

## Employment

### New guidance for foreign employers working in Vietnam

- On September 18, 2023, the Government issued Decree No. 70/2023/ND-CP (“Decree 70”) amending Decree No. 152/2020/ND-CP on foreign nationals working in Vietnam, and recruitment and management of Vietnamese working for foreign employers in Vietnam (“Decree 152”), which took effect immediately.
- Decree 70 loosens the regulation on “experts” and “technical workers” by removing the conditions of having experience in his/her training field in correspondence with the job appointed. Experts and technical workers are now only required to have experience similar to the registered job position. His/her experience can now be evidenced by previous work permit/work permit exemption.
- On the other hand, a “manager” or an “executive” of an enterprise must be proven by multiples documents, including the enterprise’s charter, Enterprise Registration Certificate, or other documents of equivalent legal validity; and resolution or appointment decision of the enterprise.
- Under Decree 70, an employer (excluding contractors) is required to submit a report on foreign employee demand at least 15 days (previously 30 days) prior to the expected employment date of foreign worker(s). As of 2024, prior to submitting this report, an employer must first make a recruitment announcement on the national or provincial website of the labor authority for at least 15 days.
- As part of administrative reorganization amongst the competent authorities, the chairman of provincial People’s Committee is no longer responsible for approving a plan for utilizing foreign employees. Industrial Zones Authority/Economic Zones Authority no longer has the power to issue a work permit/exemption of work permit. Instead, both of the said procedures are now under the jurisdiction of the competent provincial Department of Labor, War Invalids and Social

Affairs (DOLISA).

- Under Decree 70, one work permit now allows an employee to work in multiple locations within a province or multiple provinces. The Ministry of Labor, War Invalids and Social Affairs (MOLISA) will issue work permits/work permit exemptions in the latter scenario. A subsequent report must further be submitted to both MOLISA and DOLISA within three days upon the foreign employee's commencement of work.

## Finance & Banking

### Tightening regulations on anti-money laundering regime

- On 28 July 2023, the State Bank of Vietnam ("SBV") promulgated Circular No. 09/2023/TT-NHNN providing guidelines for implementation of the Law on anti-money laundering ("Circular 09").
- Keeping in the spirit of the Law on Anti-money Laundering 2022, Circular 09 details several measures identifying customers to manage anti-money laundering ("AML") effectively. Regarding customers with a low-risk on money laundering, Circular 09 enables reporting subjects to select mitigated level of know-your-customer measures, such as reducing the frequency of information updates, reducing the level of transaction supervision, or not collecting information on the purpose and nature of business relationships if it can be determined through available transactions or business relationships. On the contrary, for high-risk customers, Circular 09 requires reporting subjects to apply additional measures such as collecting and verifying more information for assessing and managing customer risks, enhancing the supervision of customer transactions, etc.
- To step up AML efforts, SBV also imposes some notable points in connection to Electronic Funds Transfer ("EFT") transactions in AML. Accordingly, reporting subjects (except intermediary

financial institutions) are responsible for collecting information and reporting to the AML authority with electronic data as prescribed in the following cases:

- A domestic EFT transaction valued at from VND 500 million or its equivalent in a foreign currency;
- An international EFT transaction valued at from USD 1,000 or its equivalent value in a foreign currency, except for the cases of:
  - Money transfer transactions that originate from transactions using debit cards, credit cards, or prepaid cards to pay for goods and services; and
  - Money transfer and payment transactions between financial institutions where both transmitter and beneficiary are financial institutions.

- ❑ Circular 09 further provides certain guidelines on criteria for assessing money laundering risks of reporting subjects, including (i) Criteria for money laundering risks from the business environment and the reporting subject's business activities; (ii) Criteria for determining the appropriateness of internal policies and regulations on AML at the reporting subjects (including the comprehensiveness and effectiveness of the implementation of such policies and regulations). Additionally, Circular 09 stipulates the scoring method for the above criteria specifically and requires reporting subjects to complete an annual report on money laundering risk update and assessment before March 31 of the subsequent year.
- ❑ Circular 09 clarifies mandated contents to be included in internal regulations on AML and risk management processes of reporting subjects; reporting forms and reporting regime for high-value transactions that must be reported and suspicious transactions; and responsibilities of reporting subjects related to sending internal regulations, internal audit reports on AML, and notifications of changing information to relevant competent authorities.
- ❑ Circular 09 took effect from 28 July 2023. Regulations on managing procedures of money laundering risks, report forms for suspicious transactions, and reporting regime for money

laundering with high-value transactions that must be reported, and EFT transactions shall take effect from 01 December 2023.

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