



LEGAL DIGEST: BANGLADESH, CAMBODIA, LAOS, MYANMAR, VIETNAM

Legislative developments - July 2022

LAWS AND REGULATIONS

Trade & Commerce

BRPD circular letter no-25, on L/C Margin on Import Financing, dated 04 July 2022

The Bangladesh Bank has further revised certain regulations relating to imports: importers will have to maintain up to 100 per cent margin against the import of luxurious and nonessential items, including sedan car, sport utility vehicle and multi-purpose vehicle. According to the circular, Bangladesh Bank has also brought several items under its high import letter of credit margin net.

Under the new circular, gold and gold-ornaments, precious metal, pearl, readymade garments, leather goods, jute goods, cosmetics, furniture and decoration items, fruits and flowers, non-cereal food, processed food and drinks, alcoholic drinks and tobacco or alternatives of these items and other luxurious products imports will be subject to 100 per cent cash LC margin.

Previously, the obligation was in relation to cars and electric and electronics home appliances.

There would be no mandatory LC margin limit on imports of baby food, essential food items, fuel, health directorate-approved live saving drugs and other kits, raw materials and capital machinery directly imported for the production-oriented local industries and export-oriented industries, agricultural equipment and essential products of the government's priority projects.

The required margin has to be taken from the customer's own source as opposed to the establishment of import debentures for imported goods at 100 per cent and 75 per cent margins as directed in paragraphs 2 (a) and (b) respectively. In other words, no margin can be paid against the existing loan account in favor of the importer in the concerned bank or against the establishment of import loan by creating a new loan account.

Travel and Visas

Department of Foreign Exchange of Bangladesh Bank circular No- 13, on "Remittances on account of visa processing fees by resident agents through International Card" Dated 13 July 2022.



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Aimed to facilitate smoother processing of transactions, Bangladesh Bank has decided that international cards (debit/prepaid) can be used for online payments of visa processing fees.

Generally, visa processing fees, among others, collected through nominated resident agents of foreign embassies are permitted to remit abroad to bank accounts designated by embassies or their home offices.

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Pandemic-related measures

Press Release No. 01 by the Royal Government of Cambodia (“RGC”) dated 15 July 2022 on “Guidance on Additional Measures to Continue Managing the Impact of COVID-19 and Support the Recovery of the Tourism Industry”

The RGC has cooperated with the private sector and relevant ministries and institutions to introduce additional measures for the tourism sector as follows:

- Firstly, to continue to exempt hotels, guesthouses, and travel agencies that are registered with the General Department of Taxation and have business activities in Phnom Penh, Siem Reap, and Sihanoukville from all types of monthly taxes except VAT for an additional three months, from July to September 2022. These businesses are still required to file tax returns and use the online system for value added tax (E-VAT) management on a monthly basis during this period.
- Secondly, to continue to provide support by freezing the tax debt amounts as they were at the end of 2019 and excluding penalties for 2022 for the tourism sector.
- Thirdly, to promote business in the tourism sector, companies are encouraged to prepare professional development programs for its employees and to request financial support from the Professional Development Fund (“SDF”) project as needed.

Labor

Prakas No. 168/22 KB/B.K.B.S. S by the Ministry of Labor and Vocational Training (“MLVT”) dated 5 July 2022 on “The Formula and Procedure for Registering Entities, Employees, and Contributions with the National Social Security Fund (“NSSF”) for Anyone Subject to the Labor Law”

The formula and procedure for registering entities, employees, and contributions with the NSSF are set out below:

1. Registration of enterprises

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- Owners of enterprises that are operating and are not yet registered with the NSSF must register their enterprise within 30 days after this Prakas enters into force.
- New enterprises must register within 30 days after the date the enterprise is established.
- For owners of enterprises that were already registered before this Prakas was issued will not need to reregister their enterprise.
- The forms and documents that need to be included are detailed in Article 5 of the Prakas.

2. Registration of employees

Owners of enterprises must register their employees with the NSSF within three days after the date they start work except for employees who already have an NSSF card. The forms and documents that need to be included are detailed in Article 9 of the Parkas.

