

LEGAL DIGEST

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Legislative developments – February 2023





BANGLADESH

Banking and Finance

*Circular No. 02 dated 1 February 2023 issued by the Foreign Exchange Policy Department of the Bangladesh Bank on “**Interest Rate on Borrowing from the Export Development Fund (“EDF”)”**”*

The circular specifies that until further instruction, the Bangladesh Bank will charge an interest rate of 3.00% on EDF loans to authorized dealer banks while authorized dealer banks are to charge 4.50% to manufacturer-exporters.

*Circular No. 03 dated 2 February 2023 issued by the Banking Regulation and Policy Department of the Bangladesh Bank on “**Loan Classification and Provisioning**”*

Banks are required to maintain a general provision of 1% on unclassified amounts for loans to brokerage houses, merchant banks, and stock dealers. Previously it was 2%.

*Circular No. 03 dated 22 February 2023 issued by the Foreign Exchange Policy Department of the Bangladesh Bank on “**Raising of the Limit for Declaration on Form C of Inward Remittances**”*

Aiming to facilitate inward remittances, the threshold for having to declare inward remittances on Form C has been raised from US\$10,000 to US\$20,000 or its equivalent. In addition, no declaration is required for inward remittances sent by Bangladeshi nationals working abroad.

CAMBODIA

Competition law

Prakas 079 dated 22 February 2023 issued by the Ministry of Commerce on the “Forms and Procedures for Issuing Temporary Suspension Measures and/or Decisions by the Cambodia Competition Committee (“CCC”)”

This Prakas provides clarification on the forms and procedures when the CCC issues temporary suspension measures and/or a decision under the Competition Law.

Under the Competition Law, the CCC has sole discretion for decisions on violations and measures to be taken, while implementation is carried out by the General Department on Consumer Protection, Competition, and Anti-fraud (“GCCA”).

The Prakas sets out the standard forms and procedures for the:

- Issuance of temporary suspension measures by the CCC at the request of the investigating officer of the GCCA
- Issuance of a decision on the violation by the CCC at the request of the GCCA at the conclusion of the investigation. The following conditions apply to decisions by the CCC:
 - They apply only to the person under investigation.
 - They must be made public.
 - They must specify, among others, the following:
 - The article(s) of the Competition Law that have been violated.
 - Statement on the measures being taken per the Competition Law.
 - The deadline and details for the payment of penalties.
 - The reason for the CCC’s decision.
- Delivery of notifications to the violator on the CCC’s rulings:
- Appeal of a CCC decision or temporary suspension measures, as follows:
 - A first appeal is made by sending a written request to the CCC for reconsideration within 15 days of receipt of the notification of the decision or temporary suspension measures.
 - If the CCC rejects the appeal, a further appeal can be lodged with the competent court within 30 days of receipt of notification of the CCC’s rejection of the first appeal.

*Joint Prakas No. 041 dated 25 January 2023 issued by the Ministry of Commerce and the Ministry of Justice on “**Penalty Procedures for Violation of the Competition Law**”*

This Joint Prakas provides clarification on the implementation of Article 35 of the Competition Law on the monetary fines imposed by the CCC.

It lays out the actions to be taken by the GCCA of the Ministry of Commerce, when acting as the judicial police to implement the levying and collection of the fines.

In addition, although the determination of the fines to be imposed is at the sole discretion of the CCC, the decision can be appealed, first by written request to the CCC, and a further appeal can be made to the competent court.

LAOS



Manufacturing and Construction

*Decision No. 0166/IC dated 9 February 2023 issued by the Minister of Industry and Commerce on "**Factories**"*

The decision applies to domestic and foreign individuals, legal entities, and organizations that operate industrial processing plants, including factories located in industrial parks, special economic zones, and other areas of the Lao PDR.

All types of small, medium, and large-sized processing plants that use natural resources, hazardous chemicals, and have a high risk of environmental impact must apply for a license to establish a factory with the industry and commerce sector.

