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LEGAL UPDATE

No. 01 – September 2021

(01 Sep 2021 – 15 Sep 2021)

News in focus

New legal documents

A - News in focus

Several new regulations on the on-lending of ODA loans and foreign preferential loans

(Taking effect from 01 Oct 2021)

On 16 August 2021, the Government enacted Decree 79/2021/ND-CP amending and supplementing several Articles of Decree 97/2018/ND-CP dated 30 June 2018 on the on-lending of official development assistance (ODA) loans and foreign concessional loans of the Government *(hereinafter referred to as "**Decree 79/2021/ND-CP**")*, which takes effect from 01 October 2021.

In this legal update, we reveal some of the most highlights of Decree 79/2021/ND-CP.

Regulations on loan security

Decree 97/2018/ND-CP	Decree 79/2021/ND-CP
- The value of the collateral shall be at least *equal to 120% of the original value of an on-lent loan*.	- must be at least *equal to 120% and 100% of the outstanding value of an on-lent loan in case of on-lending loans to enterprises and public non-business units respectively*.
- The sub-borrower shall add the collateral to ensure the minimum percentage as above in case *the value of collateral is lower than 120% of the remaining value of the on-lent loan*.	- in case *the value of collateral is lower than the above-specified value*.
- Loan security is not required in the following cases: (i) Loans to be on-lent to People's Committee of the province; *(ii) The sub-borrower fails to secure the loan with assets as prescribed by laws.*	- Loan security is not required in the following cases: (i) Loans to be on-lent to People's Committee of the province; *(ii) Loans are received by the Project Management Units of the Ministries and then transferred to the Provincial People's Committee*.

On-lending ratio

Decree 97/2018/ND-CP	Decree 79/2021/ND-CP

a. For provincial People's Committee

- The locality has a ratio of balanced addition from the central budget in comparison with the total balanced expenditure of the local budget:

• ≥ 70% => the on-lent ratio is *30% of ODA loans and foreign concessional loans.*	• ≥ 70% => the on-lent ratio is *10% of ODA loans and foreign concessional loans*.
• from 50% to < 70% => the on-lent ratio is *40% of ODA loans and foreign concessional loans.*	• from 50% to < 70% => the on-lent ratio is *30% of ODA loans and foreign concessional loans*.
• < 50% => the on-lent ratio is 50% of ODA loans and foreign concessional loans.	• < 50% => => the on-lent ratio is 50% of ODA loans and foreign concessional loans.

b. For public non-business units

Decree 79/2021/ND-CP inherits Decree 97/2018/ND-CP and *supplements* the following regulation:

In case of applying another on-lending ratio for subjects prescribed at Points a and b, Clause 2, Article 21 of Decree 97/2018/ND-CP, at the request of the governing body and the sub-borrower, the Minister of Finance chairs and coordinates with the Ministry of Planning and Investment as well as relevant agencies in order to submit the Government for consideration and decision the on-lending ratio for each specific case, but not less than 10%.

3 Management of collaterals

Decree 97/2018/ND-CP	Decree 79/2021/ND-CP
- Within 30 days from the signing date of the on-lending agreement that the sub-borrower is a public non-business unit or an enterprise, the sub-borrower and an agency which is authorized to be on-lent sign a loan security agreement.	- … sign a loan security agreement, *and the authorized agency sends the copy of the signed loan security agreement to the Ministry of Finance*.

4 Risks management

- For the debt which is overdue *from 2 periods and more*: The sub-borrower *shall maintain the account balance specified in Clause 3, Article 17 of Decree 97/2018/ND-CP with a minimum amount equal to the next 02 repayment periods*, at least 15 days before the latest next repayment period. (The new Decree removes the regulation on Clause 3 Article 17).	- For the debt which is overdue *from 2 to 3 periods*: *The sub-borrower which is an on-lent enterprise via the method that the authorized on-lending agency bears the credit risk*, at least 15 days before the latest next repayment period, *shall maintain the account balance with a minimum equal to:* • *the next 02 repayment periods if the debt is 2-period-overdue;* • *the next 03 repayment periods if the debt is 3-period-overdue.*