3. Contributions to the NSSF

Contributions must be made on the 15th of every month to the NSSF account via a partner bank. If an enterprise wishes to contribute annually, it needs to make a request to the NSSF. A monthly contribution report consisting of the contribution letter, bank receipt, employee report, and payroll list must be submitted either in person or by email to contribution@nssf.gov.kh. The report is due on the 20th of every month.

Prakas No. 170/22 KB/B.K.B.S. S by the MLVT dated 5 July 2022 on the “Date to Start Contributions to the NSSF Pension Regime, Both Obligatory and Voluntary”

Obligatory and voluntary contributions to the pension regime of the NSSF covering all persons and companies under the Labor Law will be implemented from 1 October 2022 on.

E-Commerce

Notification No. 1964 P.N. CHNP by the Ministry of Commerce (“MOC”) dated 7 July 2022 on the “Application to Request an E-Commerce Permit or License”

This notification specifies the following regarding those who have not yet submitted an application for an e-commerce permit or license from the MOC:

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- Legal persons who have been operating e-commerce activities without authorization from the MOC can submit an application but they will be subject to a penalty.
- Legal persons who are just beginning to operate e-commerce activities or plan to operate e-commerce activities can submit an application without being subject to a penalty.
- Natural persons whose revenue categorizes them as small taxpayers are not required to have a permit or license. Natural persons wishing to obtain official authorization can submit an application to the MOC without being subject to a penalty.

Telecommunications

Prakas No. 82 B.T.BRK. by the Ministry of Post and Telecommunications (“MPT”) dated 19 July 2022 on the “Quality of Telecommunications Services”

This stipulates the basic principles that the MPT will use to review the quality of telecommunications services provided by telecommunications operators providing landline, mobile phone, and internet services in Cambodia.

The principles include:

- The telecommunications services meet at least the minimum level set in the key indicators specified in Article 4 of the Prakas.
- The telecommunications operator provides clear and transparent information to users about the quality level of the telecommunications service and any issues regarding the quality of services.
- The telecommunications operator’s advertises the key points regarding the quality of telecommunications services.

Further details are provided in Article 4 of the Prakas.

Notification No. 1701 MPTC by the Ministry of Post and Telecommunications dated 26 July 2022 on the “Ban on the Use of Signal Boosters and/or Repeaters that Severely Affect Mobile Services”



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After an inspection of radio frequencies and an assessment of mobile services in certain locations in Phnom Penh, the MPT has found that the use of signal boosters and/or repeaters are causing signal interferences and severely affecting the quality of mobile services in the surrounding areas.

In this regard, the MPT is asking that all citizens who are using signal boosters and/or repeaters remove and cease to use these tools; and propose that all stakeholders urgently cease importing all signal boosters and/or repeaters that are not acknowledged by the Telecommunications Regulator of Cambodia, otherwise they will face legal measures.

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Banking and Finance

Decree No. 184/G dated 20 June 2022 issued by the Government of the Lao PDR on “**Microfinance Institutions**”

This decree determines and implements new requirements for microfinance institution business activities in the Lao PDR. #

I. Deposit-taking microfinance institutions (“DTMFI”)

- **Foreign investment:** Foreigners (natural or legal persons) are permitted to invest up to 51% of the share capital of a DTMFI.
- **Registered capital:** A DTMFI is required to:
 - Have minimum registered capital of LAK30 billion (equivalent to US\$2 million);
 - Have the capital contribution be by way of cash or in kind;
 - Ensure that the in-kind contribution does not exceed 10% of its total registered capital; and
 - Obtain prior approval from the Bank of the Lao PDR (“**BOL**”) to change its registered capital.

II. Non-deposit taking microfinance institutions (“NDTMFI”)

- **Foreign investment:** There is no limit on investment by foreigners (either by natural or legal persons).
- **Registered capital:** An NDTMFI is required to:
 - Have minimum registered capital of LAK10 billion (equivalent to US\$670,000);
 - Have the capital contribution be by way of cash or in kind;
 - Ensure that the in-kind contribution does not exceed 10% of its total registered capital; and
 - Obtain prior approval from the BOL to change its registered capital.

This decree replaces Decree on Microfinance Institutions No. 460/G dated 3 October 2012 and entered into force on 27 July 2022 after it was published in the Lao Official Gazette on 12 July 2022.

