SOME HIGHLIGHTS OF THE DECREE ELABORATING CERTAIN ARTICLES OF THE LAW ON REAL ESTATE BUSINESS

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On July 24, 2024, the Government promulgated Decree 96/2024/ND-CP (**Decree 96**) to elaborate certain articles of the Law on Real Estate Business, replacing Decree 02/2022/ND-CP (**Decree 02**). Decree 96 takes effect from August 1, 2024 with some notable points regarding real estate business (**REB**) activities as follows:

Firstly, providing several detailed regulations on the disclosure of information on real estate and real estate projects to be put into business as follows:

(i) Regarding the time to disclose information, enterprises engaged in REB are responsible for fully disclosing information on real estate, and real estate projects to be put into business before signing contracts for the sale, transfer, lease, or lease purchase of real estate, or transfer of real estate projects.
(ii) Regarding the information to be disclosed, its content shall comply with the provisions of clause 2, clause 3, clause 4, and clause 5, Article 6 of the Law on REB. In terms of the information stipulated in point c clause 2, and points b and d clause 3, Article 6 of the Law on REB, enterprises are subject to disclose the following documents: (a) The decision approving the detailed planning or the decision approving the master layout planning of real estate projects; (b) Notification of the appraisal result of the feasibility study report for construction investment or Notification of the basic design appraisal result; (c) Written commitment for guarantee issue by domestic commercial banks or foreign bank branches legally operating in Viet Nam in case of sale or lease-to-hold of off-plan houses.
(iii) Regarding the methods and forms of information disclosure, enterprises doing REB must fully, honestly, and accurately disclose information on the information system for the housing and real estate market and on their website.
(iv) Regarding the deadline for updating information, enterprises engaged in REB are responsible for updating the disclosed information within 05 working days from the date the information is changed.

Secondly, supplementing some rules when enterprises engaged in REB draw up, sign, and execute model contracts used in REB. Accordingly, compared to Decree 02, Decree 96 has clarified many rules in the case of drawing up, signing, and executing REB contracts of enterprises doing REB as follows:

(i) They may use REB contracts to sign after the disclosure;
(ii) They must comply with and observe the inspection and supervision by the competent authorities managing REB regarding the implementation of regulations and rules on the disclosure, use, draft, signing, and execution of REB model contracts;
(iii) They are obliged to strictly comply with and must not change the contents of REB model contracts. Any additional content in the model contracts, if permitted, must conform to the principles of not violating the law, and social ethics, and not changing or contradicting available contents in the model contracts;
(iv) In the event that the disclosed REB contracts are amended or supplemented, the enterprises engaged in REB must disclose the modified or supplemented contracts before signing them;
(v) In the case where the REB contracts used by enterprises to sign with their customers are inconsistent with the model contracts, or different from the disclosed model contracts, or fail to comply with the rules mentioned herein, the enterprises shall be handled for violation and be responsible to compensate for any damage incurred by their customers. The dispute settlement shall be in

accordance with relevant legal regulations.

Thirdly, providing detailed regulations on registration and conditions for operating real estate trading floors, in which:

(i) Article 14 of Decree 96 has specified the components of the dossier registering for operation of real estate trading floors: (a) An application registering for operation of a real estate trading floor; (b) A certificate of enterprise registration; (c) Documents proving the right to use the headquarters of the real estate trading floor; (d) Copy of the certificate for completion of training course for real estate trading floor management and operation of its manager or operator; (e) List of real estate brokers having practicing certificates for real estate brokers.
(ii) Regarding conditions for operating a real estate trading floor, besides fully satisfying the conditions as prescribed in Article 55 of the Law on REB 2023, the real estate trading floor must have a specific name and address with stably continuous operation for more than 12 months; have technical equipment meeting the requirements corresponding with operations of the real estate trading floor, and be responsible for implementing anti-money laundering measures as well as submitting reports on anti-money laundering. The legal representative of the real estate trading floor might be also the trading floor's manager or operator.

COMMENTS AND RECOMMENDATIONS

Decree 96 has provided some detailed regulations for the Law of REB 2023, ensuring compliance with the practice to create the grounds for local government as well as organizations and individuals in managing REB activities. It should be noted that if certain contents of other decrees, decisions by the Prime Minister, and legal documents in effect, as issued by ministries, central authorities, and provincial people's committees before the effective date of Decree 96, are within the governance scope of but are different from the regulations of this Decree, the later shall be applied. In the case that a Vietnamese citizen has been granted a personal identification number and the national population database, databases on investment registration, and business registration have been connected and operated, he/she will be allowed to use his/her personal identification number instead of documents related to personal identity (ID card (old type), Citizen ID Card, ID card (new type), Passport and other personal identification documents as prescribed by relevant law) when implementing procedures related to REB activities.