

Consumer Rights Protection

New Law on protection of consumer rights

- ❑ On June 20, 2023, the National Assembly of Vietnam promulgated new Law No. 19/2023/QH15 on protection of consumer rights (“**Law on protection of consumer rights 2023**”), replacing its precursor being the Law on protection of consumer rights 2010 and relevant regulation. This new Law will be officially in force as of 1 July 2024.
- ❑ The Law governs the relationship between business organizations and individuals selling goods and services (“**Traders**”) to individuals using such goods and services for personal consumption/non-trading purposes (“**Consumers**”). Notably, the Law on protection of consumer rights 2023 is set to apply to the cross-border relationship between offshore Traders and Consumers in Vietnam.
- ❑ With respect to the noteworthy change of provisions, the new Law indicates several new regulations in favor of the Consumers. Consumers now have additional rights such as engaging in the development of policies and laws on protection of their rights, and being protected while using public services. Furthermore, the Law of 2023 introduces a new notion called “vulnerable consumers” (i.e., the elderly, the disabled, young children, etc.), and requires Traders to strictly follow the responsibilities as prescribed therein when conducting transactions with the vulnerable consumers to protect their rights and benefits.
- ❑ On a different note, the number of prohibited acts for Traders has increased, with newly added acts for those performing multi-level marketing (“**MLM**”) and those establishing, operating, and supplying digital platform services.
- ❑ One of the key rights of Consumers is having their personal information protected. Compared to the recently issued Decree 13/2023/ND-CP (See more in [Vietnam Newsletter July 2023](#)), the Law on protection of consumer rights 2023 also establishes similar principles regarding protection of consumer information. Some notable highlights are as follows:
 - Traders may, by themselves, or via authorization to a third party, collect, store, use, modify, update, and delete Consumer information in compliance with this Law and other relevant regulations.

- Unless otherwise specified by laws, Traders must establish their own rules in protecting Consumer information, including purpose of collection, scope of usage, storage duration, and method of protection.
 - A notice consisting of the above must be presented to Consumers when collecting and using the Consumer information. It is also remarked that it requires the Consumer's consent in these notices, excluding certain circumstances such as the information has already been publicized, etc.
 - Traders can only use collected information upon the consent of Consumers, even transmission or sharing to any other third parties; or using it for advertisements of products and services. Traders must protect such information and avoid any acts harming it.
 - In the event the Traders' information system gets attacked which may harm Consumer information, the Traders are required to notify competent authorities within 24 hours (instead of 72 hours under Decree 13/2023/ND-CP).
 - Per requests of the Consumers, Traders must check, modify, delete, transfer, or stop transferring the information of Consumers to third parties.
- The term “influencer” is newly introduced as a subject relevant to protection of Customer’s rights. Though not stipulating influencers’ character, the Law refers to those celebrities, key opinion leaders, and influential people who in recent practices are often involved in introducing/promoting the products and services of Traders. Accordingly, influencers must take responsibility for the information of products and services that the influencers provide to the Consumers in the same way as the Traders. They also must disclose the fact that they are sponsored by the Traders to perform such introduction/promotion.
- The Law on protection of consumer rights 2023 records a full set of mandatory provisions for standard contracts and general transaction terms made by Traders. Moreover, this Law also prohibits certain disadvantageous clauses for Consumers from being included in the standard contracts and general transaction terms. Currently, only standard contracts and general transaction terms for some essential products guided by the Prime Minister office must be registered by the Traders before put into use. However, under the new Law this requirement is

expanded to contracts and transaction terms related to “products, goods or services “regularly and continuously sold or supplied to a large number of consumers, thereby having direct and long-term impacts on consumers”. The Prime Minister office is expected to further provide a list of these products and goods.

- Concerning the dispute resolution between Traders and consumers, some notable adjustments for the resolution methods in the Law of 2010 and Decree 99 are:
 - Negotiation: the Law of 2023 specifies more thorough procedures, including sending and receiving negotiation requests and cases where Traders shall not receive and handle the request, and rights and liabilities of parties in negotiation and results of negotiation.
 - Mediation: More organizations shall have the authority to implement negotiation procedures between consumers and Traders; qualifications for becoming a mediator are regulated less strictly. However, if the Consumer is an ethnic minority, the mediator must know that ethnic language, or a translator is required. In case the successful mediation result is not complied with by a party, the other party may request the court to recognize such result in line with the civil procedure laws, instead of having to file a lawsuit as in the Law of 2010.
 - Negotiation and mediation must not be performed in the event of infringing the national or public interests; violating any law or being contrary to social ethics; causing damage to the interests of multiple consumers, except where the number of consumers suffering from damage is fully determined.
 - Lawsuit at the court: a civil lawsuit for the protection of the Consumer’s right with a transaction value less than 100 million VND shall be handled by accelerated procedures without satisfying any conditions under the Civil Proceedings Code.

Entry and Exit

New regulations on entry and exit Vietnam for foreigners

- On June 24, 2023, the National Assembly of Vietnam adopted a new Law No. 23/2023/QH15 on

amendments to some articles of Law on entry and exit of Vietnamese citizens and Law on entry, exit, and residence of foreigners in Vietnam (“**Entry and Exit Law 2023**”), which officially took effect from August 15, 2023. Korean nationals (among other foreign citizens) are subject to changes in regulations on entrance visas into Vietnam.

