

## LEGAL UPDATES

### BANKING AND FINANCE

#### **Circular No. 03/2019/TT-NHNN amending Circular No. 32/2013/TT-NHNN regarding foreign exchange controls within the territory of Vietnam**

Effective date: 13 May 2019

The new Circular No. 03/2019/TT-NHNN provides for an additional circumstance which allows the use of foreign currency in Vietnam. Accordingly, foreign investors are permitted to pay deposit in foreign currency by way of bank transfer when participating in the following auctions:

1. purchasing shares in State-owned enterprises subject to privatization plans approved by the Prime Minister;
2. purchasing shares or equity (held by the State) in State-owned enterprises subject to divestment plans as approved by the Prime Minister;
3. purchasing shares or equity (held by State-owned enterprises) in private enterprises subject to divestment plans as approved by the Prime Minister.

Upon a successful auction, the foreign investors shall pay the purchase price pursuant to the laws on foreign currency exchange. Otherwise, the foreign investors may remit overseas the deposit in foreign currency after deducting relevant expenses (if any).

## ENVIRONMENTAL PROTECTION

### **Decree No. 40/2019/ND-CP amending four Decrees (including Decree No. 127/2014/ND-CP, Decree No. 18/2015/ND-CP, Decree No. 19/2015/ND-CP and Decree No. 38/2015/ND-CP) regarding environmental protection (“Decree 40”)**

Effective date: 1 July 2019

Decree 40 simplifies the procedures and clarifies certain conditions regarding environmental protection, especially in mineral exploitation and waste import. Certain highlights in Decree 40 are as follows:

1. Lists of projects which are subject to environmental strategic assessment (“**ESA**”), environmental impact assessment (“**EIA**”) and registration of environmental protection plan (“**EPP**”) are supplemented.
2. There is a new list of industrial business lines which potentially cause environmental pollution. The entity engaging in the listed business lines shall be further subject to certain requirements regarding how to deal with environmental incidents and/or environmental management system.
3. The investor shall only be required to submit one (01) EIA report for each investment project. In addition, the contents and time for submission of the EIA report are supplemented and detailed.

In general, the EIA report shall be submitted prior to the investor’s decision of investment, except for cases of exploitation of mineral projects, oil exploration and exploitation projects and construction investment projects.

4. There are stricter regulations on waste import for using as manufacturing material. The entity using such imported waste must, amongst other things, have
  - a. the approved EIA report;
  - b. confirmation on completion of construction work for environmental protection or license on processing the hazardous waste; and
  - c. confirmation on satisfaction of environmental protection conditions in waste import.
5. Term of the license on processing the hazardous waste will be increased from three (03) to five (05) years.
6. Previous periodical reports (including reports on environmental supervision and reports on waste management) will be incorporated in one form of report.

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