Additionally, microfinance institutions that were registered before this decree must make changes to bring themselves into compliance with the



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provisions under this decree within two years.
Employment
<p><i>Instruction No. 2718/MOLSW dated 8 July 2022 issued by the Ministry of Labor and Social Welfare on the “Increase in the Minimum Wage”</i></p> <p>This instruction stipulates specific guidelines to implement Notification No. 829/PMO dated 13 June 2022 issued by the Prime Minister’s Office concerning the increase in the national statutory minimum wage from LAK1,100,000 to LAK1,300,000.</p> <p>The key guidelines:</p> <ul style="list-style-type: none"> ▪ Employees working in a labor unit in the Lao PDR will be entitled to a minimum salary/wage of LAK1,200,000 per month, starting from 1 August 2022. For day laborers, the wages must be at least LAK46,154 per day (computed at the hourly rate of LAK5,769 multiplied by 8 (the permitted daily working hours)). ▪ Employees will be entitled to a further increase starting from 1 May 2023, when the minimum monthly salary/wage will change to LAK1,300,000 per month. For day laborers’ wages will increase to at least LAK50,000 per day (based on the hourly rate of LAK6,250 multiplied by 8 (the permitted daily working hours)). ▪ Employees who lack special skills and training are specified as a prioritized group under the instruction In addition, employees who have experience working in a specialized role for at least nine months must be paid remuneration that is commensurate with his/her respective work experience. ▪ Employees and day laborers working in hazardous sectors are entitled to receive an additional remuneration that is equal to at least 15% of the statutory minimum wage. All labor units involved in businesses that adversely impact the health and safety of a section of its labor force, such as cement production companies, mining projects, etc., should adjust their payroll policy accordingly. <p>The instruction went into effect on 8 July 2022 and applies to all labor units operating within the Lao PDR.</p>

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Central Bank of Myanmar
<p><i>Letter No. FE – 1/696 dated 6 July 2022 issued by the Central Bank of Myanmar on “Requirement to obtain approval prior to outward remittances or purchase of foreign currency”</i></p> <p>In this letter, the Central Bank of Myanmar stated that companies and organizations that are exempted from the requirements under Notification 12/2022 are required to seek approval from the Foreign Exchange Supervisory Committee (“FESC”) for the following purposes:</p> <ul style="list-style-type: none"> ▪ outward remittances of foreign currency from their foreign currency bank accounts in Myanmar, or ▪ purchase of foreign currency (on account of insufficient foreign currency in their foreign currency bank accounts in Myanmar).
<p><i>Letter No. FE-1/744(Ka) dated 13 July 2022 issued by the Central Bank of Myanmar on “Suspension of repayments under offshore loans received by local residents”</i></p> <p>In this letter, the Central Bank of Myanmar requires authorized dealer banks to notify their corporate and individual customers to discuss with their offshore lenders about making necessary amendments to the repayment schedules under the loan agreements.</p>
<p><i>Letter No. FE – 1/739 dated 13 July 2022 issued by the Central Bank of Myanmar on “Cancellation of the exemption granted to certain DICA companies regarding compulsory foreign currency conversion”</i></p> <p>By this letter, the Central Bank of Myanmar revoked the exemption granted to DICA registered companies (having 10% or more foreign shareholding) from the requirement to compulsorily convert their foreign currency into Myanmar Kyat.</p>
<p><i>Directive No. 8/2022 dated 13 July 2022 issued by the Central Bank of Myanmar on “Establishment of 100% foreign owned non-bank financial institutions (“NBFIs”) and foreign investments in such NBFIs”</i></p>



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The Central Bank of Myanmar announced via this Directive that foreign financial institutions will be allowed to set up wholly foreign owned NBFIs or enter a joint venture with domestic NBFIs in Myanmar. The Directive sets out the specific information relating to the minimum capital requirements, business experience, and timeline to commence providing the services, among other things.

Letter No. FE-1/754 dated 15 July 2022 issued by the Central Bank of Myanmar on “The requirement for companies with up to 35% foreign ownership to convert foreign currency into Myanmar Kyat”

The Central Bank of Myanmar instructed the authorized dealer banks to convert foreign currency held by Myanmar companies with up to 35% foreign ownership, as listed in appendix to the Schedule of the letter. The authorized dealer banks are also required to provide the Central Bank of Myanmar with information on the amount of foreign currency held by the companies listed in the Schedule.