The decision enters into force on 27 March 2023, and replaces Decision No. 0264/IC.IHD dated 15 March 2019 on the Management of Factories and Decision No. 0878/IC dated 11 May 2011 on the Management of Small-Scale Factories.

*Decision No. 0167/IC dated 9 February 2023 issued by the Minister of Industry and Commerce on the "**Endorsement of the Industrial Processing Plant List that is required to have a factory license**"*

The decision specifies the types of industrial processing plants that are required to have a factory license, with their Lao Standard Industry Classification ("**LSIC**") codes.

The decision enters into force on 27 March 2023.

*Decision No. 0168/IC dated 9 February 2023 issued by the Minister of Industry and Commerce on the "**Noise, Light and Temperature Standards for Industrial Processing Plants**"*

This decision specifies the required noise, light, and temperature standards that must be met for industrial processing plants, both inside and outside the factory area.#

After examination, if it is determined that the measurement results meet the standards outlined in the decision, the industry and commerce sector will provide a noise, light, and temperature standard certificate within five working days.#

The decision enters into force on 27 March 2023, and replaces Decision No. 2063/IC dated 14 October 2009 on the Noise Standards for Industrial Processing Plants.

TMT

*Decision No. 3583/MTC dated 13 December 2022 issued by the Minister of Technology and Communications on the "**Management of Telecommunications and ICT Equipment**"*

The decision specifies that before telecommunication and ICT equipment is produced, imported, exported, used, or distributed in the Lao PDR, it must be inspected to ensure that it complies with the technical standards set forth by the Ministry of Technology and Communications to ensure the quality, security, connection, and safeguarding of the confidential information and interests of the equipment users.

Applicants for technical standard certification must be Lao nationals or Lao-registered legal entities, or domestic or international not-for-profit organizations that conduct business or are registered in the Lao PDR.

If a foreign legal entity wishes to apply for technical standard certification, the application must be submitted by a representative who is either a Lao national or a Lao-registered legal entity.

The decision entered into force on 27 January 2023 and replaces Decision No. 2118/MPT dated 8 August 2018 on the Inspection and Certification of ICT Equipment Technical Standards.

MYANMAR



Banking and Finance

*Directive No. 3/2023 dated 12 January 2023 issued by the Central Bank of Myanmar (“CBM”) on “**Rules on Fit and Proper Criteria for the Management and Owners of Remittance Businesses**”*

This directive clarifies rules on the fit and proper criteria requirement for the management and owners of remittance businesses.

The rules apply to substantial shareholders and beneficial owners (defined as those holding more than 5% of the shares of a company or who have the right, directly or indirectly, to appoint or remove the majority of the board of directors or have significant control over a company), and the directors and officers (such as the financial officer, operating officer, compliance officer, company accountant, and risk management officer).

Application for the appointment of directors and officers

Companies are required to submit a written request letter, Form-1, Form-2, and other relevant documents to the CBM for approval 30 days prior to the appointment of the director or management officer. Candidates must meet the minimum qualifications for their respective positions specified in the appendix of the directive.

Within 30 days of receipt, the CBM will review the application and make a decision whether to approve or reject the candidate.

When scrutinizing a candidate’s application, the three main criteria the CBM will take into account are:

- (i) Honesty, integrity, and reputation
- (ii) Competence and capability
- (iii) Financial soundness

Removal from office

The board of directors has full responsibility to ensure on an ongoing basis that all directors and management officers are compliant with this directive. Upon becoming aware that a director or management officer does not meet the fit and proper criteria, it must remove the person from their position within 15 days.

If the CBM decides that a director or management officer does not meet the fit and proper criteria, it will send a written directive to the company. Such director or management officer must be removed within the time prescribed in the directive regardless of any employment contract or other existing laws.

Non-compliance with the directive attracts the administrative penalties specified under Section 154 of the Financial Institutions Law.

