

# Legal Update

January 2023

## 1. Circular guiding one-way transfer of money abroad

On 30 December 2022, the State Bank of Vietnam issued Circular No. 20/2022/TT-NHNN guiding the one-way transfer of money abroad from Vietnam and payment, transfers for current transactions of residents being both organizations and individuals (“**Circular 20**”). Circular 20 will take effect on 15 February 2023, replaces and amends several other Circulars issued by the State Bank of Vietnam related to residents’ transactions using foreign currency. The highlights for residents being organizations are as follows:

- Organizations are permitted to purchase, transfer, and bring foreign currency abroad for (i) sponsorship and aid specified in Circular 20 and (ii) other purposes such as paying rewards to non-residents participating in programs and contests held in Vietnam, allocating funding to overseas members to participate in the implementation of scientific research projects and topics in Vietnam and abroad, or conducting sponsorship refunds for implementation of projects in Vietnam according to commitments, agreements with foreign counterparties.
- Permitted banks may sell foreign currencies to organizations for the above-mentioned purposes in accordance with the available foreign exchange reserves, depending on the required amount of foreign currencies specified in relevant supporting documents. The amount of foreign currencies that can be purchased is capped at USD 50,000 (fifty thousand US dollars) or equivalent value in other foreign currencies in order to sponsor programs, funds, and projects established by domestic and international organizations for supporting, encouraging development in the fields of culture, education (scholarship sponsorship), and healthcare.
- When the amount for purchasing, transferring, and bringing foreign currency abroad for sponsorship and aid purposes according to commitments, and agreements between the State, the Government, and all levels of local authorities with foreign countries reaches the threshold for customs declarations requirement, authorized banks issue certificates for bringing foreign currencies abroad in compliance with regulations on bringing foreign currency in cash upon exit and entry.
- Payment and transfer for other current transactions by residents who are organizations must be approved by an authorized bank for the following activities:
  - Commercial activities having foreign elements, such as temporary import, re-export, temporary export, re-import, transit, agents for foreign traders and hiring foreign traders as agents for selling goods, goods processing, and ordering services of goods processing, buying and selling goods through the Commodity Exchange, etc.;
  - Payments and transfers in connection with insurance contributions and payments;
  - Payments, money transfers according to a legally effective decision or judgment of a court or arbitration or a decision of a competent authority of Vietnam.
- Permitted banks must send monthly reports to the State Bank of Vietnam on the situation of purchasing, transferring and bringing foreign currency abroad of residents being organizations and individuals according to the regulations on statistical reporting regime of the State Bank of Vietnam.

## 2. Circular amending and supplementing a number of articles of Circular No. 09/2015/TT-NHNN

On 26 December 2022, the State Bank of Vietnam issued Circular No. 18/2022/TT-NHNN amending and supplementing a number of articles of Circular No. 09/2015/TT-NHNN dated 17 July 2015 of the Governor of the State Bank of Vietnam (SBV) (“**Circular 09**”) regulating debt trading of credit institutions, foreign bank branches (“**Credit Institutions**” or “**CIs**”), which will take effect on 09 February 2023 (“**Circular 18**”) with the following notable points:

- Supplementing cases of debt trading of under-special-control CIs. Amongst the conditions for being approved to buy debts according to Circular 09, the below-3% bad debt ratio requirement according to the most recent classification period based on the SBV’s regulations on classification of assets, amount, methods of setting up risk provisions and use of provisions for control and management of risks arising from operations of CIs will not be applied to under-special-control CIs.
- Allowing CIs to redeem sold debts in a number of cases, including repurchasing debts sold to under-special-control CIs, supporting to repurchase debts sold to under-special-control CIs in accordance with the approved plan for recovery of under-special-control CIs, compulsory repurchasing the debt sold to the commercial bank that is subject to the compulsory transfer.
- Supplementing regulations stating that CIs are not allowed to grant credit to customers to buy debts owned by those CIs or sell debts to their own subsidiaries, unless they are selling debts to asset management and exploitation companies according to the approved restructuring plan or when the CIs those are the compulsory transferees sell the qualified debts to commercial banks subject to a compulsory transfer under an approved compulsory transfer plan.

## 3. Draft of amended Law on Consumer Right Protection

The draft of amended Law on Consumer Right Protection (the “**Draft Law**”), which was presented for comments at the 4th Session of the XV National Assembly and is expected to take effect on 1 January 2024, has the following highlights:

- Regulations on responsibilities of business organizations and individuals for protecting and ensuring the safety and privacy of consumers’ personal information. In particular,
  - Collection, storage, and use of consumers’ personal information have been stricter in line with recent adjustments to the legal framework governing the storage and protection of personal information and cybersecurity.
  - Allowing business organizations and individuals to authorize a third party to collect, store and use consumers’ personal information, provided that each party’s responsibilities are clearly defined in compliance with applicable laws and regulations on the protection of personal information.
  - Collection of consumers’ personal information must be based on prior consent by consumers and a mechanism for consumers to choose the fields of information that they agree to provide and express their consent must be established.
  - Business organizations and individuals that collect, store and use consumers’ personal information must develop and publish policies on the protection of personal information.
- The Draft Law specifically stipulates the responsibilities of third parties for providing information about products and services to consumers. Accordingly, in case of providing information about products and services to consumers through a third party, the third party must be responsible for (i) ensuring the completeness and accuracy of information about the products and services, (ii) requiring the traders to provide proof of information about the products, services, and (iii) jointly taking responsibilities for the provision of information about the products and services. Organizations and individuals that establish, operate, and provide services to consumers on an online intermediary platform that allows interaction, exchange, or transmission of information to consumers are third parties in the provision of information about products and services to consumers and must bear responsibilities according to the provisions specified in the Draft Law.
- In addition to inheriting the provisions of the current Law on Consumer Rights Protection, the Draft Law also provides traders’ obligation to disclose model contracts, and general transaction conditions to give effect to the contracts with consumers.
- The Draft Law is being reviewed by the Ministry of Industry and Trade for further amendments and supplementations and is expected to be submitted to the National Assembly for adoption this year.

## 4. Strategy for development of Vietnam's insurance market to 2030

On 5 January 2023, the Prime Minister approved the Strategy on the development of Vietnam's insurance market to 2030 under Decision No. 07/QĐ-TTg (the "**Strategy**") with the following remarkable contents:

- The Strategy sets out goals of completing the set of mechanisms and policies on the insurance business, promoting digital transformation, and improving the system's safety, sustainability, and efficiency of the market.
- The Strategy also indicates specific targets to achieve an average growth in revenue of the insurance industry in the period of 2021 - 2025 at 15% per year, to reach 3.3% - 3.5% of GDP by 2030 and 18% of the population participating in life insurance, the average insurance premium per capita reaching 5 million VND per year. The growth rate of revenue from providing insurance products in the online environment will reach an average of 10% per year in the period of 2023 - 2030.
- To achieve the above goals, the Strategy offers solutions to be implemented by the end of 2030, including:
  - Completing the legal framework for the insurance business, promulgating guiding documents of the Law on Insurance Business being effective from 1 January 2023, continuing administrative reform to create favorable conditions for insurers.
  - Strengthening the insurers' capability in financial capacity, risk management, corporate governance, customer service quality, publicity, and transparency.
  - Developing and diversifying insurance products, diversifying and professionalizing insurance distribution channels, and promoting international cooperation and integration in the insurance field.

The approved strategy predicts that there will be many changes in the legal framework applicable to insurance businesses, requiring insurers to keep their eyes on the regulatory adjustments during the period from 2023 - 2030.

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