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Business and Foreign Investment

Decision No. 721/QĐ-TTg dated 16 June 2022 of the Prime Minister of Vietnam on “Approval of the Plan to Reduce and Simplify Regulations related to Business Activities under the State Management of the Ministry of Natural Resources and Environment”

This decision prescribes a reduction and simplification in the procedures for issuing land-use rights certificates for housing development projects (for provinces where land registration offices are established) (e.g. the administrative procedural code: 1.002273), by the following:

- Allowing methods for the registration and issuance of land-use rights and ownership certificates for housing and other property on land for transferees through online public services.
- Having the tax authorities, single-window divisions, banks and/or intermediary payment service providers, etc. interconnecting and sharing online data in order to allow the online payment of land-related financial obligations through the national public service portal.
- Implementation duration: The years 2022-2025.

Transportation

Circular No. 08/2022/TT-BGTVT dated 16 June 2022 by the Ministry of Transport on “Amending Circulars related to the Marine Business”

The circular specifies that an application for an inland water transport license for the transport of passengers and luggage from cruise ships to the mainland should include:

- The application form as defined in Appendix I issued with Circular No. 50/2016/TT-BGTVT
- One copy of the sea-going vessel registration certificate
- One set of the sea-going vessel inspection documents, including copies of the technical safety and environment protection certificates for sea-going vessels as prescribed in Circular No. 55/2019/TT-BGTVT
- A detailed plan for the transport of passengers and luggage between cruise ships and the mainland.



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- One copy of the original or a copy and the original for comparison or a legal electronic copy issued by the competent authority of one of the following documents:
 - Agent contract; or
 - Foreign shipowner’s representative agent appointment letter (if the proposing organization is the foreign shipowner’s representative agent)
- Circular No. 08/2022/TT-BGTVT entered into force on 16 June 2022.

Bidding

Circular No. 15/2022/TT-BKHDT dated 30 June 2022 by the Ministry of Planning and Investment “Elaborating on the Preparation of Bidding Documents for Construction under the CPTPP, EVFTA and UKVFTA Agreements”

Contracts and bidding documents under the CPTPP, EVFTA and UKVFTA Agreement

Bidding documents must include:

- A contract form and detailed terms and conditions of the contract, which will be used as the basis for bidders to prepare their bids by bidders, and for the subsequent negotiation, completion, and conclusion of the contract by the parties.

The contract must include:

- General conditions
- Specific conditions
- Contract schedule.

Investors can make decisions regarding amending a contract based on each contract package’s scale and extent.

If necessary, investors may apply using construction contract forms issued by the International Federation of Consulting Engineers in compliance with domestic laws.

The contract concluded between the investor and the bidder must comply with the contract form.

The contract’s conditions prescribed in the bidding documents and amendments proposed by the bidder may be approved by the investor during the period of negotiation and completion of the contract if they do not contravene:

- Procurement laws and regulations;
- CPTPP, EVFTA, and UKVFTA regulations; or
- Other relevant laws and regulations.



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Circular No. 15/2022/TT-BKHDT enters into force on 25 August 2022.

*Circular No. 12/2022/TT-BKHDT dated 30 June 2022 by the Ministry of Planning and Investment “**Elaborating on the Preparation of Bidding Documents for the Procurement of Goods under the CPTPP, EVFTA, and UKVFTA Agreements**”*

Circular No. 12/2022/TT-BKHDT enters into force on 25 August 2022 and replaces Circular No. 09/2020/TT-BKHDT dated 27 November 2020. It specifies how bids are to be handled depending on whether they are opened before or after its effective date.

For bidding packages under the scope of the CPTPP, EVFTA, and UKVFTA Agreements for which bids are opened before the circular’s effective date:

- The bid evaluation and consideration for contract award is to be done in accordance with the bidding documents and not in contravention of the CPTPP, EVFTA, and UKVFTA Agreements.

For bidding packages under the scope of the CPTPP, EVFTA, and UKVFTA Agreements for which bids are closed after the circular’s effective date:

- Any information inappropriate or in contravention of the bidding document forms issued together with this circular must be modified.
- If the bidding documents are modified after being issued, the investor and procuring entity must give the bidders a reasonable amount of time to prepare their bids.

For bidding packages under the scope of the CPTPP, EVFTA, and UKVFTA Agreements in which the bidding documents have been approved before 25 August 2022 but have not been issued:

- These bidding documents must be adjusted to conform to the forms issued together with this circular.

Employment and Pension

*Official Dispatch No. 4359/TLD-QHLD dated 16 June 2022 promulgated by the Vietnam General Confederation of Labor on “**Guidelines for the Implementation of Resolution No. 17/2022/UBTVQH15 on Overtime Hours**”*



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To implement Resolution No. 17/2022/UBTVQH15, affiliated unions are directed to cooperate with the relevant agencies and pay particular attention to the following:

- Cases where employers may assign their employees to work overtime of up to 300 hours/year are prescribed in Clause 1 Article 1 of Resolution No. 17/2022/UBTVQH15 and Clause 3 Article 107 of the Labor Code 2019.
- All of the cases eligible for the organization of overtime work of up to 300 hours/year may allow overtime hours of 40 to 60 hours/month as of 1 April 2022.
- Enterprises that organize overtime work of 200 to 300 hours/year must notify the Department of Labor, War Invalids and Social Affairs of such as prescribed in Clause 4 Article 107 of the Labor Code and Article 62 of Decree No. 145/2020/ND-CP.

The overtime limits prescribed in Resolution No. 17/2022/UBTVQH15 apply until 31 December 2022, unless an extension is approved by the National Assembly of Vietnam.

Official Dispatch No. 2086/BLDTBXH-TLDDVN dated 17 June 2022 by the Ministry of Labor, War Invalids and Social Affairs of Vietnam on the “Implementation of Decree No. 38/2022/ND-CP on Minimum Wages”

Presidents of the People’s Committees of the provinces and central-affiliated cities are requested to direct the Department of Labor, War Invalids and Social Affairs to cooperate with employee representatives and the relevant authorities in instructing employers and employees in their provinces to implement Decree No. 38/2022/ND-CP on minimum wages.

Employers’ responsibilities:

- Review the terms specified in employment contracts, collective agreements, and employers’ rules and regulations and revise them as necessary.
- Do not cut overtime pay, night work pay, allowances in kind, and other benefits as prescribed.
- Continue to implement terms in employment contracts, collective agreements, or other legal agreements that are more beneficial to employees compared to the regulations prescribed in Decree No. 38/2022/ND-CP (in which the wages paid for trained employees are at least 7% higher than the minimum wage), unless otherwise agreed by both parties.



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Official Dispatch No. 410/CVL-TTLD dated 8 June 2022 of the Employment Department of Vietnam on the “Implementation of Policies on Rent Support for Employees according to Decision No. 08/2022/QD-TTg of the Prime Minister of Vietnam”

Employees eligible for rent support as prescribed in Decision No. 08/2022/QD-TTg include:

- Employees who have employment contracts as per Labour regulations, are living in rented rooms/houses, and are working in:
 - Registered enterprises, cooperatives, and household businesses.
 - Representative offices, law firms, etc. established and operating according to the provisions of the Law on Enterprises and Law on Cooperatives of Vietnam.
 - Companies that are established according to the provisions of Vietnam’s Laws on Enterprises, and have education business registration certificates (if they are eligible as prescribed).
- Employees taking paid maternity leave or sick leave:
 - According to point a, clause 3, Article 8 of Decree No. 145/2020/ND-CP, the total actual duration that an employee works for an employer includes paid maternity leave and sick leave according to the provisions of the social insurance laws.
 - If the duration of paid maternity leave and sick leave is at least 14 working days in a month, employees are not required to pay social insurance but they still have to participate/be recorded in the compulsory social insurance of the social insurance agency.
 - Employees taking paid maternity leave and sick leave are eligible for rent support, whether they are Vietnamese or foreign employees.

Tax and Accounting

Official Dispatch No. 2194/TCT-KK dated 23 June 2022 by the General Department of Taxation on “Implementation of Decree No. 34/2022/ND-CP on Tax Deferral”

This official dispatch provides guidelines for determining the tax deferral period under Decree No. 34/2022/ND-CP.



