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Legal news

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HIGHLIGHTED

1. Guidelines for implementation of the Law on Bankruptcy

On 16 February 2015, the Government promulgates Decree No.22/2015/ND-CP, providing detailed regulations on the implementation of several articles of the Law on Bankruptcy on the asset management officers; asset management and liquidation enterprises; asset management and liquidation practicing; expenses paid to the asset management officers, and asset management and liquidation enterprise; and regulatory agency's management of the asset management officers, and asset management and liquidation enterprises ("Decree 22").

The new Decree provides for practicing forms of the asset management officers, including: Perform practicing activities as an individual asset management officer; perform asset management practicing activities as an asset management and liquidation enterprise by establishing or getting involved in establishing or working under an employment contract for an asset management and liquidation enterprise.

At the same period of time, the holder of the asset management officer's practicing certificate shall only be entitled to register the practicing of the asset management and liquidation at an asset management and liquidation enterprise, or register the practicing of asset management and liquidation as an individual.

The asset management and liquidation enterprise shall be established and operated in the manner stipulated by Clause 1, Article 13 of the Law on Bankruptcy. Establishment, organization, management and operation of an asset management and liquidation enterprise shall conform to the provisions of law on enterprises and law on bankruptcy.

Decree 22 also provides for prohibited acts for the asset management officers, and asset management and liquidation enterprises. Specifically, prohibited acts for asset management officers comprise: Leasing, lending, or letting other organizations or individuals use their own practicing certificate for the purpose of practicing asset management and liquidation profession; Apart from expenses paid to the asset management officers in accordance with the provisions of law, giving hints for or receiving any sum or material interest from a person involved in bankruptcy proceedings or abusing the asset management officer's power to gain benefits from individuals and organizations; Abusing their duties and powers to collude with individuals and organizations for the purpose of gaining personal benefits; Disclosing information about the organization and operation of an insolvent enterprise or co-operative that the asset management officer has reached in the process of their practicing, unless otherwise permitted in writing by that enterprise or co-operative or stipulated by laws; Committing other acts of violation against laws or the code of conducts of an asset management officer.

Prohibited acts for the asset management and liquidation enterprise comprise: Colluding with an insolvent enterprise or co-operative in falsify contents relating to the asset management and liquidation practicing; Hinting or receiving any sum or material benefits from involved parties in bankruptcies, or abusing their duties or powers to gain benefits from organizations or individuals other than payments that the asset management and liquidation enterprise is entitled to in accordance with laws; Letting other individuals or organizations to use their name or enterprise registration certificate for the purpose of practicing the asset management and liquidation profession; Disclosing information about the organization and operation of the insolvent enterprise or co-operative that the asset management and liquidation enterprise has reached in the practicing process, unless otherwise permitted in writing by that enterprise or co-operative or stipulated by law; Committing other acts of violation against the laws.

This Decree shall take effect on 6 April 2015.

2. New regulations on investments in the form of public-private partnership

On 14 February 2015, the Government promulgates Decree No.15/2015/ND-CP, on investments in the form of public-private partnership ("Decree 15").

Decree 15 provides for the sectors, requirements, procedures for implementation of the investment projects developed in the form of public-private partnership; the management and use of the State funding for implementation of investment projects; the Government's investment incentive and assurance policies, and responsibilities for the State management on the investment projects developed in the form of public-private partnership. The Decree is applied to the State competent authorities, investors, project enterprises, lenders, and agencies, organizations and individuals involved in the implementation of the projects developed in the form of public-private partnership.

The new Decree expressly stipulates that investors shall be responsible for contributing their equity capital and mobilizing capital from other sources to implement the projects as agreed upon in the project contracts. The equity of the investor shall account for at least 15% of the total investment capital.

With regard to the projects with total investment capital of over VND 1,500 billion, the ratio of equity capital is calculated according to the partial progression method, in which: For the investment capital that amounts to VND 1,500 billion, the equity capital shall account for at least 15% of such financing portion; for the investment capital that exceeds VND 1,500 billion, the equity capital shall account for at least 10% of such financing portion.

The Decree also clearly provides that the State funding for the projects shall be derived from the State budget, Government bonds, municipal bonds, the ODA and the concessional loans from foreign sponsors.

