

## LEGAL NEWS UPDATE – OCTOBER 2016

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### 1. CONDITIONS ON THE OFFERING OF COVERED WARRANTS

*On 29 June 2016, the Ministry of Finance promulgated the Circular No. 107/2016/TT-BTC on guidelines offering and transaction of covered warrants.*

Accordingly, an issuer can only offer warrants based on underlying securities which are offered to meet the conditions for the offering of warrants. An issuer cannot sell a warrant that is based on the stock of the issuer and a security of an organization affiliated with such issuer according to the Securities Law.

Within 03 working days upon receiving of the certificate of warrant offering, the issuer shall provide margins as payment security in a depository bank or obtain a depository bank's written payment guarantee. The value of the initial collateral shall be equal to at least 50% of the value of the warrants registered for offering. A collateral as payment security shall be money, certificate of deposit or a depository bank's payment guarantee.

This Circular will become effective on 01 January 2017.

## **2. NEW REGULATIONS ON THE LICENSE FEE RATES**

*On 04 October 2016, the Government promulgated the Decree No. 139/2016/ND-CP stipulating on license fees.*

Accordingly, the license fee rates based on the charter capital stated in the Enterprise Registration Certificate; the investment capital stated in the Investment Registration Certificate in cases without charter capital.

The license fee rates are determined based on the charter capital or the investment capital of the preceding year in case of changing the charter capital or investment capital.

In the event of the charter capital or investment capital stated in the Enterprise Registration Certificate or the Investment Registration Certificate is in foreign currency, it shall be converted into Vietnamese Dong as a basis for determining the license fee rates in according with the buying rate of commercial banks or credit institutions where the license fee payers opening their accounts at the time they make payment to the state budget.

Besides, the Decree also provides for the cases entitled to exemption from license fees.

This Decree will become effective on 01 January 2017 and the Decree No. 75/2002/ND-CP dated 30 August 2002 is abolished.

## **3. EXTENDING THE SCOPE OF FOREIGN EXCHANGE OPERATIONS BY COMMERCIAL BANK**

*On 05 October 2016, the State Bank of Vietnam promulgated the Circular No. 28/2016/TT-NHNN on amendment and supplement to a number of articles of the Circular No. 21/2014/TT-NHNN dated 14 August 2014 by the Governor of State Bank of Vietnam guiding for scope of foreign exchange operations, conditions and licensing procedures for foreign exchange operations by credit institutions and branches of foreign banks*

Accordingly, supplement to a number of primary types of forex transactions provided by commercial banks on the domestic and international market.

In case the replacement of forex operations, the State Bank shall take charge of replacement in relation to forex operations of commercial banks, general financial corporations, factoring companies, consumer credit companies, financial leasing companies and branches of foreign banks that have been licensed to perform forex transactions on the principles of replacing to the license for establishment and operation or decision on amendment to the license for establishment and operation in forex on the domestic and international market accordance with regulations stipulated by the State Bank.

In case of other operations, replace to the limited duration permit.

This Circular will become effective on 18 November 2016.

#### **4. REGULATIONS ON THE REGISTRATION FEES**

*On 10 October 2016, the Government promulgated the Decree No. 140/2016/ND-CP on registration fees.*

Accordingly, the basic for calculating registration fees is the registration fee calculating price and the registration fee rate in percentage (%).

Specifically, the motorbike is applied the fee rates of 2%. Motorbike of organizations and individuals in the cities under central authority; provincial cities; towns where the Peoples Committees of the provinces are situated, the registration fee rate for the first time is at 5%; for the motorbike paid registration fee from the second time forward are applied the fee rates of 1%.

The motor vehicles of less than 09 seats shall be paid the registration fee at the fee rate of 10%. The motor vehicles of less than 09 seats paid registration fee from the second time forward are applied the fee rates of 2% and get application on a national scale.

Registration fee rates for the assets with the maximum amount is 500 million dong/asset/registration fee, except for motor vehicles of less than 09 seats, airplanes, boats.

This Decree will become effective on 01 January 2017.

#### **5. THE FEE RATE OF BUSINESS IN SERVICE OF APPRAISAL OF PRICES**

*On 26 September 2016, the Ministry of Finance promulgated the Circular No. 142/2016/TT-BTC stipulating on the collection, regime of collection, transfer, management and use of the fees for grant of certificate of eligibility for business in service of appraisal of prices.*

Accordingly, the fee rate for grant of certificate of eligibility for business in service of appraisal of prices is 4 million dong/appraisal. The fee rate for re-grant of certificate of eligibility for business in service of appraisal of prices is 2 million dong/appraisal

The collectors shall be set apart 75% of the total amount of collected fees to pay off expenses for provision of services and collection fees prescribed according to the Decree No. 120/2016/ND-CP of the Government; 25% of the total amount of fees shall be paid to state budget.

By the 5th of month, the collectors must transfer the collected fees of the previous month into the account for fees transferred to state budget which is opened at the State Treasuries.

This Circular will become effective on 01 January 2017.

## **6. THE FEES FOR THE ESTABLISHMENT A REPRESENTATIVE OFFICE IN VIETNAM**

*On 26 September 2016, the ministry of finance promulgated the Circular no. 143/TT-BTC stipulating on the collection, regime of collection and transfer of the fee licensing to establish representative offices of the foreign trade promotion organizations in Vietnam.*

Accordingly, the fee licensing for establishment of representative offices of

the foreign trade promotion organizations and foreign traders is 3 million dong/license for newly granting; 1.5 million dong/license for re-grant, modification, supplementation and extension of the license. The fee licensing shall be paid by Vietnamese Dong (VND).

This Circular will become effective on 01 January 2017 and the Circular No. 133/2012/TT-BTC dated 13 August 2012 is abolished.

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