

## LEGAL UPDATES (December 30<sup>th</sup>, 2019)

In these legal updates, we would like to send clients the legal updates on some following issues:

- New updates on the policy of applying the incentive regulations of Fit-in Tariff (FIT) price for the solar power projects in Viet Nam

### **New updates on the policy of applying the incentive regulations of Fit-in Tariff (FIT) price for the solar power projects in Viet Nam**

After the Prime Minister promulgated the Decision No. 11/2017/QĐ-TTg dated April 11<sup>th</sup>, 2017, the investment activities in the solar power projects in Vietnam have increased rapidly, up to now, there have been 154 solar power projects whose total capacity of 10,600MW have been approved for master planning, of which, about 4,500MW has completed building and put into commercial operation.

With the mechanism to encourage the development of solar power projects in Vietnam in Decision Number 11/2017/QĐ-TTg, the applicable price mechanism for the Trade on Electricity Product Agreement between solar power projects and the Vietnam Electricity Corporation before June 30<sup>th</sup>, 2019, is the FIT price with the incentive purchase price of 9.35 cents / kWh.

However, according to the official Notice No. 402/TB-VPCP dated November 22<sup>rd</sup>, 2019, of the Government Office on the conclusions of Prime Minister Nguyen Xuan Phuc at the regular meeting of the Government about the Draft of Solar Power Encouragement Mechanism from July 1<sup>st</sup>, 2019 to replace Decision No. 11/2017/QĐ-TTg ("**Notice No. 402/TB-VPCP**"), FIT tariff shall only apply to projects that have already signed the Trade on Electricity Product Agreement and will have been constructed and put in operation in the year of 2020.

Following the above-mentioned Notice No. 402/TB-VPCP, the Ministry of Industry and Trade also issued Official Dispatch Number 9608/BCT-ĐL dated December 16<sup>th</sup>, 2019, in which the Ministry of Industry and Trade requested the provincial-level People's Committees and Vietnam Electricity Corporation considers suspending to propose and sign Trade on Electricity Product Agreements for solar power projects under the FIT mechanism until having new instructions from the competent authorities.

The two guiding documents of the Government Office and the Ministry of Industry and Trade, together with the delay in issuing a new decision replacing the Decision No. 11/2017/QĐ-TTg have increased the concerns of investors currently in the solar power business. After the Official Dispatch number 9608/BCT-DL, the investors have simultaneously sent claims to the Prime Minister; however, these claims have not yet been responded.

Therefore, investors who intend to invest in solar power at this moment should pay attention on getting the legal advice on latest policy, guidelines and statutory regulations from competent state agencies to avoid business damages/losses while investing.

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

Best regards.

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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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