The State funding for the projects is used for providing financial support for commercial projects, or those intended for fee collection, but from which receipts are not sufficient for the recovery of the invested capital and profits. The State funding is also used for supporting the construction of auxiliary facilities, and paying the indemnities for site clearance and resettlement. The State funding for the project implementation support shall not be included in the total investment for the determination of the equity capital ratio.

Regarding the incentives for investors, the project enterprises investing in the form of public-private partnership is facilitated to properly collect the service fee and price in full. Besides, project enterprises are entitled to enjoy incentives on corporation income tax, and import tax and export tax for goods to implement the project. Investors and project enterprises shall be entitled to exemption of land use levies for the land allocated by the State or exemption of land rent during the implementation of the project. Another incentive is that investors and project enterprises may use their property, land use rights and the right to operate the building works under their projects as collateral to the lenders according to the land laws and the civil laws. Moreover, investors shall be entitled to enjoy other incentives such as purchasing foreign currencies, guaranteed provision of public services, guaranteed ownership over properties, etc.

Decree 15 also provides for the resolution of disputes between a State competent authority and an investor or a project enterprise, or disputes between a project enterprise and an economic organization participating in the project.

This Decree shall take effect on 10 April 2015.

Other Sectors

Finance

- On 11 February 2015, the Ministry of Finance issued Decision No. 269/QD-BTC, correcting Circular No. 147/2014/TT-BTC dated 8 October 2014 of the Ministry of Finance, providing guidelines for a number of articles of Decision No.58/2013/QD-TTg dated 15 October 2013 of the Prime Minister, promulgating the Regulation on establishment, management and operation of Credit Guarantee Fund for small and medium-sized enterprises.
- Decision No. 315/QD-BTC dated 13 February 2015 of the Ministry of Finance, announcing administrative procedure for assessment and appraisal of finalization of basic construction capital funded by the State Budget in accordance with annual budget year in the field of financial budget within the scope of State management functions of the Ministry of Finance.
- On 12 February 2015, the Ministry of Finance stipulated Circular No.22/2015/TT-BTC, providing for the management, payment and finalization of investment capital and business capital of investment nature in the areas of poor districts and districts with high ratio of poor families.

Taxation

- Decree No. 12/2015/ND-CP dated 12 February 2015, detailing and providing for the implementation of Law on amending and supplementing a number of articles of Laws on Taxation, and amending and supplementing a number of articles of Decrees on taxation.
- On 11 February 2015, the Ministry of Finance issued Decision No. 274/QD-BTC, announcing amended or alternated administrative procedures in the field of tax administration under settlement authority of the Ministry of Finance.
- Circular No. 26/2015/TT-BTC dated 27 February 2015 of the Ministry of Finance, providing guidelines for value-added tax and tax administration in Decree No. 12/2015/ND-CP dated 12 February 2015, detailing and providing for the implementation of Law on amending, supplementing a number of articles of Laws on Taxation; amending and supplementing a number of articles of Decrees on taxation; and amending and supplementing a number of articles of Circular No. 39/2014/TT-BTC dated 31 March 2014 of the Ministry of Finance, providing for the invoices of sales of goods or provisions of service(s).
- On 14 February 2015, the Ministry of Finance stipulated Circular No.25/2015/TT-BTC, promulgating the Special Preferential Import Tariff of Vietnam to implement the Agreement between Vietnam and Japan for an

Economic Partnership in the period from 2015 to 2019.

- Circular No. 24/2015/TT-BTC dated 14 February 2015 of the Ministry of Finance, promulgating the Special Preferential Import Tariff of Vietnam to implement the Agreement between Vietnam and Japan for an Economic Partnership in the period from 2015 to 2019.
- On 12 February 2015, the Ministry of Industry and Trade issued Circular No.02/2015/TT-BTC, providing for the imports under quotas in 2015 with 0% import tax rate for goods having the originating from the People's Democratic Republic of Laos.

Trade

- Circular No. 03/2015/TT-BCT dated 27 February 2015 of the Ministry of Industry and Trade, providing for the principles on the direction of import quotas for salt and poultry egg commodities in 2015.
- On 12 February 2015, the Ministry of Agriculture and Rural Development stipulated Circular No. 04/2015/TT-BNNPTNT, providing guidelines for the implementation of a number of contents contained in Decree No.187/2013/ND-CP dated 20 November 2013, detailing and providing for the implementation of Commercial Law on activities of international sales and purchases of goods; and activities of agency, purchases, sales, processing and transits of goods with foreigners in the fields of agriculture, forestry and fishery.
- Circular No. 19/2015/TT-BTC dated 3 February 2015 of the Ministry of Finance, providing guidelines for the mechanism of mobilization, management and use of expenditures for support to the work of preventing and fighting against cigarettes smuggling and fighting against production of and trade in counterfeit cigarettes.

