

LEGAL UPDATES (September 9th, 2019)

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

- The cap on number of payment reminder.
- Obligation of the Financial Companies..
- Directly loan disbursement for client

As the upcoming Circular No. 18/2019/TT-NHNN of the State Bank on regulations on consumer loans of the finance companies would be valid on 1st January 2020, which makes amendment and supplement on Circular No. 43/2016/TT-NHNN. We are pleased to have you updated with the new legal provisions. We hope that the update news would be helpful toward you and your business.

Notable of amendments and supplements could be listed as:

1. The cap on number of payment reminder

As Point dd Clause 2 Article 7 of Circular No. 43/2016/TT-NHNN had regulated the method of debt payment reminder(s) and the time scale for this activity. However, this regulation is not effective since it does not restrict the number of reminder(s) as well as not prohibit the activities of threaten the borrower's relatives, friends and family of the responsibilities. That is why the new amendment on this point has been amended.

After 1st January 2020, with the validity of Circular No. 18/2019/TT-NHNN, the maximum times of debt reminder only limited as **5 times per day** and as the old regulation, the time scale for this action is restricted from 7 am to 9 pm. Lastly, the debt reminder is only allowed to take action on the debt owner. **Any activities of debt remind or threatening on the irrelative person shall be prohibited.**

2. Obligation of the Financial Companies

The amendment 10a from Circular No. 18/2019/TT-NHNN makes supplement into Article 10 of Circular No. 43/2016/TT-NHNN, and it now requires the Financial Companies to public publish their head office, branches, ratio of interest, fees and interest calculation method; Applying the complaint receive method in the Financial Company, which shall be handled within 48 hours (excluded Saturday and Sunday) from 7 am to 9 pm.

Finance Companies must provide clients with a draft of the consumer loan contract, explain accurately, fully and truthfully the basic contents of the consumer loan contract, including rights and obligations of borrowers, measures to remind and collect debts, measures to handle cases in which clients fail to perform their obligations under consumer loan contracts proving that clients confirm they have been fully provided with information as statutorily required by laws for their consideration and decision before entering the consumer loan contracts.

Moreover, the Financial Companies have to make supervision more often for the complying of legal regulations as well as make training to develop the staff morality and profession. Quality improvement programs and staff assessments must also be applied to improve employee's morality and expertise.

3. Directly loan disbursement for client

The Financial Companies are allowed to make loan disbursement for the client who does not have bad debt in the credit status report in Vietnam National Credit Information Center in the latest times.

The supplement also requires new regulation, as the total consumer lending which shall be disbursed directly to client at a Financial Company compared to the total consumer lending of that financial company by the end of the day preceding to the date of signing contract consumer lending directly disbursed must comply with the maximum rate as following:

- From January 1, 2021 to the end of December 31, 2021: 70%;
- From January 1, 2022 to the end of December 31, 2022: 60%;
- From January 1, 2023 to the end of December 31, 2023: 50%;
- From January 1, 2024: 30%.

Importantly, the Financial Companies must make notification toward their client on reference of legal regulations, internal regulations on methods of direct disbursement through the use of non-cash payment services.

Besides, the Financial Companies also have to send notification to clients and credit organizations, foreign banks' branches which related to the direct disbursement of the client through the use of non-cash payment services prescribed on payment about the requirement on transaction hours of a day.

Clients shall provide payment information, documents and receipts as prescribed by the Financial Company for the consideration and decision of the method of direct disbursement for client. The client shall bear the responsibilities about the provided payment information, documents and receipts.

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

Best regards.

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