

Technical Update

May 2023

1. Decree detailing a number of articles of Law on Anti-money laundering

On 28 April 2023, the Government issued Decree No. 19/2023/ND-CP detailing a number of articles of Law on Anti-money laundering ("**Decree 19**"), replacing Decree No. 116/2013/ND-CP. Decree 19 comes into force with the following notable amendments:

- Specifying the principle, criteria and method of national money laundering risk ("**NMLR**") assessment, in which:
 - i. In terms of principle, the NMLR assessment (a) shall be implemented in accordance with international standards and practical conditions of Vietnam; (b) shall define the level of NMLR; (c) shall be the basis for formulating plans, strategies and updating policies on NMLR; (d) shall use information, data collected publicly, transparently and in compliance with regulations on the protection of State's secrets;
 - ii. In terms of criteria, the NMLR assessment shall be based on three main criteria, namely: (a) money laundering risk; (b) consistency of policies and measures for preventing and combatting of money laundering; and (c) consequence of money laundering on the nation and on the sector or field;
 - iii. In terms of methodology, the NMLR assessment will apply a scoring method on a scale of 1 to 5, corresponding to the level of risk from low to high, applied to each criterion as mentioned above.
- Increasing the total value of transactions in which financial institutions and organizations or individuals doing business in non-financial industries (such as prize-winning games, trading in precious metals and gems) must perform Know-your-customer ("**KYC**") procedures, specifically:
 - i. Financial institutions shall perform KYC procedure with customers, which do not own an account or do own an account but have not had any transaction within 6 consecutive months, implementing a deposit, withdrawal, or transfer transaction with a total value from **VND400,000,000** or an equivalent value in foreign currency within a day (this has been increased from VND300,000,000 under the old Decree);
 - ii. Organizations or individuals doing business in prize-winning games, which include prize-winning video games, games on telecommunications networks and the Internet, casino, lottery, and betting, shall perform KYC procedure with customers implementing transactions with a total value from **VND70,000,000** or an equivalent value in foreign currency within a day (this has been increased from VND60,000,000 under the old Decree);
 - iii. Organizations or individuals trading in precious metals and gems shall perform KYC procedure with customers implementing transactions in cash to buy or sell precious metals and gems with a value from **VND400,000,000** or an equivalent value in foreign currency in cash within a day (this has been increased from VND300,000,000 under the old Decree).
- Supplementing regulation on the regulatory authorities with authority to receive information, dossier, documents and report as follows:
 - i. The agency performing the function and duty of preventing and combatting of money laundering under the State Bank of Vietnam;

- ii. The investigating agency, the agency assigned to conduct a number of investigating activities or the People's Procuracy when performing their duties in accordance with the decision to prosecute the case or the accused; the agency specialized in protecting national security under the People's Public Security upon request to provide information, dossiers, documents and reports on anti-money laundering;
- iii. The State inspection agency, the agencies assigned to perform the specialized inspection function for reporting subjects.

Accordingly, upon receipt of a request from the above-mentioned agencies, the reporting subject shall promptly provide sufficient information, dossiers, documents and reports in accordance with prevailing regulations to the requesting agency.

2. Decree amending and supplementing a number of articles on multilevel marketing business activity

On 28 April 2023, the Government issued Decree No. 18/2023/ND-CP amending and supplementing a number of articles of Decree No. 40/2018/ND-CP dated 12 March 2018 of the Government regarding management of multilevel marketing business ("**Decree 18**"). Decree 18 will take effect on 20 June 2023 with the following notable contents:

- Supplementing the conditions for registration of multilevel marketing activity. Accordingly, in case the enterprise registering for multilevel marketing activity is an enterprise in which the owner or contribution member or shareholder is a **foreign investor** or a **foreign-invested enterprise**, such **foreign investor** and **foreign-invested enterprise** must have been operating in multilevel marketing for at least **03 consecutive years** in a country or territory in the world.
- Supplementing the provisions on Notification on holding of **online** conferences, seminars, and training on multilevel marketing, specifically:
 - i. In case the participants only perform multilevel marketing in **one** province or city under central government, the enterprise shall send a notification to the Department of Industry and Trade of such province or city under central government;
 - ii. In case the participants perform multilevel marketing in **several** provinces or cities under the central government, the enterprise shall send a notification to the Department of Industry and Trade where the enterprise's head office is located.
- Supplementing the provisions on the responsibilities of enterprises performing multilevel marketing, specifically:
 - i. Ensure that at least **20% of revenue** from multilevel marketing activity in a fiscal year is revenue from customers who do not participate in multilevel marketing activity of such enterprise;
 - ii. Do not provide **information about food** in the form of using images, equipment, costumes, names, or letters of medical units, facilities, doctors, pharmacists, or medical staff; thanks letters, thanks notes from patients; articles written by doctors, pharmacists, medical staff; do not provide information about food with contents posted, quoted, or commented on by patients that describe such foods having therapeutic effects. This responsibility is also applied to multilevel marketing participants.
- Detailing the provision on **the purpose of use of escrow fund** of enterprise performing multilevel marketing in favor of participants and the State. In particular:
 - i. For payment of obligations arising from lawful multilevel marketing activity, including the obligation to pay bonus in accordance with the bonus plan;
 - ii. For payment of obligations arising from the re-purchase of goods in the event of returns by the participants; and
 - iii. For payment of obligations arising from the return monies in the event delivery, receipt and dispatch of goods not properly performed in accordance with prevailing regulations.

3. Circular amending and supplementing a number of articles on order and procedures for issuance of electricity operation permit

On 21 April 2023, Ministry of Industry and Trade issued Circular No. 10/2023/TT-BCT amending and supplementing a number of articles of Circular No. 21/2020/TT-BCT regarding the order and procedures for issuance of electricity operation permit ("**Circular 10**"). Circular 10 will take effect on 09 June 2023 with the following notable contents:

- Amending the provisions on documents proving capacity in the application dossier for issuance of the permit. Accordingly, Circular 10 amends and supplements provisions on the application dossier for issuance of the permit in the field of advisory; electricity generation; electricity transmission, electricity distribution; wholesale and retail of electricity in way of furtherly specifying **conditions on the experience** of the advisory specialist, the person directly managing technique, business manager in comparison with the previous Circular.
- Supplementing the provisions on the competency to issue electricity operation permits for retail and distribution. Accordingly, if (i) the electricity operation permit for retail of electricity will be issued simultaneously with the electricity operation permit for electricity distribution, and (ii) one of which is under the Electricity Regulatory Authority's competency of issuance, the authority with competency to issue these two mentioned permits shall be the **Electricity Regulatory Authority**.
- Supplementing the provisions on responsibilities of the electricity operator granted with an electricity operation permit in case of putting electricity works into commercial or official operation, specifically:
 - i. Electricity operator shall fully satisfy prevailing regulations regarding planning, land, construction, fire preventing and fighting, environment, connection, and other relevant regulations **before** putting the electricity works into **official operation**;
 - ii. In terms of electricity works required for approval on the result of construction acceptance of competent authority, the electricity operator shall obtain the approval on the result of construction acceptance on work items or construction works **before the date of commercial operation or official operation** of such electricity works.
- Specifying the method of receipt of reports, in which:
 - i. In case of submitting reports to the Ministry of Industry and Trade or the Electricity Regulatory Authority by way of online submission: submitting through the **email system** (address: BChoatdongdienluc@moit.gov.vn) or the **Public Service Portal** of the Ministry of Industry and Trade;
 - ii. In case of submitting reports to the People's Committee of a province, a city under the central government and the provincial Department of Industry and Trade by way of online submission (if applicable), **such submitting is implemented under the guidance** of the People's Committee of said province, city under the central government and provincial Department of Industry and Trade.

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