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VAT payable (including VAT distributed to provinces other than the province in which the taxpayer is headquartered and separately incurred VAT) **of enterprises and organizations** prescribed in Article 3 of Decree No. 34/2022/ND-CP for the periods specified below are eligible for deferral:

- The tax period from March to August (for monthly declared VAT); and
- The first quarter and second quarter of 2022 (for quarterly declared VAT).

The deferral period begins from the deadline for the payment of VAT prescribed by the Law on Tax Administration of Vietnam, specifically:

- Six months for VAT incurred during the period from March to May 2022 and the first quarter of 2022;
- Five months for VAT incurred during June 2022 and the second quarter of 2022;
- Four months for VAT incurred during July 2022; and
- Three months for VAT incurred during August 2022.

Corporate income tax (“CIT”): The deferral period is three months from the deadline for payment of CIT according to the Law on Tax Administration of Vietnam regarding provisional CIT during the tax periods of the first and second quarters of 2022.

VAT and personal income tax (“PIT”) payable by household businesses and individual businesses in 2022 for household businesses and individual businesses operating in the business lines specified in Clauses 1, 2, and 3 of Article 3 of Decree No. 34/2022/ND-CP: The deferred tax must be paid by 30 December 2022.

Decree No. 41/2022/ND-CP dated 29 June 2022 by the Government on “Amendments to Decree No. 123/2020/ND-CP on Invoices and Records and Decree No. 15/2022/ND-CP on the Policy on VAT Reduction from 10% to 8%”

The regulations on the issuance of invoices when reducing VAT to 8% are amended as follows:

- For business establishments that pay VAT using the credit-invoice method and apply different tax rates when selling goods or providing services, their VAT invoices must state the tax rates of each commodity and service.



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- For business establishments that pay VAT using the direct method (as a percentage of revenue), their sales invoices must state the reduced VAT amount when selling goods and providing services.

Additionally, from 1 February 2022 to 20 June 2022, business establishments that have followed the mentioned regulations are still eligible for VAT reduction and exemption from invoice adjustment and are not subject to administrative penalties for tax and invoice violations.

Decree No. 41/2022/ND-CP entered into force on 20 June 2022.

Official Dispatch No. 2455/TCT-DNNCN dated 12 July 2022 by the General Department of Taxation on the “Implementation and Application of Electronic Invoices and Records in Vietnam”

Instructions for using electronic records of PIT withholding are specified as follows:

- According to the provisions in Article 33 of Decree No. 123/2020/ND-CP, organizations using electronic records of PIT reduction will not be obliged to register with, notify, or issue and transfer electronic data to, the tax authorities.
- Each withholding organization must develop a software system on its own for using electronic records to meet the mandatory requirements prescribed in Clause 1, Article 32 of Decree No. 123/2020/ND-CP.
- For periods that electronic records of PIT withholding are not used, organizations (the tax authorities included) and enterprises may use records of PIT withholding internally issued.

From 1 July 2022, the tax authorities will cease to sell records of PIT withholding; organizations and enterprises are ordered to print the PIT withholding receipt by themselves. Any unused records purchased from the tax authorities will remain usable.

Banking and Finance

Circular No. 04/2022/TT-NHNN dated 16 June 2022 by the State Bank of Vietnam on the “Application of Interest Rates on the Premature Withdrawal of Deposits from Credit Institutions and Foreign Bank Branches”

Regulations on the premature withdrawal of deposits from credit institutions and foreign bank branches in Vietnam (hereinafter referred to as “**credit institutions**”) are as follows:



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- When a client withdraws all of their deposit: credit institutions shall apply a maximum interest rate equal to their lowest interest rate on demand deposits based on the type of client and/or the currency of the deposit when such client withdraws it.
- When a client withdraws part of their deposit:
 - For the portion of the deposit withdrawn before maturity: Credit institutions shall apply a maximum interest rate equal to their lowest interest rate on demand deposits based on the type of client and/or currency of the deposit when such client withdraws it; and
 - For the remaining deposit: Credit institutions shall apply the same interest rate applicable to the deposit before the withdrawal will continue to apply.

(Compared to the current regulation, Circular No. 04/2022/TT-NHNN, this new regulation separates the interest rate applicable on the premature withdrawal of deposits and that on continuing deposits.)

Circular No. 04/2022/TT-NHNN enters into force on 1 August 2022 and replaces Circular No. 04/2011/TT-NHNN dated 10 March 2011.

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