*Directive No. 4/2023 dated 12 January 2023 issued by the CBM on “**Rules on Fit and Proper Criteria for the Management and Owners of Money Changer Businesses**”*

This directive clarifies the rules on meeting the fit and proper criteria requirement for the management and owners of money changer businesses. The rules apply to substantial shareholders and beneficial owners (defined as those holding more than 5% of the shares of a company or who have the right, directly or indirectly, to appoint or remove the majority of the board of directors or have significant control over a company), and the directors and management officers.

*Bulletin No. 4/2023 dated 23 February 2023 issued by the Ministry of Commerce (“MOC”) on the “**Foreign Exchange Requirement on the Exportation of Rice and Rice Products through Cross-Border Trading Stations**”*

Previously, the MOC had granted an exception to the mandatory conversion of foreign currency to MMK at the CBM’s reference rate (the “**Foreign Exchange Requirement**”) to exporters of rice and rice products through cross-border trading stations. With effect from 1 March 2023, the MOC has changed the rule, and requires that such exporters follow the Foreign Exchange Requirement for 65% of their foreign currency earnings from exportation.

If the inward remittance of advance payments was made before 1 March 2023, but the rice and rice products for which the advance payments were made are to be exported on or after 1 March 2023, the foreign currency earnings arising from such exportation will also be required to follow the Foreign Exchange Requirement.

Immigration

*Announcement of 18 February 2023 by the Ministry of Health (“MOH”) on “**Updated Public Health Requirements for Travelers Entering Myanmar on International Commercial Flights**”*

The MOH announced updated public health requirements for international commercial flight passengers entering Myanmar.

Required documents under the rule

Travelers must present a copy of the following documents:

(a) For passengers that are fully vaccinated, a COVID-19 vaccination certificate for any of the following vaccines showing that they were fully vaccinated at least 14 days before their arrival in Myanmar:

- CoronaVac (Sinovac Biotech Ltd.)
- AstraZeneca or Covishield (AstraZeneca & University of Oxford/SK Bioscience (Korea)/Siam BioScience/ Serum Institute of India (SII))
- Pfizer-BioNTech COVID-19 Vaccine or Comirnaty (Pfizer Inc., & BioNTech)
- Janssen or Johnson & Johnson (Janssen Pharmaceuticals Companies of Johnson & Johnson)
- Moderna (ModernaTX, Inc.)
- Sinopharm or COVILO or BIBP-CorV (Beijing Institute of Biological Products Co., Ltd)
- Sputnik V (Gam-COVID-Vac) (Gamaleya National Research Centre of Epidemiology and Microbiology)
- Sputnik Light (Gamaleya National Research Centre of Epidemiology and Microbiology)
- Covaxin (Bharat Biotech)
- Myancopharm (Ministry of Industry of Myanmar)
- Nuvaxovid (NVX-CoV2373) (Novavax Co. Ltd)
- Covovax (Serum Institute of India Pvt Ltd)
- CorBEvax™ (Biological E Limited)
- COMIRNATY® (BioNTech Manufacturing GmbH)
- COMIRNATY® Original/Omicron BA.1 (BioNTech Manufacturing GmbH)
- VAXZEVRIA (AstraZeneca AB/SK Bioscience Co. Ltd)
- COVISHIELD™ (Serum Institute of India Pvt. Ltd)
- COVID-19 Vaccine (Janssen–Cilag International NV)
- SPIKEVAX (Moderna Biotech)
- CONVIDECIA (CanSino Biologics Inc)

(Note that the country, name, and date of vaccination must be clearly stated in English and/or Myanmar language, with the particulars of the travelers according to their passports.)

(b) For passengers that are unvaccinated or not fully vaccinated, a negative COVID-19 RT-PCR test result issued 48 hours at most before their arrival in Myanmar.

(Note that the negative COVID-19 test result and the date the test was taken must be clearly stated in English, with the particulars of the travelers according to their passports.)

(c) For all foreign passengers, proof of COVID-19 medical insurance purchased from Myanmar Insurance.

