.gov.vn.

- **Dispute Resolution Mechanism:** Publicly announce the mechanism for resolving disputes that arise during transactions on the e-commerce trading floor. In cases where a customer encounters a conflict with a seller or suffers damage to their legitimate interests, the platform must provide the customer with the seller's information and actively support the customer in protecting their rights and interests.

For e-commerce trading floors with online ordering functions, in addition to the aforementioned obligations, traders and organizations providing these services are required to:

(i) Designate a Focal Point: Appoint a designated contact responsible for receiving requests and providing online information to state management agencies regarding subjects exhibiting signs of legal violations. This focal point must supply the necessary information within 24 hours of receiving a request to facilitate prompt inspection, investigation, handling of violations, and resolution of complaints and denunciations.

(ii) Represent Foreign Sellers: Act on behalf of foreign sellers on the platform to resolve consumer complaints related to goods and services provided by these sellers, and ensure that tax obligations for foreign sellers are duly communicated in accordance with Vietnamese law.

(iii) Manage Consumer Complaints: Serve as the primary point of contact for receiving and resolving consumer complaints when transactions involve more than two parties on the e-commerce trading floor.

(iv) Maintain Transaction Records: Store information on order transactions conducted through the platform in compliance with the provisions of accounting law.

(v) Jointly Compensate for Damages: Share responsibility for compensating any damages resulting from violations of the obligations outlined herein.

Responsibilities of sellers on e-commerce trading floors:

- **Accurate Registration:** Provide complete and accurate prescribed information when registering to use the service as a trader or organization on the e-commerce trading floor.
- **Detailed Product Information:** Supply comprehensive details about goods and services when selling or providing them on the platform, ensuring that all information is accurate and truthful.
- **Business Reporting:** Furnish information about your business situation upon request by the competent state agency for e-commerce statistical activities.
- **Legal Compliance:** Adhere to all relevant legal regulations related to payment, advertising, promotion, intellectual property rights, consumer rights protection, and any other applicable laws when selling goods or providing services on the e-commerce trading floor.
- **Tax Responsibilities:** Meet all tax obligations in accordance with the provisions of law.

3. The Regulations on operating of the e-commerce trading floor

The e-commerce trading floor operates according to its own set of regulations, which must be prominently displayed on the website's homepage. When developing these regulations, enterprises must ensure that they include all mandatory content prescribed by law. This content forms the basis for the competent authorities to approve the establishment of the enterprise's e-commerce trading floor. Additionally, enterprises must pay close attention to the operating regulations and the responsibilities of the e-commerce platform service provider, as the published regulations are binding.

The mandatory content for the operating regulations of an e-commerce trading floor must include the following elements:

- **Rights and Obligations:**
 - **Of traders and organizations providing e-commerce trading floor services.**
 - **Of users of e-commerce trading floor services.**
- **Transaction Process:** For trading floors that incorporate multiple operational forms, a detailed description of the transaction process for each form, including the goods delivery process (if applicable), must be provided.
- **Review and Enforcement:** Procedures for reviewing activities and the handling authority for traders and organizations when business actions that violate the law are detected on the trading floor.
- **Transaction Responsibilities:** Clearly defined rights and obligations for all parties involved in transactions on the e-commerce trading floor. In transactions involving more than two parties, the responsibilities among sellers and service providers must be explicitly delineated.
- **Liability Limitations:** Provisions that limit the liability of traders and organizations providing e-commerce trading floor services in transactions conducted on the platform.
- **Information Security and Supervision:** Regulations and mechanisms to ensure the security, proper provision, and management of information on the trading floor, including inspection and supervision measures.
- **Dispute Resolution:** A mechanism to resolve complaints and disputes between parties involved in transactions on the e-commerce trading floor.
- **Personal Information Protection:** Policies to protect the personal information of users of e-commerce trading floor services, as prescribed in Article 69 of this Decree.
- **Consumer Rights Protection:** Measures to address violations of consumer rights on the trading floor.
- **Compliance Enforcement:** Measures to handle violations by those who fail to comply with the operating regulations of the e-commerce trading floor.
- **Documentation Responsibilities:** Clear assignment of responsibility for providing goods documentation among the seller, the e-commerce trading floor service provider, and the logistics service provider, in cases where third-party logistics services are used.
- **Intellectual Property Coordination:** Procedures for coordinating with intellectual property rights holders to review and remove products that infringe on intellectual property rights.
- **Transaction Policies:** General policies applicable to transactions on the platform, including goods inspection, return policies, and refund policies (covering refund cases, procedures, and methods) for trading floors with online ordering functions.

Conclusion

Please note that e-commerce trading floor activities are currently very dynamic, and with the trend towards fully online operations, the competent authority is closely scrutinizing the regulatory content to safeguard the rights of all parties involved in e-commerce transactions, as well as consumers. Therefore, when developing these regulations, enterprises must ensure that they are fully compatible with the operating model of the exchange and meet the requirements set by the competent authority, ensuring that the regulatory content is both comprehensive and complete.

This article provides general information for reference. If you wish to receive legal advice regarding any issues you are facing, please contact our Lawyers at info@cdlaf.vn.