

Client Alert

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Updates to Vietnam's Draft Decision on solar power: New proposal extends the scope of solar farms potentially eligible for new FiTs

On 17 February 2020, the Ministry of Industry and Trade of Vietnam ("**MOIT**") prepared and issued a report for the Deputy Prime Minister ("**17 February Report**") on the new draft Decision on the 2nd FiT mechanism for developing solar power projects in Vietnam (the "**New Draft**").

The MOIT's 17 February Report was issued to supplement and update the MOIT's earlier Report No. 06/BC-BCT dated 6 February 2020 ("**6 February Report**") and Proposal No. 10170/TTr-BCT dated 31 December 2019 related to the New Draft, for implementation of the Prime Minister's instructions under Notice No. 402 dated 22 November 2019¹ and subsequent instructions of the Deputy Prime Minister on 16 January 2020 and 14 February 2020, as well as the supplemental comments from the Ministry of Finance ("**MOF**") on 7 January 2020 and the Ministry of Justice ("**MOJ**") on 31 December 2020.

Under the 17 February Report, the MOIT proposes extending the scope of solar farms that are eligible for the new FiTs to include *"grid-connected solar power projects, which have been issued Investment Policy Decisions/Approvals before 23 November 2019 and achieve their commercial operation dates ("**CODs**") from 1 July 2019 until 31 December 2020"*.

Accordingly, under its 17 February Report, the MOIT has determined that there could be a total of 36 solar farms, with a total accumulated capacity of about 2,988.9 MW, which would potentially be eligible for the new FiTs, if the above proposal is approved by the Prime Minister. This is a significant increase to the single digit number that would have applied in prior approval of 31 December 2019 under which only 7 solar farms under construction before 23 November 2019 were eligible.

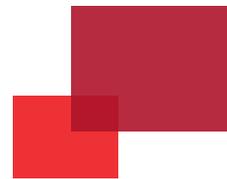
However, the eligibility of the new FiTs remains dependent on whether the applicable projects can actually complete construction, testing and commissioning in order to reach official commercial operations, in whole or in part, by 31 December 2020.

The MOIT has also attached a list of specific solar farms which have been issued Investment Policy Decisions/Approvals before 23 November 2019, to the 17 February Report for the purposes of reporting to the Deputy Prime Minister.

As in the earlier draft of 31 December 2019, the new FiTs proposed for the applicable solar farms are as follows:

- For **floating solar** power projects: VND 1,758 per kWh (equivalent to **7.69** US cent per kWh); and

¹ Notice No. 402/TB-VPCP of the Office of Government dated 22 November 2019 on conclusions of the Prime Minister at the Government's meeting on the Draft Decision on mechanism for development of solar power projects in Vietnam ("**Notice No. 402**").



- For **ground-mounted solar** power projects: VND 1,620 per kWh (equivalent to **7.09** US cent per kWh).

However, the New Draft and the 17 February Report still leave alternative tariff mechanisms for other solar projects unresolved. Many other projects are still pending final approval for inclusion in the master plans. Certain other solar projects are already in the master plans but failed to obtain Investment Policy Decisions/Approvals before 23 November 2019.

Specifically, according to the MOIT's report under Official Letter No. 9608/BCT-DL dated 16 December 2019, under the previous/first FiT program, 135 solar power projects with a total capacity of 8,935 MW were approved for inclusion in the master plan, in which about 4,500 MW have achieved commercial operation. However, under Official Letter No. 9608/BCT-DL, the MOIT has requested that the provincial People's Committees and EVN temporarily suspend proposing new applications for inclusion in the master plans under the FiT mechanism until a new/2nd FiT mechanism has been issued.

For solar farms which may not be eligible for the new FiT, alternative mechanisms may need to be considered, including: the potential pilot synthetic DPPA program, on-site "behind-the-meter" DPPAs, future solar auction mechanisms, and mechanisms of Vietnam Wholesale Electricity Market (VWEM). However, each option has its own pros and cons, together with relevant limitations and investability or bankability issues to be analyzed on a case-by-case basis.

At the date of this alert, the New Draft (together with the MOIT's proposal under the 17 February Report) is still in draft form and therefore subject to the Prime Minister's signing of a final Decision on the new/2nd FiT program. Whether the scope of eligible solar farms will be limited to (i) only up to 7 solar farms under construction before 23 November 2019 (based on the first option under Proposal No. 10170/TTr-BCT dated 31 December 2019), or (ii) 36 solar farms, which have obtained Investment Policy Decisions/Approvals before 23 November 2019 (based on the 2nd option under the 17 February Report), or (iii) otherwise, is still subject to the Prime Minister's final decision.

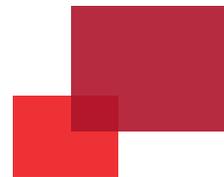
Moreover, these lists are exclusive of solar farms in Ninh Thuan Province, which are subject to separate special mechanisms under which limited solar power projects with a total accumulated capacity cap of up to 2,000 MW achieving actual COD before 1 January 2021 are eligible for the extended FiT of 9.35 US cents per kWh.

Under Proposal No. 10170, the MOIT sets out a list of 30 solar power projects in Ninh Thuan Province with a total capacity of 1,932.92 MW, which have been included in the master plans. Of these, there are: (i) 16 solar power projects which have achieved CODs with a total capacity of 1,016.1 MW; and (ii) another 14 solar projects which have not yet achieved CODs with a total capacity of about 916.8 MW.

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Please do not hesitate to contact us if you would like to understand more about:

- the lists of specific solar power projects under the MOIT's reports and proposals as well as specific issues relating to these lists;



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- the rationale behind these developments and the proposed changes to the mechanisms under the New Draft;
- other provisions of the New Draft as well as other relevant mechanisms, potential upcoming additional guidelines by the MOIT and relevant ministries for implementation of this proposed Decision;
- potential impacts of the proposed New Draft on specific projects and necessary steps going forward;
- opportunities, challenges and legal solutions for investment in solar or other power, energy and infrastructure projects in Vietnam.