Exemptions

Children less than 12 years old travelling with fully vaccinated parents or guardians are exempt from the requirements under paragraphs (a) and (b) above.

Travelers that do not have the documents mentioned in paragraphs (a) and (b) may enter Myanmar only on relief flights. Note however that foreigners have been restricted in taking relief flights to Myanmar since 17 April 2022.

Diplomats, UN officials and their families, and businesspeople can be exempted from the requirement under clause (c) if they can submit proof that they have insurance that includes COVID-19 medical coverage from their respective country or an internationally-recognized insurance provider.

Protocols for testing and the control of infections

- (1) Travelers must fill out a Health Declaration Form at the airport.
- (2) The MOH will conduct a thermal screening of travelers and if symptoms of COVID-19 are found, those travelers will undergo a COVID-19 by Rapid Diagnostic Test. If the test is positive, the traveler will be immediately isolated and taken to a care center designated by the MOH.
- (3) If travelers develop COVID-19 symptoms during their stay in Myanmar, they must report such to the health authorities.
- (4) Travelers may take COVID-19 tests, as required by the countries they will travel to and transit through, at laboratories designated by the MOH before departing from Myanmar, at their own cost.
- (4) Travelers may take COVID-19 tests, as required by the countries they will travel to and transit through, at laboratories designated by the MOH before departing from Myanmar, at their own cost.
- (5) The MOH will take legal action against travelers who breach the COVID-19 control regulations.
- (6) State guests or foreign delegates visiting Myanmar by state flights or special flights can submit a request letter for exemption from the above stated requirements to the Central Committee for the Prevention, Control and Treatment of COVID-19, the Ministry of Foreign Affairs and the MOH at least five working days in advance.
- (7) Travelers coming into Myanmar must enter through airports approved by the Department of Civil Aviation.

VIETNAM

Employment

Decision No. 6696/QĐ-TLĐ dated 16 January 2023 by the Vietnam General Confederation of Labour on “Implementation of Policies on Support for Union Members and Workers Who Have Had Their Work Time Reduced or Been Terminated because of Fewer Customer Orders”

According to the decision, union members and workers who are entitled to financial support because of work time reductions or furloughs are those who meet all of the following conditions:

- Work under labor contracts with enterprises that have paid trade union contributions before 30 September 2022 who have their work time reduced or are furloughed because of a decline in customer orders at these enterprises;
- Have had their daily work time or work days per week or month reduced (excluding a reduction in overtime) or have been furloughed for at least 14 days during the period 1 October 2022 to 31 March 2023 (the “**Support Period**”); and based minimum wage.
 - Financial support for union members and workers who meet the above conditions is as follows:
 - Workers who are union members; and workers who are not union members but are female and at least 35 years old, pregnant workers of any age, and workers who are raising children (biological or adopted) or are providing care for children under 6 years old on behalf of their parents (the support rate is only applicable to one person who is the mother, father, or alternative caretaker): VND1million. Workers who are not union members (and do not meet any of the above criteria): VND700,000.

Decision No. 6696/QĐ-TLĐ entered into force on its signing date.

Energy

Official Minutes No. 51/TB-VPCP dated 22 February 2023 issued by the Government Office on “Deputy Prime Minister Tran Hong Ha’s Conclusions on Preparing for the Power Development Plan 8 Review Committee”

The key points from the Deputy Prime Minister's direction to the Ministry of Industry and Trade are as follows:

- The Power Development Plan 8 needs to ensure energy security and provide sufficient electricity for socioeconomic development and people's lives during the plan's period and the coming years. It should include proactive, flexible, and effective mechanisms to respond to fluctuations of, and the fast development of technologies in, the energy sector, particularly renewable energy.
- Research and implement smart grids to improve the efficiency of an integrated power system with traditional power sources as base load, alongside renewable sources.
- There is a need to have a better forecast of the trends for technology development in the energy sector, and a roadmap for hydrogen and green ammonia production in the world and Vietnam.
- Clarify the reason for moving the list of renewable projects in the Power Development Plan 7 into the Power Development Plan 8.