- For convenience in implementing business or investment purposes of foreign investors, under the new law and Resolution 127/NQ-CP of the Government on the application of granting electronic visas to citizens of countries and territories; international checkpoints allowing foreigners to enter and exit by electronic visas (“**Resolution 127**”), Vietnam grants an electronic visa (“**EV**”) to citizens of all countries and territories with a visa duration of up to 90 days. Foreigners with EVs can enter Vietnam through 13 airports, 16 border gates, and 13 sea gates which are specifically stipulated in Resolution 127.
- Along with the amendments in Entry and Exit Law 2023, Resolution No. 128/NQ-CP amending the government’s resolution on visa waiver for nationals (“**Resolution 128**”) also set out new regulations related to cases of foreigners entering Vietnam without a visa. Accordingly, as of 15 August 2023, a Visa waiver will be applicable to citizens from 13 nations, including the Republic of Korea, with a maximum temporary residence period of **45 days** from the date of entry (instead of 15 days as previously applied), no matter what visa types they currently hold or their purposes of entry as long as they meet all the requirements for entry under Vietnamese law.

Finance & Banking

Amendment on conditions for offshore loans not guaranteed by the Government

- On June 30, 2023, the State Bank of Vietnam (“**SBV**”) released Circular No. 08/2023/TT-NHNN (“**Circular 08**”) on conditions for offshore loans without a government guarantee.
- Circular 08 newly adds the principle of using new loans, accordingly, for foreign loans that have been withdrawn but are not temporarily used for borrowing purposes as prescribed by laws, the borrower is allowed to deposit such loan at credit institutions with the maximum term of 01

month for each deposit.

- ❑ To take a more restrictive approach on foreign loans, SBV provides use purposes of such loans specifically in addition to general conditions as follows:
 - Regarding the credit institution borrowers: Circular 08 allows credit institutions to take a loan for (i) supplementing the capital for credit extension under the credit growth of such institution, and (ii) refinancing its existing offshore debts. With medium and long-term loans, borrowers shall prove their purpose by the plan on offshore loan usage and a plan on financing debts.
 - Regarding the non-credit institution borrowers:
 - For short-term loans, a non-credit institution borrower could take the offshore loans for the purpose of (i) refinancing its existing offshore debts; (ii) paying its monetary short-term payables (excluding the principal amounts of the existing onshore loans); and (iii) serving borrower's professional activities in a period not exceeding 12 months from the date of withdrawal of the offshore loan, where the borrower is subject to the requirements on financial safety criteria as prescribed.
 - For medium and long-term loans, offshore loans shall only be taken (i) to implement its investment projects (which are approved by the competent authority); (ii) to implement its production or business plans' (which are proved by the plan on offshore loan usage); and (iii) to refinance its existing offshore debts (which are proved by the plan on financing debts).
- ❑ Furthermore, Circular 08 also provides other relevant issues such as the general terms of the offshore loan agreement, the loan limit, the main content of the plan on offshore loan usage, and the plan on financing debts.
- ❑ Circular 08 takes effect from 15 August 2023, except for regulations on short-term loan limits for credit institutions being effective from January 01, 2024. Foreign loan agreements signed before the effective date of Circular 08 may continue to be implemented pursuant to the signed agreements and written confirmation of registration for changes of SBV until the end of the loan term. The registration of changes to this agreement can only be made if the amendments are

consistent with Circular 08 and relevant regulations.

Temporarily suspending the enforcement of some unpermitted loan requirements

- On August 23, 2023, the State Bank of Vietnam (“SBV”) promulgated Circular No. 10/2023/TT-NHNN suspending the implementation of some contents of Circular No. 39/2016/TT-NHNN (newly added in Circular No. 06/2023/TT-NHNN) on lending activities of credit institutions, foreign bank branches (“Credit Institutions”) to customers (“Circular 10”), which shall take effect from September 01, 2023.
- In order to remove difficulties in the credit relationship between Credit Institutions and customers, SBV temporarily suspends the enforcement of four out of five unpermitted loan purposes that are supplemented under Circular 06/2023/TT-NHNN (See [Vietnam Newsletter August 2023](#)). The prohibited lending purposes being suspended are:
 - Making capital contribution or purchasing equity in a limited liability company or a partnership;
 - Making capital contribution or purchasing shares in a joint stock company that are non-listed or has not registered for trading on UPCOM;
 - Making capital contribution under BCC, equity contribution contracts or investment cooperation contracts to implement investment projects that do not satisfy conditions for commercial operation at the time of lending decision;
 - Making financial reimbursements, except where the loans have satisfied the following conditions:
 - The borrowers have advanced their own funds to pay the expenses for project implementation, and these expenses were incurred less than 12 months before the lending decision; and
 - Expenses paid by the borrower based on utilization of the loan from the credit institution/foreign bank branch in accordance with a loan use plan sent to the credit institution/foreign bank branch to be considered for medium and long-term loans to implement such project.

- The above suspension shall apply from 01 September 2023 until the effective date of the new legal documents regulating these issues.

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