Reporting the on-lending status and financial situation of the sub-borrower

Decree 97/2018/ND-CP	Decree 79/2021/ND-CP
- The sub-borrower which is the provincial People's Committee shall report to the Ministry of Finance; the sub-borrower which is public non-business units of enterprises shall report to the authorized on-lent agency twice a year, *the 1st time is no later than Jan 31 and the 2nd time is no later than July 31 of each year.*	• The 1st time *is no later than July 31 of the implementation year for the reporting period from Jan 1 to June 30 of the implementation year*; and • The 2nd time *is no later than Feb 15 of the following year for the reporting period from July 1 to December 31 of the implementation year.*
- The authorized on-lent agency shall report twice a year to the Ministry of Finance, *the 1st time is no later than Feb 28 and the 2nd time is no later than Aug 31 of each year* or as soon as in case of unexpected problems affecting the repayment ability of each on-lending project, the sub-borrower.	• The 1st time *is no later than Aug 31 of the implementation year for the reporting period from Jan 1 to June 30 of the implementation year*; and • The 2nd time *is no later than Feb 28 of the following year for the reporting period from July 1 to December 31 of the implementation year* or ……

B - New legal documents

Remarkable new legal documents

(Enacted from 01 Sep 2021 to 15 Sep 2021)

No.	Legal documents	
TRAFFIC – CONSTRUCTION		
1	The Minister of Construction's Circular No. 14/2021/TT-BXD guiding the determination of the maintenance costs for construction works	
	Enactment date: 08 Sep 2021	Effective date: 01 Nov 2021
2	Decision No. 1648/QD-BGTVT in 2021 announcing newly issued, amended and supplemented administrative procedures in the field of registration under the management function of the Ministry of Transport	
	Enactment date: 09 Sep 2021	Effective date: 01 Oct 2021

No.	Legal documents	
LABOR		
3	Decree 82/2021/ND-CP on extending the implementation time and amending Decree 121/2016/ND-CP which was amended in Decree 74/2020/ND-CP on pilot implementation of labor and salaries management for the Viettel Military Industry and Telecoms Group	
	Enactment date: 06 Sep 2021	Effective date: 06 Sep 2021
4	The Minister of Labor - Invalids and Social Affairs' Circular No. 09/2021/TT-BLDTBXH amending Circular No. 08/2020/TT-BLDTBXH guiding on the job protection of accusers who work under labor contracts	
	Enactment date: 07 Sep 2021	Effective date: 01 Nov 2021
5	The Government's Resolution 101/NQ-CP in 2021 on solving problems in implementing compulsory social insurance for Deputy Military Commanders, Deputy Chiefs of Commune Police and people working under labor contracts at the Commune People's Committee	
	Enactment date: 06 Sep 2021	Effective date: 06 Sep 2021
ENTERPRISES		
6	The Government's Resolution No. 105/NQ-CP 2021 on supporting enterprises, cooperatives and business households in the context of the COVID-19 pandemic	
	Enactment date: 09 Sep 2021	Effective date: 09 Sep 2021
7	Official Dispatch No. 5411/BCT-DTDL on supporting the reduction of electricity price and bill (phase 5) for electricity users affected by the COVID-19 epidemic	
	Enactment date: 06 Sep 2021	Effective date: 06 Sep 2021

No.	Legal documents	
FINANCE – BANKING		
8	The Governor of the State Bank of Vietnam's Circular 14/2021/TT-NHNN amending Circular 01/2020/TT-NHNN stipulating that credit institutions and foreign bank branches restructure the repayment term, exempt or reduce interest and fees, maintain the debt group to support customers affected by the Covid-19 epidemic	
	Enactment date: 07 Sep 2021	Effective date: 07 Sep 2021
9	The Minister of Finance's Decision No. 1695/QD-BTC on adjustment of the expenditure estimates of the state budget in 2021	
	Enactment date: 08 Sep 2021	Effective date: 08 Sep 2021
ADMINISTRATIVE – JUDICIARY		
10	Circular No. 12/2021/TT-BYT on the repealing of legal documents issued by the Minister of Health	
	Enactment date: 06 Sep 2021	Effective date: 01 Nov 2021
11	The Minister of Labor - Invalids and Social Affairs' Decision No. 1013/QD-LDTBXH in 2021 on support for children of pregnant women infected with COVID-19	
	Enactment date: 08 Sep 2021	Effective date: 08 Sep 2021
IMPORT AND EXPORT		
12	Decree No. 83/2021/ND-CP on special preferential import tariff of Vietnam to implement the Agreement on promoting bilateral trade between Vietnam and Cambodia in the 2021-2022 period	
	Enactment date: 13 Sep 2021	Effective date: 13 Sep 2021 (until the end of 31 Dec 2022)

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