Natural Resources

Decree No. 02/2023/ND-CP dated 1 February 2023 by the Government of Vietnam "Guiding the Law on Water Resources"

The decree specifies the application forms for the granting, renewal, and adjustment of water resource licenses as follows:

- Form 1: Application for an underground water exploration license
- Form 2: Application for the renewal of/adjustment to an underground water exploration license
- Form 3: Application for an underground water extraction and use license
- Form 4: Application for renewal of/adjustment to an underground water extraction and use license
- Form 5: Application for a surface water extraction and use license
- Form 6: Application for renewal of/adjustment to a surface water extraction and use license
- Form 7: Application for a seawater extraction and use license
- Form 8: Application for renewal of/adjustment to a seawater extraction and use license
- Form 9: Application for the re-granting of a water resource license
- Form 10: Application for the return of a water resource license

Decree No. 02/2023/ND-CP enters into force on 20 March 2023 and replaces Decree No. 201/2013/ND-CP.

Master Planning on Land Use

Resolution No. [81/2023/QH15](#) dated 9 January 2023 by the National Assembly of Vietnam
“Approval of the National Master Plan 2021-2030, With A Vision Towards 2050”

Per the resolution, the principles for national land use are as follows:

- Ensure that the determination of land-use targets is consistent with the land-use demand, avoiding waste in allocation and management.
- Effectively use land resources to implement socioeconomic development objectives, safeguarding national defense and security in conjunction with environmental protection and adaptation to climate change.
- Allocate land funds that satisfy the requirement for the development of a synchronous infrastructure system, ensuring the connection of inter-sectoral and inter-regional development spaces, economic corridors, and development momentum areas of Vietnam, creating a breakthrough to meet the development requirements of Vietnam.
- Especially for traffic, energy, and digital infrastructure, increase the connection with regions and the world.
- Prioritize land funds that satisfy the increasing demand for education, health care, society, culture, sports, social housing, and housing for workers in industrial zones.
- Ensure land funds for national defense and security purposes.

Cybersecurity

Resolution No. [13/NQ-CP](#) dated 7 February 2023 by the Government of Vietnam
“Approving Documents on the Development of Decrees on Personal Data Protection”

Under the resolution, the Government of Vietnam has approved the regulation on the processing of personal data without the consent of the data owner in the following cases:

- For the protection of the life, health of the data owner or relevant persons in an emergency. The personal data control party, personal data processing party, personal data control and processing party, and relevant third parties must provide evidence in this case.
- As required by law.
- To process the data of competent state agencies in a national defense, national security, or social safety and order emergency, major natural disaster, or dangerous epidemic; to deal with a risk that threatens national defense and security but not to the extent of declaring a state of emergency; to prevent and combat against riots, terrorism, or criminal or other law violations as prescribed by law.
- To fulfill obligations under the contract of the data owner with relevant agencies, organizations, or individuals as prescribed by law.
- To serve the operations of state agencies as stipulated by specialized laws.

Resolution No. 13/NQ-CP entered into force on its signing date.

Imports – Exports

Circular No. 04/2023/TT-BCT dated 20 February 2023 by the Minister of Industry and Trade of Vietnam on “Applying Tariff-Rate Quotas for Raw Tobacco and Poultry Eggs Originating from Member Nations of the Eurasian Economic Union (“EEU”) 2023-2027”

Tariff-rate quotas are specified as follows:

- Poultry eggs (HS Code No. 04.07) 2023-2027:
 - 2023 tariff-rate quotas: 11,257 dozen
 - 2024 tariff-rate quotas: 11,820 dozen
 - 2025 tariff-rate quotas: 12,411 dozen
 - 2026 tariff-rate quotas: 13,031 dozen
 - 2027 tariff-rate quotas: 13,683 dozen
- Tariff-rate quotas for raw tobacco (HS Code No. 24.01) 2023-2027: 500 tonnes/year

Additionally, goods imported from member nations of the EEU under the Free Trade Agreement between Vietnam and the EEU must have Certificates of Origin (form EAV) issued according to the regulations.

