



LEGAL UPDATE

October 2022

Our monthly Legal Update is to provide the summary of key regulatory news that potentially impact your investment and business activities in Vietnam.

This October update covers the following:

- *The rate of premiums for unemployment insurance from October 2022.*
- *New rules set in Decree No. 53/2022/ND-CP to better ensure cyber security.*
- *Inspection of the charter capital increase and decrease in joint stock companies.*
- *Cases of uninsured losses in construction.*

1. The rate of premiums for unemployment insurance from October 2022

Previously, on 24 September 2021, in order to support employers and employees in difficulty due to Covid-19 pandemic, the Government promulgated the Resolution No. 116/NQ-CP. Accordingly, in regard to the premiums for unemployment insurance, the qualified employers shall pay only 0%, instead of 01% of the monthly salary fund of employees subject to unemployment insurance as from 01 October 2021 to 30 September 2022.

As from 01 October 2022, the above support policy is no longer effective. The contribution rate by the employer to the unemployment insurance shall return to 01%.

2. New rules set to better ensure cyber security

The Decree No. 53/2022/ND-CP elaborating a number of articles of the Law on Cybersecurity of Vietnam ("*Decree 53*") shall take effect from 01 October 2022.

Chapter V of Decree 53 requires that data belonging to and generated by users in Vietnam, including account names, service use time, credit card information, email and IP addresses, most recent logins and registered phone numbers, must be stored within Vietnam. The domestic storage of data on relationships of service users in Vietnam, such as friends and groups with which users connect or interact, is also a requirement under the new regulation.

All domestic enterprises, regardless of the services they provide, is required to store aforesaid data in Vietnam. International companies that provide telecommunication services; services of data storage and sharing in the cyberspace; supply of national or international domain names to service users in Vietnam; e-commerce; online payment; social networking and social media; and online electronic games is also required to store such data in Vietnam and set up their local representative offices or branches in the course of their operation in Vietnam within 12 months following their reception of instructions from the Minister of Public Security.

Moreover, pursuant to Article 19 of Decree 53, the competent authorities are vested with the power to request for the deletion of illegal or false information in cyberspace in 05 cases that infringes upon national security, social order and safety, and legitimate rights and benefits of agencies, organizations, and individuals.

Decree 53 also empowers the authorities to suspend or terminate the operations of "information systems" or revoke domain names used for unlawful purposes, such as undermining national security and disturbing public order.

3. Inspection of the charter capital increase and decrease in joint stock companies

On 16 September 2022, the Ministry of Finance issued Decision No. 1914/QĐ-BTC on issuing the inspection solutions of the implementation of Circular No. 19/2003/TT-BTC dated 20 March 2003 guiding the increase and decrease of charter capital and treasury stock in both public and non-public joint stock companies.

Accordingly, the Ministry of Finance shall inspect the increase of charter capital; the decrease of charter capital; management of treasury stocks; the manner to deal with and record any increase caused by sale, purchase of treasury stocks, any difference caused by issuance of additional shares greater than the face value; the case where treasury stock sale price is less than purchase price, sale price of additional shares is lower than the par value...

The Department of Corporate Finance shall send official dispatches in September, October, and November 2022 to request entities to inspect, produce self-inspection reports, draft reports on inspection results, gather feedback of relevant entities and then report inspection results to the Ministry on December 2022.

This Circular takes effect on the signing date.

4. Cases of uninsured losses in construction

On 11 August 2022, the Ministry of Finance issued Circular No. 50/2022/TT-BTC guiding the implementation of Decree No. 119/2015/ND-CP on compulsory insurance for construction activities and its amendment known as Decree No. 20/2022/ND-CP ("*Circular 50*").

Under Circular 50, contractors are obliged to buy insurance for their construction workers, with the payable insurance amount of at least VND 100 million per person upon the occurrence of an occupational accident. Workers who are injured or dead due to site accidents or occupational diseases will receive compensations from insurers through their contractors.

As per Article 5 of Circular 50, the insurers are not responsible for paying compensation for the below losses arising in construction investment activities:

- Losses caused by wars, riots or industrial strikes; actions of hostile forces, rebellions, malicious actions on behalf of or related to organizations of politics, confiscation, escheat, requisition, or destruction or damage according to orders of competent authorities.

- Losses cause by acts of terrorism.
- Losses caused by nuclear reaction or radiation or radioactive contamination.
- Losses caused by intentional violations of the law by insurance buyers or the insured.
- Losses in case the insurance buyers do not have benefits eligible for insurance according to the laws.
- Losses arising from the cessation of construction work.
- Loss of data, software and computer programs.

Circular 50 takes effect on 01 October 2022. The contracts in regard to the compulsory insurance signed before the effective date of this Circular shall continue to be performed in accordance with the law at the time of execution.

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