Labour

- On 27 February 2015, the People's Committee of Ho Chi Minh City issued Decision No. 13/2015/QD-UBND, promulgating the Regulation on co-ordination in the management of foreigners working in enterprises, organizations, investors and contractors in the area of Ho Chi Minh City.
- Decision No. 740/QD-UBND dated 14 February 2015 of the People's Committee of Ho Chi Minh City, on the assignment of authority for recruitment and management of Vietnamese labourer working for foreign individuals and organizations in Ho Chi Minh City in accordance with Decree No.75/2014/ND-CP dated 28 July 2014.
- On 27 February 2015, the Ministry of Labour, War Invalids and Social Affairs stipulated Circular No. 09/2015/TT-BLDTBXH, providing for frame programs of

vocational education at intermediate and junior college levels for 6 professions: Masonry - Finishing; Repair, operating dredger; Aircraft mechanical maintenance technique; Dynamics mechanical repair; Lifting machine repair; Synthetic engine of loading and unloading.

- Circular No. 07/2015/TT-BLDTBXH dated 25 February 2015 of the Ministry of Labour, War Invalids and Social Affairs, detailing and providing guidelines for the implementation of a number of articles of Decree No. 196/2013/ND-CP dated 21 November 2013, providing for the establishment and operation of Employment service centres and Decree No. 52/2014/ND-CP dated 23 May 2014, providing for conditions and procedures for issuance of employment service operating licenses to employment service providers.
- On 2 February 2015, the Ministry of Labour, War Invalids and Social Affairs issued Circular No. 04/2015/TT-BLDTBXH, providing guidelines for the implementation of regime on compensation, subsidies and medical fees payable by employers to employees suffering from occupational accidents or diseases.

Education

- Circular No. 03/2015/TT-BGDDT dated 26 February 2015 of the Ministry of Education and Training, promulgating the Regulation on enrolment of universities and colleges in formal system.
- On 26 February 2015, the Ministry of Education and Training stipulated Circular No. 02/2015/TT-BGDDT, promulgating the Regulations on national exams of high schools.

Transport

- Decree No. 24/2015/ND-CP dated 27 February 2015, providing detailed regulations on and measures for the implementation of a number of articles of Law on Domestic Waterway Traffic and Law on amending and supplementing a number of articles of Law on Domestic Waterway Traffic.
- On 13 February 2015, the Government issued Decree No. 14/2015/ND-CP, detailing and providing guidelines for the implementation of a number of articles of Railway Law.
- Decision No. 214/QĐ-TTg dated 10 February 2015 of the Prime Minister, approving the adjustment in Strategy on Vietnam's railway transport development until 2020, with orientation to 2050.
- On 25 February 2015, the Ministry of Transport stipulated Circular No.02/2015/TT-BGTVT, announcing seaport water of Ho Chi Minh City and management area of Marine Port Authority of Ho Chi Minh City.

- Inter-ministerial Circular No. 21/2015/TTLT-BTC-BGTVT dated 12 February 2015 of the Ministry of Finance and Ministry of Transport, providing guidelines for the management, use and finalization of regular expenditures funded by the State Budget for civil aviation security guarantee operation.

Construction

- On 12 February 2015, the People's Committee of Hanoi issued Decision No.798/QD-UBND, announcing a number of building construction unit prices in Hanoi City - Construction and Installation Part.
- Decision No. 713/QD-UBND dated 10 February 2015 of the People's Committee of Hanoi, announcing newly-issued, amended, or repealed administrative procedures under the settlement authority of the Department of Construction and of the People's Committees at district and commune levels in Hanoi.
- On 10 February 2015, the People's Committee of Ho Chi Minh City stipulated Decision No. 10/2015/QD-UBND, amending and supplementing a number of articles of Decisions related to the urban planning management.

Natural Resources - Environment

- Decree No. 19/2015/ND-CP dated 14 February 2015, detailing the implementation of a number of articles of Law on Environmental protection.
- On 14 February 2015, the Government issued Decree No. 18/2015/ND-CP, providing for environmental protection planning, strategic environmental assessment, environmental impact assessment and environmental protection plan.
- Decision No. 03/2015/QD-UBND dated 13 February 2015 of the People's Committee of Hanoi, providing for the functions, duties, powers and organizational structure of the Department of Natural Resources and Environment of Hanoi.
- On 12 February 2015, the Prime Minister stipulated Decision No. 223/QD-TTg, approving the Planning for management of solid waste in the valley of Nhue and Day rivers until 2030.
- Decision No. 663/QD-UBND dated 6 February 2015 of the People's Committee of Hanoi, announcing the Norm estimates of maintenance of environmental hygiene in rural areas in Hanoi.
- On 26 February 2015, the Ministry of Natural Resources and Environment issued Circular No. 08/2015/TT-BTNMT, providing for experimental techniques of pumping water in the investigation and assessment of underground water resources.
- Circular No. 06/2015/TT-BTNMT dated 25 February 2015 of the Ministry of

Natural Resources and Environment, providing for techniques in the investigation and assessment of geological environment in areas with toxic minerals.

- On 13 February 2015, the Ministry of Natural Resources and Environment stipulated Circular No. 04/2015/TT-BTNMT, providing for the exploration and classification of lead-zinc mineral resource reserves and levels.
- Circular No. 03/2015/TT-BTNMT dated 13 February 2015 of the Ministry of Natural Resources and Environment, providing for the exploration and classification of original gold mineral resource reserves and levels.

Information - Communications

- On 13 February 2015, the Ministry of Information and Communications issued Decision No. 195/QĐ-BTTTT, announcing newly-issued administrative procedures, and amended and supplemented administrative procedures under the settlement authority of the Ministry of Information and Communications.
- Circular No. 02/2015/TT-BTTTT dated 27 February 2015 of the Ministry of Information and Communications, promulgating "National technical regulations on electromagnetic compatibility of terminal and supporting equipment in GSM and DCS mobile information systems".

Administration - Judiciary

- On 16 February 2015, the Government stipulated Decree No. 23/2015/NĐ-CP, on providing copies of original register, certifying copies of originals, certifying signatures, and certifying contracts and transactions.
- Decree No. 13/2015/NĐ-CP dated 12 February 2015, amending and supplementing Article 9 of Decree No. 86/2009/NĐ-CP dated 19 October 2009, detailing and providing guidelines for the implementation of a number of articles of Ordinance on the Vietnam Coast Guard.

Agriculture

- On 14 February 2015, the Ministry of Agriculture and Rural Development issued Circular No. 06/2015/TT-BNNPTNT, amending Clause 2, Article 18 of Circular No. 02/2014/TT-BNNPTNT dated 24 January 2014 of the Ministry of Agriculture and Rural Development, providing for the order of and procedures for issuing and revoking the certificates of genetically-modified plants eligible for use as foodstuff and animal feeds.
- Circular No. 05/2015/TT-BNNPTNT dated 12 February 2015 of the Ministry of Agriculture and Rural Development, providing for the order of and procedures

for issuing Certificates of eligibility to practice the treatment of plant quarantine objects.

Enterprise

- On 14 February 2015, the Government stipulated Decree No. 16/2015/ND-CP, providing for autonomy mechanism of public non-business professional units.
- Decree No. 609/QD-UBND dated 10 February 2015 of the People's Committee of Ho Chi Minh City, repealing Decision No. 200/2004/QD-UB dated 18 August 2004 of the People's Committee of Ho Chi Minh City, announcing the List of manufacture and business sectors in which investment certificates shall not be newly issued to or amended for businesses located in densely-populated areas.

Miscellaneous

- On 14 February 2015, the Government issued Decree No. 21/2015/ND-CP, providing for the royalties and remunerations for cinematographic, fine art, photographic or dramatic works; and other forms of performing arts.
- Decision No. 355/QD-BTC dated 26 February 2015 of the Ministry of Finance, announcing administrative procedures in securities registration, depository, clearing and payment in the securities field within the scope of the Ministry of Finance's State management function.
- On 27 February 2015, the Ministry of Health stipulated Circular No. 01/2015/TT-BYT, providing guidelines for consultancy on preventing and fighting against HIV/AIDS.
- Circular No. 01/2015/TT-BKHDT dated 14 February 2015 of the Ministry of Planning and Investment, detailing dossiers of invitation for expression of interest, dossiers of invitation to tender, and dossiers of request for consulting services.

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