The tariff-rate quotas for raw tobacco will be allocated to merchants with cigarette manufacturing licenses issued by the Ministry of Industry and Trade of Vietnam that wish to use imported raw tobacco for cigarette manufacturing.

The tariff-rate quotas for poultry eggs will be allocated to merchants that wish to import them.

Circular No. 04/2023/TT-BCT will be in force from 10 April 2023 to 31 December 2027.

Tax & Accounting

Decision No. 01/2023/QĐ-TTg dated 31 January 2023 by the Prime Minister of Vietnam on “Reduction of Land Rent and Water Surface Rent for Tenants Affected By COVID-19”

The decision regulates the policy on tax reductions as follows:

- A reduction of 30% of the 2022 payable land rent and water surface rent for land and water surface tenants as specified in Article 2 of the decision. Note that the reduction will not apply to outstanding land rent and water surface rent for years prior to 2022 or interest on late payment (if any).
- The reduction of land rent and water surface rent mentioned above is calculated based on the 2022 payable land rent and water surface rent as prescribed by law.

If land and water surface tenants are receiving reductions of land rent and water surface rent according to the regulations and/or deductions of compensation and site clearance compensation according to the laws on land rent and water surface rent, the 30% reduction of land rent and water surface rent will be calculated on the payable land rent and water surface rent (if any) after the reductions or deductions as prescribed by law.

Decision No. 01/2023/QĐ-TTg entered into force on 31 January 2023.

Banking and Finance

*Circular No. 26/2022/TT-NHNN dated 31 December 2022 by the Governor of the State Bank of Vietnam on “**Amendments to Circular No. 22/2019/TT-NHNN on Limits and Prudential Ratios of Banks and Foreign Bank Branches**”*

According to the circular, loan-to-deposit ratios are still calculated according to the current regulations prescribed in Circular No. 22/2019/TT-NHNN, but there are adjustments to the total deposit.

Specifically, deposits of domestic and foreign organizations (including deposits of other credit institutions and foreign bank branches), will now exclude the following amounts:

- Escrow and dedicated capital deposits of clients;
- Demand deposits of the State Treasury; and
- Time deposits of the State Treasury according to the following roadmap:
 - From 1 January 2023 to 31 December 2023: 50% of the balance of deposits of the State Treasury.
 - From 1 January 2024 to 31 December 2024: 60% of the balance of deposits of the State Treasury.
 - From 1 January 2025 to 31 December 2025: 80% of the balance of deposits of the State Treasury.
 - 1 From January 2026: 100% of the balance of deposits of State Treasury.

Previously, according to Circular No. 22/2019/TT-NHNN, the excluded amounts consisted only of:

- All kinds of deposits of the State Treasury; and
- Escrows and dedicated capital deposits of clients.

Circular No. 26/2022/TT-NHNN entered into force on 31 December 2022.

*Decree No. 08/2023/ND-CP dated 5 March 2023 by the Government of Vietnam on the “**Amendment and Suspension of the Effect of Some Articles of the Decrees on the Private Placement and Trading of Corporate Bonds in the Domestic Market and International Offerings**”*

Companies that have issued bonds privately in the domestic market but cannot fully pay the principal and interest on time as per the published plan to the investors are allowed to negotiate with the bondholders **to make payments with other assets**, if the companies:

- Fully comply with the relevant regulations;
- Have the bondholders’ approval; and

- Disclose any unusual information and take full responsibility for the legal status of the assets used to pay the bond interest and principal in accordance with the law.

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** Information included in this document does not represent legal advice. This document is not intended to represent a comprehensive list of all new laws and regulations issued or published in the relevant jurisdictions.*