

LEGAL ALERT

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Decree 165 regarding E-Transactions in Financial Operations

On 24 December 2018, the Government issued Decree no. 165/2018/ND-CP regarding E-Transactions in Financial Operations (“[Decree 165](#)”) to replace the previous decrees regarding E-Transactions in Financial Operations (Decree no. 27/2007/ND-CP dated 23 February 2007 and Decree no. 156/2016/ND-CP dated 21 November 2016). Decree 165 came into force on 10 February 2019.

The highlights of Decree 165 are as follows:

1. Definition provided for electronic documents

The “electronic document in financial operations” (or “electronic document”) means the information, which is generated, sent, received and stored by electronic means upon carrying out electronic transactions in financial operations, including documents, reports, contracts, agreements, transaction information, information serving administrative procedures and other types of information and data.

2. Legal validity of electronic documents

The legal validity of an electronic document shall be in compliance with the Law on E-Transactions, including the following main requirements:

- The legal validity of an electronic document shall not be rejected for the sole reason that it is represented in the form of an electronic document.
- In case the laws of Vietnam requires information to be represented in writing, then an electronic document shall be considered as written document if the information contained in such electronic document is accessible and usable for reference when necessary.
- An electronic document may be considered as an original if (i) the electronic document is digitally signed by an entity (i.e., organisation, body or individual) generating such electronic document and an entity having relevant responsibilities under the laws of Vietnam; (ii) the information system uses a method of ensuring integrity of the electronic document in the sending, receiving and storing process in the system; records an entity having generated the electronic document and an entity with relevant responsibilities having engaged in processing the electronic document, and applies a requested method to authenticate those entities; and (iii) Other methods mutually agreed upon by parties entering to a transaction, ensuring the integrity of data, authenticity and non-repudiation. Note that, under Decree 165, requested methods include digital certificate-based verification, biometric verification, verification using two factors or more, including one-time verification code or random verification code.
- An electronic document shall not be rejected to be used as an evidence for the sole reason that it is represented in the form of an electronic document.

3. Amendment to electronic documents

The amendment to an electronic document after being approved or sent for the performance of a transaction shall be carried out again from the beginning of the stage of generation.

4. Invalidation of electronic documents

An electronic document shall be invalidated in one of the following cases:

- It is invalidated in compliance with procedures and regulations of the entities generating and processing an electronic document and the laws of Vietnam.
- It is invalidated on the basis of agreement and confirmation of the parties entering to a transaction.



Note the following:

- The invalidated electronic document shall be marked and recorded with the time and person in charge of invalidation in the information system and notified to relevant parties.
- The physical document (if any) converted from the invalidated electronic document is invalid and no longer usable.

5. Intermediary service in e-transactions in financial operations

Under Decree 165, the “intermediary service in e-transactions in financial operations” means a service that represents (partially or totally) another organisation or individual to send, receive, store or support in generating and processing electronic documents, and verify the performance of e-transactions between parties entering into e-transactions.

The following enterprises are entitled to provide intermediary service in e-transactions in financial operations:

- enterprises providing information technology services on mobile telecommunication network and Internet; and
- enterprises engaged in the business of providing digital signature certification services.

6. Provision of the intermediary service in electronic financial transactions before the effective date of Decree 165

Enterprises providing intermediary service in electronic financial transactions before the effective date of Decree 165 (10 February 2019) are permitted to continue providing such service in accordance with Decree 165.

If you have any questions or require any additional information, please contact [Quynh Lien Nguyen](#) or the ZICO Law partner you usually deal with.

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