

## LEGAL UPDATE (April 11<sup>th</sup>, 2022)

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

- Conditions for establishment of 100% State-owned enterprises.
- Proposing regulations on sandbox for financial technology (Fintech).
- The technology taxis under the draft Law on Road Traffic.

### 1. Conditions for establishment of 100% State-owned enterprises

The Government has just issued Decree 23/2022/ND-CP on the establishment, rearrangement, ownership conversion and transfer of the right to represent the owner in 100% state-owned enterprises.

Accordingly, 100% state-owned enterprises shall only be considered for establishment when fully meeting the following conditions:

- (i) Having business lines within the scope of state capital investment to establish an enterprise in accordance with the law on management and use of state capital.
- (ii) Ensure sufficient charter capital, specifically:
  - When being established, enterprises must have a charter capital of not less than 100 billion Vietnam Dongs.
  - In case of doing business in sectors and trades that require legal capital, in addition to the above-mentioned conditions, the charter capital of the enterprise must not be lower than the legal capital level prescribed.
  - For enterprises providing essential public utility products and services, ensuring social security, or operating in a number of industries, fields or geographical areas that require capital investment from the State to establish an enterprise, the charter capital is may be less than 100 billion dong but not lower than the legal capital level prescribed for business lines registered.
- (iii) Having a valid dossier as prescribed in Article 6 of Decree 23/2022/ND-CP.
- (iv) The establishment of an enterprise must conform to the national socio-economic development strategy and plan, and the national sector plan.

Decree 23/2022/ND-CP takes effect from June 1<sup>st</sup>, 2022.

## 2. Proposing regulations on sandbox for financial technology (Fintech)

The State Bank has just announced to collect opinions from organizations and individuals on the draft decree stipulating a mechanism for controlled sandbox of financial technology (Fintech) activities in the banking sector.

To ensure fairness, objectivity, publicity and transparency, the review of organizations participating in the sandbox mechanism is carried out according to the following basic principles:

- (i) Being participating in the Sandbox mechanism does not mean that the participating organization will be granted an official Operation License or an officially recognized Fintech solution to supply to the market.
- (ii) Fintech solutions to be considered for participation in the Sandbox mechanism must be in the fields specified in this Decree.
- (iii) The maximum number of organizations approved to participate in the Sandbox mechanism shall be decided by the State Bank based on the application review and supervision capacity in each period, in accordance with the development conditions of the market.
- (iv) The process of approving organizations participating in the Sandbox mechanism ensures transparency in terms of criteria, evaluation and selection process.

See full text of the draft and provide comments [here](#).

## 3. The technology taxis under the draft Law on Road Traffic

The Ministry of Transport has just completed the draft Law on Road Traffic, which is inherited from the Law on Road Traffic 2008. According to the current law, road passenger transport has 5 types including fixed route passenger transport, taxi, buses, contract vehicles and travel vehicles.

In the new draft, the Ministry of Transport proposes to stipulate that taxis are a type of passenger transport business using passenger cars. Taxis can charge fare through meters or software that connects passengers via electronic means. Thus, current transport business cars such as Grab, Be... will be classified as taxis.

Organizations and individuals providing software services to support transport connection by car must have a business license; record the customer's assessment of the service quality of the driver; store transactions for at least 2 years.

The Government has asked the National Assembly to include the draft Law on Road Traffic in the plan to develop laws and ordinances in 2022, consider giving comments at the third session opening in May.

We hope this Monthly Newsletter would bring you useful information.

Best regards.

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