



Strengthening  
Consumer Protection:  
Notable changes under  
the new consumer  
rights protection law

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On 20 June 2023, the National Assembly of Vietnam passed the Law on Protection of Consumers' Rights (**New Law**), which will come into force on 1 July 2024, superseding the current Law on the Protection of Consumers' Rights No. 59/2010/QH12 (**Current Law**). The Current Law has been implemented since July 2011 and required updates to keep up with the changes in the growth and increasing adoption of e-commerce. In this legal update, we highlight some of the key changes that onshore and offshore enterprises need to be aware of and consider in their consumer protection policies.

## Expanded list of prohibited actions

The New Law provides an enhanced list of prohibited actions including specific prohibited acts applicable to traders. It also specifies other prohibited actions applicable to multi-level marketing and selling traders, and digital platform services providers. Some of the new notable prohibited acts applicable to traders are listed below:

- (i) Failing to compensate, refund, or exchange products and services for consumers due to mistakes or errors;
- (ii) Failing to inform or disclose to the consumers the sponsorship of an influencer in any products/services to promote trade or encourage consumers to buy and use products, goods, or services (noting that a new definition of an “influencer” is also introduced in the New Law together with their responsibilities when introducing goods and products to consumers); and
- (iii) Collecting, storing, using, editing, updating, and destroying consumer information in contravention of the law.

## Protection of consumer information

In compliance with the recently passed Vietnamese regulations on personal data protection, the New Law sets out new provisions for the protection of consumer information, with some noteworthy points to take away.

The New Law introduces a new definition of “consumer information”, which includes consumers’ personal information, information on their process of purchase and use of products, goods, and services, and other transactional information related to consumers and traders. The following points should be considered with respect to the obligation to protect consumer information<sup>1</sup>:

- (i) The collection, storage, use, modification, update, or destruction of consumer information must ensure the safety and security of consumer information regardless of whether the traders are acting independently or via third-party services.
- (ii) Traders collecting, storing, or using consumer information are required to prepare and implement consumer information protection policies that cover the following points: (a) purpose of information collection; (b) scope of information use; (c) information storage period; and (d) measures to protect information and ensure consumer information safety. Information protection policies must be publicly presented in a conspicuous place at the head office and business locations, and on any website and application for consumers to review prior to or at the time of information collection.
- (iii) Before storing or using consumer information, traders must inform consumers clearly, publicly, and in a suitable manner regarding the purpose and scope of information collection and use, as well as the storage period of the information, and must obtain consent from the consumer, except for the case of collecting information that has been made public by consumers or in other cases as prescribed by law.
- (iv) Traders are required to establish a mechanism to duly obtain affirmative opt-in consent from consumers for certain activities such as sharing their information with third parties or for marketing purposes, with the exception

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<sup>1</sup> You may view our [webinar recording](#) (presented on 14 June 2023) and [legal update](#) (April 2023) about Vietnam’s Decree on Personal Data Protection to learn more.

when such collection and usage of consumer's information has been publicly accepted by the consumer.

- (v) Traders must destroy consumer information when the storage period expires or as prescribed by law.
- (vi) The New Law supplements regulations on the responsibility to notify the relevant authorities within twenty-four (24) hours when there is an attack on an information system that results in a risk of information loss.
- (vii) The New Law prohibits traders from including in the standard agreement or general terms and conditions provisions whereby the consumers must permit the traders to collect, store, and use consumers' information as a condition to enter into such agreement/general terms and conditions unless otherwise provided by the law.

## New product recall regimes

The New Law separates product-recall regimes for defective products under two groups: (i) defective goods that have a prospect of jeopardising the well-being and lives of consumers (**Category A Defective Goods**) and (ii) defective goods that have a prospect of jeopardising the properties of consumers (**Category B Defective Goods**). As expected, the recall procedure with regard to the former is generally stricter than that applicable to the latter. In the case of Category A Defective Goods, the trader is required to make a public announcement of the recall in at least five (5) consecutive issues of a daily newspaper or five (5) consecutive days via the radio, television, or newspaper in the area where the defective goods are circulated. On the other hand, in the case of Category B Defective Goods, the trader only needs to make announcements of the recall at their own business locations, websites, or in another equivalent manner.

Regardless of the defective products' group classification, traders must report to the relevant local authorities prior to and after implementing the appropriate product recall procedure.

The government will promulgate further guidance on the recall procedure.

## Non-exhaustive list of scenarios for invalid clauses under a standard agreement

Contrary to the Current Law, which provides an exhaustive list of scenarios of deemed unenforceable clauses under standard contracts and general trading conditions, the New Law sets out a non-exhaustive list of scenarios where clauses under standard contracts and/or general trading conditions may be deemed unenforceable. Accordingly, it is restricted to include in the standard contracts and general trading conditions provisions that are contrary to the goodwill principle of civil laws, resulting in an imbalance of rights and obligations that is disadvantageous for consumers.

## Vulnerable consumers protection policy

The New Law introduces a definition of "vulnerable consumers", who fall under the following groups: the elderly, people with disabilities, children, people of ethnic minorities, pregnant women or women who are nursing a child under thirty-six (36) months old, people with fatal diseases, and members of poor households.

Trading organisations/individuals are required to, among other things, implement policies that give vulnerable customers special benefits and guarantee them a suitable complaint and dispute resolution process.

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