

LEGAL NEWS UPDATE – NOVEMBER 2016

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1. THE EXTENSION OF DURATION OF LENDING IN FOREIGN CURRENCY

On 15 November 2016, the State Bank of Vietnam promulgated the Circular No. 31/2016/TT-NHNN amending and supplementing the Circular No. 24/2015/TT-NHNN dated 08 December 2015 of the Governor of the State Bank regulating lending in foreign currency by credit institutions and foreign bank branches to resident borrowers.

Accordingly, the State Bank extends the duration of lending until the end of 31 December 2017 by credit institutions and foreign bank branches which shall consider lending for foreign currency loans for short-term capital for the purpose of implementation of plans for production and trading in exports through Vietnamese border gates when the borrower will have sufficient foreign currency revenue from export to repay the loan. When the credit institution or foreign bank branch disburses loan monies, the borrower must sell such amount to this lender by way of a spot exchange transaction, except where the capital requirement of the borrower is in order to make a payment transaction which the law stipulates must be made in a foreign currency.

This Circular will become effective on 01 January 2017 and the Circular No. 07/2016/TT-NHNN dated 27 May 2016 is abolished.

2. THE AMENDMENT A NUMBER OF REGULATIONS ON ADMINISTRATIVE PENALTIES FOR VIOLATIONS ON SECURITIES AND SECURITIES MARKET

On 01 November 2016, The Government promulgated the Decree No. 145/2016/ND-CP on amendment to the Government's Decree No. 108/2013/ND-CP dated 23 September 2013 on administrative penalties for violations on securities and securities market.

Accordingly, a fine to be reduced from VND1 billion to VND1,2 billion shall be imposed on an organization that organizes the securities trading market against regulations of law provided that there is no illegal revenue earned thereof. A fine of from VND400 million to VND700 million shall be imposed for forging documents of the private placement offering but is not liable to criminal prosecution. A fine equal to between 1% and 5% of total illegally-raised amount of money shall be imposed for forging documents of the public offering of securities but is not liable to criminal prosecution.

In addition, A fine of from VND70 million to VND100 million shall be imposed for conducting the private placement offering inconsistently with the regulated period or failing to open the escrow account at a

commercial bank; failing to transfer the proceeds from the offering to the opened escrow account; releasing or using the proceeds from the offering before obtaining a written certification of offering results from the State Securities Commission.

This Decree will become effective on 15 December 2016.

3. REQUIREMENTS FOR ISSUE OF CERTIFICATES OF VOCATIONAL EDUCATION

On 14 October 2016, the Government promulgated the Decree No. 143/2016/ND-CP regulating the conditions on investment and operation in vocational education.

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

Accordingly, in order to be issued the certificates of registration for vocational education for immediate and college level education, the vocational education institution is equipped with sufficient facilities and training equipment according to training scope, major and levels, classrooms, labs, practice rooms and pilot production facilities shall be available and the area of each room at least varies from 5.5 - 7.5 m².

Investment funds established professional educational institution invested with legal capital, excluding the value of land, the minimum capital is VND5 billion in case of vocational education centers; VND50 billion

in case of vocational training schools; and VND100 billion in case of vocational colleges; the minimum scale of the primary training is 150 students per year; the minimum scale of intermediate training is 250 students per year; the minimum scale of colleges and intermediate training is 500 students per year; construction location with facilities and equipment for vocational training ensures the minimum land area being used is 1,000 m² in case of vocational education centers; 20,000 m² in case of vocational training schools and 50,000 m² in case of vocational colleges

This Decree is effective on 14 October 2016.

4. INCREASING THE REGIONAL MINIMUM WAGE RATES

On 14 November 2016, the Government promulgated the Decree No. 153/2016/ND-CP regulating on the regional minimum wage rates applied to employees working under an employment contract.

Accordingly, the regional minimum wage rates applied to employees working for enterprises shall be prescribed as follows:
Region I: VND3,750,000 per month;
Region II: VND3,320,000 per month;
Region III: VND2,900,000 per month;
Region IV: VND2,850,000 per month.
Enterprises operating within specific regions shall adopt respective minimum wage rates applied thereto.

Regional minimum wage rates as above are the lowest rates used as the basis for any arrangement between enterprises and

employees on salary and salary payment in which the wage rate paid employees who work under normal working conditions, meet monthly working hour standards, and fully discharge their obligations for predetermined labor productivity norms or agreed work duties, must conform to the following requirements: Not less than regional minimum wage rates paid unskilled laborers who perform simplest tasks; higher than at least 7% against the regional minimum wage rates paid skilled laborers who have completed vocational training courses .

This Decree will become effective on 01 January 2017 and the Circular No. 122/2015/ND-CP dated 14 November 2015 is abolished.

5. DIGITAL CERTIFICATES ARE USED IN DIGITAL SIGNATURES IN FINANCIAL OPERATIONS

On 21 November 2016, the Government promulgated the Decree No. 156/2016/ND-CP on amendment and supplement to some of articles of the Decree No. 27/2007/ND-CP dated 23 February 2007 of the Government on electronic transactions in financial operations.

Accordingly, the digital certificates that are used in digital signatures in financial operations between organizations, individuals and financial authorities: the digital certificates issued by providers of public authentication of digital signatures; digital certificates issued by providers of authentication of digital signatures serving

the agencies of the political system; foreign digital certificates that are accredited; foreign digital certificates that are accepted in Vietnam; foreign digital certificates that are accepted in international transactions.

Electronic transactions in financial activities under the management of the Ministry of Finance are required to use digital signatures will be prescribed by the Ministry of Finance.

This Decree will become effective on 10 January 2017.

6. SUPPLEMENTING SERVICES AND GOODS SUBJECT TO PRICE DECLARATION

On 11 November 2016, the Government promulgated the Decree No. 149/2016/ND-CP on amendment and supplement to some of articles of the Decree No. 177/2013/ND-CP dated 14 November 2013 of the Government providing guidance on the implementation of a number of articles of the Law on Pricing.

According, goods and services are prescribed such as: healthcare services at medical facilities; Aviation services and services of domestic passenger transport by aircrafts on the list whose brackets are specified by the state; fees of passenger transportation on fixed routes by roadway; fees of passenger transport by taxi,... 03 entities of goods and service subject to price declaration added by the Government, including: Railway transport operating services; Denatured ethanol, liquefied natural gas, compressed natural gas; Fees of passenger transport by railway with hard or soft seat type.

Organizations, individuals producing or trading goods and services subject to price declaration shall declare prices by sending notification of prices to competent authorities prior to valuation and adjustment of price.

This Decree will become effective on 01 January 2017.

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