

LEGAL UPDATES (July 22th, 2020)

In this week, we would like to bring to your attention a brief overview of the recent legal news concerning the following:

- *New regulations on the sanctioning of administrative violations in the field of marriage and family, civil judgment enforcements, enterprise, and cooperative bankruptcy; and*
- *Some new points of the Decree 81/2020/ND-CP on enterprise bonds.*

1. **New regulations on the sanctioning of administrative violations in the field of marriage and family, civil judgment enforcements, enterprise, and cooperative bankruptcy**

On July 15th, 2020, the Government issued Decree No. 82/2020/ND-CP on the sanctioning of administrative violations in the field of judicial assistance, judicial administration, marriage and family, civil judgment enforcements, Enterprise and cooperative bankruptcy, which takes effect on September 01st, 2020. The Decree has some highlight that organizations and individuals should pay attention to, as follows:

Level of sanctioning and remedies	Acts of violation
Level of sanctioning From VND 5,000,000 to VND 10,000,000 Remedies No regulations	<ul style="list-style-type: none"> – Notifying insolvent enterprises, cooperatives inaccurately causing damage to enterprises, cooperatives. – Failure to notify in writing to those who have the rights and obligations to submit application for opening the bankruptcy proceedings.
Level of sanctioning From VND 1,000,000 to VND 3,000,000 Remedies No regulations	Failure to provide the document, evidence regarding the bankruptcy case in a full and timely or inaccurate manner to the relevant parties and the authorities.

<p>Level of sanctioning</p> <p>From VND 5,000,000 to VND 10,000,000</p> <p>Remedies</p> <p>No regulations</p>	<p>When the applicant is non-objectiveness, adversely affecting the honor, reputation and business operations of enterprises and cooperatives.</p>
<p>Level of sanctioning</p> <p>From VND 10,000,000 to VND 20,000,000</p> <p>Remedies</p> <p>No regulations</p>	<p>When the applicant has fraudulent acts, adversely affecting the honor, reputation and business operations of enterprises and cooperatives.</p>
<p>Level of sanctioning</p> <p>From VND 5,000,000 to VND 10,000,000</p> <p>Remedies</p> <p>No regulations</p>	<p>When enterprises, cooperatives, or other relevant individuals non-cooperate on property inventory or deliberately misrepresent the property inventory.</p>
<p>Level of sanctioning</p> <p>From VND 20,000,000 to 30,000,000 VND</p> <p>Remedies</p> <p>Forcing to revoke the payment or offset inconsistently with the law.</p>	<p>For banks where the enterprises or cooperatives have accounts since the court issues the decisions to declare the enterprises or cooperatives bankrupt but still pay the debts of such enterprises or cooperatives. , unless otherwise agreed in writing by a Court or civil enforcement agency.</p>
<p>Level of sanctioning</p> <p>From VND 30,000,000 to VND 40,000,000 and recovering payments or clearing not in accordance with current regulations</p> <p>Remedies</p>	<ul style="list-style-type: none"> - The bank where the enterprise or cooperative has an account from the date the Court issues the decision to declare the enterprise or cooperative bankruptcy and makes payment of debts of the declared enterprise or cooperative loans borrowed from banks unless otherwise agreed in writing by courts or civil judgment enforcement agencies. - The bank where the enterprise or cooperative has an account from the date the Court issues the decision to open bankruptcy procedures

<p>Forcing to revoke the payment or offset inconsistently with the law</p>	<p>that clearing the obligations for the contract established before the decision to open bankruptcy procedures without the consent of the asset manager, the enterprise that manages or liquidates the property.</p>
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2. Some new points of the Decree 81/2020/ND-CP on issuance of Corporate bonds

Corporate bond is a type of securities with a term of 1 year or more issued by the enterprise to determine the obligation to repay the principal debt, interest, and other obligations (if any) of the enterprise to the investor whose bonds. Enterprises entitled to issue bonds include limited liability companies or joint-stock companies that satisfy the conditions for bond issuance under the provisions of Vietnamese law. The bond issuance of enterprises is implemented on the principle of self-borrowing, self-repayment, and self-responsibility for the efficiency of using capital and assurance of debt repayment ability.

Decree 81/2020/ND-CP issued on July 9th, 2020 amending and supplementing a number of provisions of Decree No. 163/2018 / ND-CP dated December 4th, 2018 on corporate bonds, has effective from September 1st, 2020, there are a few notable points, including:

- Applying regulations on bond trading for corporate bonds issued in the domestic market, and for corporate bonds issued to the international market will comply with the regulations on transactions in the issuing market.
- Having changes in the regulations on bond issuance conditions when:
 - The regulation requires Enterprises which are not organizations allowed to provide consultancy services on dossiers of bond issuance. If they would like to issue bonds, they must sign a consultancy contract on dossiers of bond issuance.
 - At least 03 working days before the scheduled issuance of bonds, the issuing enterprise shall disclose information before the issuance to investors registering to buy bonds and send information to disclose information for the Stock Exchange.
 - Enterprises which are not the credit institutions issue bonds must complete each issuing period within 90 days from the date of publication of the issuance and each period of issuance must be at least 6 months apart.

We hope this short Letter of legal updates would bring you useful information.

Best regards.

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Apolat Legal is a professional law firm with its offices in Ho Chi Minh city and Ha Noi city. The firm's lawyer team specializes in almost all legal practice areas in Vietnam including: Enterprise and Investment; Labor and Employment; Intellectual Property; Dispute Resolution; Real Estate and Construction; Information and Communication; Natural Resources and Environment; Transport; Industry and Trade; Education and Training; Finance and Banking; Agriculture; Legal Document Translation; Legal Training.

Our reputation and the quality of its services are reflected by our clients. We are serving nearly 1,000 clients both local and multi-national companies.

We are also honored to receive numerous recognitions and/or articles posted by world-leading and local organizations and publications including: The Law Association for Asia and the Pacific (lawasia, 1966), The Legal500, IP Link, IP Coster, Lexology, Global Trade Review (GTR), The Saigon Times, etc.

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