**LEGAL UPDATES**

**VOL 51, OCTOBER 2022**

**Dear Valued Clients and Partners,**

ADK Vietnam Lawyers would like to introduce to you the Legal Updates, Vol 51 of October 2022 with new legal provisions with notable contents as follows:

1. **Promoting the foreign exchange administration in respect of taking and repaying foreign loans of enterprises.**

The State Bank of Vietnam (hereinafter referred to as “**SBV**”) has just issued Circular No. 12/2022/TT-NHNN guiding the foreign exchange administration in respect of taking and repaying foreign loans of enterprises (hereinafter referred to as “**Circular**”). In the Circular, some notable provisions include:

1. Foreign loans (hereinafter referred to as “**Loans**”) that are subject to registration to the SBV include (Article 11 of the Circular):

* Mid-term and long-term Loans
* Short-term Loans are renewed the principal repayment period and the total term of which have more than 01 (one) year of maturity term.
* Short-term Loans which are not covered by any loan renewal agreement but remain the outstanding principal (including principally entered interest) on the anniversary of the date of first fund withdrawal in a full 01 (one) calendar year, except to the extent that borrowers have already fulfilled the above-mentioned outstanding principal within a permitted duration of 30 days after the anniversary of the date of first fund withdrawal in a full 01 (one) year.

1. Cases where a borrower is not required to register for changes in Loans with the SBV (Article 17 of the Circular). Accordingly, if there are any changes in the Loans-related contents mentioned in the written confirmation of registration or written confirmation of registration for changes of Loans issued by the SBV (hereinafter referred to as “**Written Confirmation**”), the borrower is responsible for registering changes to Loans with the SBV, except for the following cases:

* Change in the time of capital withdrawal and principal repayment within 10 working days compared to the plan confirmed by the SBV;
* Change in borrower's address excluding change in the province/city where its head office is located;
* Change of the lender and/or information related to the lender in the syndicated Loans with the appointment of a representative of lending parties, unless the lender is concurrently the representative of the lending parties in the syndicated Loans and such change may lead to a change in the role of the representative of the lending parties;
* Change in commercial transaction name(s) of the bank providing account services or/and the bank serving secured transactions;
* Changes in the plan for repayment of Loans interests/fees in comparison with the plan confirmed by the SBV in the Written Confirmation without changing in methods of determination of interests and fees prescribed in the Loans agreement.
* Change (increase or decrease) in the amount of capital withdrawal, repayment of principal Loans, interest, and fees within 100 currency units of the Loans currency in comparison with the amount stated in the Written Confirmation;
* Change in the actual amount of capital withdrawal or principal repayment in a specific period, which is less than the amount stated in the plan for capital withdrawal or debt repayment in the Written Confirmation.

**The Circular takes effect from November 15 2022.**

1. **Strengthening the enforcement of copyright protection for radio and television services**

This is one of the notable contents in Decree 71/2022/ND-CP on amendments to some articles of Decree 06/2016/ND-CP dated 18 January 2016 on management, provision and use of radio and television services (hereinafter referred to as “**Decree**”). Accordingly, the provisions on copyright for content on radio and television services shall be supplemented.

1. The legal channels that serve political tasks and disseminate essential information to be broadcasted and transmitted intact on radio and television services in Vietnam shall be conducted in accordance with agreement between the Press Authority that has been licensed to operate radio and television and services provider.
2. On-demand radio and television content and content of value-added services shall satisfy the following copyright requirements:

* To have a document proving the legal copyright in accordance with the Law;
* To ensure the integrity of the programs and movies that have been broadcast on the channel, including the name and logo of such channel;
* To comply with written contracts or agreements on copyright and ensure the integrity of the program content after being edited, classified as follows:
* The news and programs on politics, national defense, security, economy and society shall be produced and edited by a press agency that has been licensed to operate radio and television before the news and programs have been provided on services;
* Before provision on film services, the service provider shall ensure conditions for film rating pursuant to the Government's regulations and take responsibility to the Law for contents and film rating results according to criteria for rating prescribed by the Ministry of Culture, Sports and Tourism. In case the service provider has not yet satisfied these conditions, it is required to request the Ministry of Culture, Sports and Tourism (hereinafter referred to as “**MOCST**”) or an agency authorized by the MOCST to rate the films that have not been granted a Film Rating License or a Broadcast Decision;
* The sports and entertainment programs shall be edited and classified before provision on services and the warnings shall be displayed throughout the process of provision of services in order to ensure that these programs do not commit violations against regulations of the Law. Pursuant to the principles of edit, classification and warnings about contents in accordance with regulations of the Ministry of Information and Communications and relevant laws, the service providers shall carry out edit and classification.

**The Decree takes effect from 1 January 2023.**

1. **End of support period for unemployment insurance contribution rate according to Resolution 116/NQ-CP**

Previously, on 24 September 2021, the Government issued Resolution 116/NQ-CP on policies to support employers affected by the COVID-19 pandemic from the Unemployment Insurance Fund (hereinafter referred to as “**Resolution**”). Accordingly, the employer is entitled to reduce the contribution rate from 1% to 0% of the monthly salary fund of employees who are subject to unemployment insurance (hereinafter referred to as “**UI**”).

Specifically, the condition to benefit the above support is the employers (except State Agencies, political organizations, socio-political organizations, units of people’s armed forces and public service delivery units whose recurrent expenditures are financed by the state budget) who are participating in UI before 01 October 2021 and the execution timeline is 12 (twelve) months, from 01 October 2021 to 30 September 2022.

Therefore, the such support period according to the Resolution has expired since 01 October 2022. Currently, the employer's contribution rate shall return to 1% of the monthly salary fund of the employees who are subject to UI participation in the unit.

We hope you found this brief legal update informative.

Kind regards./.

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