

LEGAL UPDATE (September 20th , 2021)

In this issue, we would like to bring to your attention to the following:

- Restructuring the repayment debt term, exempting, reducing interest and fees, maintaining the classified debt type to assist customers affected by the Covid-19 epidemic;
- New regulations on supporting small and medium enterprises.

1. **Restructuring the debt term, exempting, reducing interest and fees, maintaining the classified debt type to assist customers affected by the Covid-19 epidemic**

On September 7th, 2021, the State Bank of Vietnam issued Circular No. 14/2021/TT-NHNN (“**Circular 14/2021/TT-NHNN**”), which came into effect on the same issuance day, to amend and supplement some provisions of Circular No. 01/2020/TT-NHNN dated March 13th, 2020 on credit institutions and foreign bank branches rescheduling the debt term, exempting, reducing interest and fees, maintaining classified debt types to assist customers affected by the Covid-19 pandemic, with the following new points:

- (i) **Firstly**, credit institutions, foreign bank branches reschedule debt terms for the principal and/or interest balance of the debt that meets **all** of the following conditions:
- Arising before August 1st, 2021, from lending and financial leasing activities instead of arising from June 10th, 2020 as before.
 - The obligation to repay principal and/or interest arises during the period from January 23th, 2020 to June 30th, 2022 instead of only arising until December 31st, 2021.
 - The outstanding balance of the debt may be rescheduled for repayment in one of the following cases:
 - + The outstanding balance of the debt is undue or has been overdue for not more than 10 days from the payment due date or the debt term according to the contract or agreement (except the cases b, c, d mentioned below).
 - + The outstanding balance of the debt arises before January 23th, 2020 and becomes overdue from January 23th, 2020 to March 29th, 2020.

- + The outstanding balance of the debt arises from January 23th, 2020 to June 10th, 2020 and becomes overdue before May 17th, 2021.
 - + Supplementing the outstanding balance of the debt arising from June 10th, 2020 to before August 1st, 2021 and becoming overdue from July 17th, 2021 to September 7th, 2021.
 - The customer is assessed by the credit institution, foreign bank branches as incapable of paying the principal and/or interest on schedule under the agreement due to a decrease in revenue, income caused by Covid-19 pandemic.
 - The customer applies for rescheduling of the repayment debt term and is assessed by the credit institution or foreign bank branches to fully pay the principal and/or interest after the debt is rescheduled.
 - The credit institution, foreign bank branches shall not reschedule the debt term that violates regulations of law.
 - The rescheduling period (including debt deferral) shall be appropriate for the impacts of the Covid-19 pandemic on the customer. It shall not exceed 12 months from the day on which rescheduling is granted by the credit institution, foreign bank branches, or from the original deadline for payment of the outstanding debt.
 - The debt term rescheduling shall be carried out until June 30th, 2022 instead of carrying out to December 31st, 2021 as before.
- (ii) **Secondly**, amending the time limit for credit institutions and foreign bank branches shall decide reduction and exemption of debt interest and fees, according to their own rules and regulations, that arise before August 1st, 2021 (instead of June 10th, 2020) from credit-granting activities (except for purchasing of and investing in corporate bonds) whose principal and/or interest are due during the period from January 23th, 2020 to June 30th, 2022 (instead of December 31th, 2021) and the customers are not capable of fully paying the principal and/or interest on the schedule specified in the contract, or agreement due to decrease in revenue or income caused by Covid -19.

At the same time, extending the time to exempting, reducing interest and fees for customers as mentioned above until June 30th, 2022 (extended by 06 months compared to before).

- (iii) **Thirdly**, maintaining the classified debt type according to the regulations of the State Bank of Vietnam regarding the classification of debts arising in the operation of credit institutions, foreign bank branches for the debt balance which has been rescheduled

the repayment debt term, and for the debt has been exempted or reduced arising from January 23th, 2020 to before August 1st, 2021.

- Maintaining the classified debt type that is categorized on the latest day before the first rescheduling for the outstanding debt balance or overdue up to 10 (ten) days from the payment due date;
- Maintaining the classified debt type that is categorized on the latest day before the debt is transferred to overdue for the outstanding balance of (*) debt arising from January 23th, 2020 to before June 10th, 2020 and overdue before May 17th, 2021; and (**) debt arising from June 10th, 2020 to before August 1st, 2021 and overdue from July 17th, 2021 to before September 7th, 2021;
- Maintaining the classified debt type that is categorized on the latest day before the first reduction or exemption of interests on the outstanding debts arising before August 1st, 2021 from credit-granting activities (except for purchasing of and investing in corporate bonds) whose principal and/or interest are due during the period from January 23th, 2020 to June 30th, 2022 and the customers are not capable of fully paying the principal and/or interest on the schedule specified in the contract, or agreement due to decrease in revenue or income caused by Covid -19.

2. New regulations on supporting small and medium enterprises

On August 26th, 2021, the Government issued Decree No. 80/2021/ND-CP to detail and guide the implementation of some provisions of the Law on Supporting Small and Medium Enterprises (“**Decree 80/2021/ND-CP**”). The Decree will take effect from October 15th, 2021 and will replace Decree 39/2018/ND-CP dated March 11th, 2018 with the following new points:

(i) Changing the way to specify small and medium enterprises

The operation field of small and medium enterprises shall be determined solely on the basis of the main business line that the enterprise has registered with the business registration agency.

