**LEGAL UPDATES**

August 2021

**Dear Valued Clients and Partners,**

ADK Lawyers would like to introduce to you the Legal Updates, Vol 12 August 2021 with new legal provisions, which have notable contents as follows:

1. **Principles of financial handling and enterprise valuation when converting State-owned enterprises and one-member limited liability companies with 100% charter capital invested by State-owned enterprises into joint-stock companies**

On June 23, 2021, the Ministry of Finance has issued Circular 46/2021/TT-BTC, officially taking effect on August 7, 2021, on guiding the contents of financial handling and enterprise valuation when converting State-owned enterprises and one-member limited liability companies with 100% charter capital invested by State-owned enterprises into joint-stock companies.

According to this Circular, there are a number of financial handling principles that need to be followed when carrying out equitization, including:

* Upon receiving the decision on equitization from the competent authority, enterprises are responsible for organizing the inventory, classification of assets, capital sources and funds the enterprise is managing, using, comparing and certifying debts according to the provisions of Decree No. 126/2017/ND-CP, Decree No. 140/2020/ND-CP and instructions in this Circular as the basis for determining the actual value of enterprises for equitization.
* For the land area that the enterprise is not allowed to continue to use according to the real estate rearrangement and disposal plan, but in fact the enterprise is still monitoring and using it and the competent authorities have not yet had a plan to collect the land, equitized enterprises must have reports and explanations to serve as a basis for handing over to competent authorities when the enterprise officially changes to operate under the joint stock company model.
* The equitized enterprise does not adjust the figures in the accounting books and financial statements at the time of enterprise valuation according to the enterprise valuation results decided and published by the owner's representative agency.
* The process of financial handling and valuation of equitized enterprises must comply with market principles, publicity, transparency, closeness, and compliance with the State's regulations.
* Equitized enterprises must explain and provide information to investors in the equitization plan and prospectus of information on existing assets at the enterprise (infrastructure assets; other assets under management and use; assets being investment works in progress) invested with public investment capital and identified as public assets.

In case these assets are assigned by the State to the enterprise for management and use and are included in the state capital component of the enterprise, but have not yet been approved for the settlement of investment projects to form assets at the time of enterprise valuation, then, when approving the equitization plan, the owner's representative agency must include the handling contents in the equitization plan when the settlement of this asset-forming investment project has been approved by a competent authority to ensure compliance with the form of enterprise equitization according to the approved plan, at the same time, publicize this handling information when conducting the initial auction of corporate shares to investors for investors and post-conversion enterprises to know and follow the approved equitization plan.

1. **Providing guidelines on forms of reports on disbursement of official development assistance (oda) and concessional loans granted by foreign donors**

On June 28, 2021, the Ministry of Finance issued Circular 48/2021/TT-BTC, officially take effect on August 15, 2021, on guiding project owners/project management boards, governing bodies on the content of the report form on disbursement of official development assistance (ODA) and concessional loans from foreign donors.

The Circular promulgating the capital disbursement report forms and the appendix guiding the preparation of report form includes: Report on disbursement plan for implementation of program/project, plan on supplementing or adjusting (if any) foreign capital sources; Periodic reports on disbursement of foreign capital sources; Annual report on accounting, recording of foreign capital sources' revenues and expenditures; Final report on disbursement of foreign capital loans.

We hope this Legal Newsletter has a lot of useful information.

Best Regards.

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