(ii) Supplementing Technology support for small and medium enterprises, specifically as follows:

- Supporting up to 50% of the value of the advisory contract for digitalization of the enterprise in terms of business processes, administration processes, manufacturing processes, technological processes and conversion of the business model but not exceeding 50 million VND/contract/year for each small enterprise and not exceeding 100 million VND/contract/year for each medium enterprise.

- Supporting up to 50% of the cost of leasing, buying solutions for digitalization for automation, improvement of efficiency of business processes, administration processes, manufacturing processes, technological processes in the enterprise and conversion of the business model but not exceeding 20 million VND/year for each micro-enterprise; not exceeding 50 million VND/year for each small enterprise and not exceeding 100 million VND/year for each medium enterprise.
- Supporting up to 50% of the value of the advisory contract for the establishment of intellectual property rights; management and development of products and services with protected intellectual property rights but not exceeding 100 VND/contract/year/enterprise.
- Supporting up to 50% of the value of the advisory contract for technology transfer that is appropriate for the enterprise but not exceeding 100 VND/contract/year/enterprise

(iii) Increasing the support level of Counseling Support:

- Supporting 100% of the value of the advisory contract but not exceeding 50 million VND/year/enterprise for micro-enterprises, or not exceeding 70 million VND/year/enterprise for micro-enterprises owned by women or micro-enterprises employing more female employers and micro-enterprises that are social enterprises;
- Supporting up to 50% of the value of the advisory contract but not exceeding 100 million VND/year/enterprise for small enterprises, or not exceeding 150 million VND/year/enterprise for small enterprises owned by women or small enterprises employing more female employers and small enterprises that are social enterprises;
- Supporting up to 30% of the value of the advisory contract but not exceeding 150 million VND/year/enterprise for medium enterprises, or not exceeding 200 million VND/year/enterprise for medium enterprises owned by women or medium enterprises employing more female employers and medium enterprises that are social enterprises.

The group of micro, small and medium enterprises owned by women or employing many female employers or small and medium enterprises that are social enterprises are supplemented groups supported when using consulting services.

(iv) Supplementing Online training on start-up and business administration:

- Exemption of fees for access and participation in existing lectures on the online training systems of the Ministry of Planning and Investment and the People's Committees of provinces.
 - Exemption of fees for participation in online training courses, direct interaction with SMEs via existing teaching tools on smart devices of participants (Zoom Cloud Meeting, Microsoft Teams, Google Classroom and other tools).
- (v) Supplementing the subjects that are supported and increased the level of direct training support at small and medium enterprises specializing in the field of production and processing:**
- Supporting up to 70% of the total cost of a training course at small and medium enterprises but not more than 01 course/year/enterprise instead of 50% as before;
 - Supporting 100% of the total cost of a training course at small and medium enterprises owned by women, small and medium enterprises employing many women, and small and medium enterprises that are social enterprises but do not more than 01 course/year/enterprise.
- (vi) Specifying the criteria for identifying innovative start-up small and medium enterprises according to one of the following criteria:**
- Production, sale of products derived from inventions, useful solutions, industrial designs, integrated circuit designs, computer software, cell phone applications, cloud computing, new animal breeds, plant varieties, aquatic organism breeds.
Or
 - Production, sale of products created from trial production projects, prototypes, and technology completion; production, sale of products that win national, international prizes for entrepreneurship, startups and science and technology prizes according to regulations of law on science and technology prizes.
 - There are technological solutions or business models that might increase the enterprise's revenue by at least 20% in 02 consecutive years based on analysis of market share, prospective development of the products and competitiveness of the enterprise.

We hope this Legal Update will bring you useful information.

Best regards.

Contributor(s):**Mr. DINH QUANG LONG****Director cum Managing Partner****M** (+84) 919 963 977 | **E** long.dinh@apolatlegal.com**Ms. THIEU THI KIEU THU****Associate****M** (+84) 378 513 939 | **E** thu.thieu@apolatlegal.com**Ms. NGUYEN THI TRA MY****Paralegal****M** (+84) 965 155 640 | **E** my.nguyen@apolatlegal.com

Disclaimer: All materials have been prepared for general information purposes only. The information is not intended as, and should not be taken as, legal advice. Do not act or refrain from acting based upon information provided herein without first consulting our lawyers about your particular factual and legal circumstances. Apolat Legal can accept no responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate adviser.

ABOUT US,

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.

Contacts:**HO CHI MINH CITY (Head office)**

5th Floor, IMM Building
99-101 Nguyen Dinh Chieu, District 3
Ho Chi Minh City, Vietnam

THE BRANCH IN HA NOI CITY**CHI NHÁNH TẠI HÀ NỘI**

Room A8, 29th Floor, East Tower, Lotte Center
54 Lieu Giai, Cong Vi Ward, Ba Dinh District
Hanoi City, Vietnam

Tel: +84-28-3899 8683

Email: info@apolatlegal.com

Website: www.apolatlegal.com

SINGAPORE (Affiliated office)

#26-10, SBF Center,
160 Robinson Road
Singapore 068914

Tel: +84-93-2014 986

Email: info@apolatlegal.com

Website: www.apolatlegal.com

Scan QR code: