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# MHM VIETNAM

## Newsletter

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## GOVERNMENT DECREE ON THE DIRECT POWER PURCHASE AGREEMENT (DPPA) MECHANISM

The Government of Vietnam has issued Decree 80/2024/ND-CP on the direct power purchase agreement (“DPPA”) mechanism for renewable energy (“Decree 80”), effective from 3 July 2024. Decree 80 aims to promote the development of the renewable energy sector and create more options for large electricity consumers in the country to purchase energy.

In this legal update, we highlight the key features of Decree 80 and explain the following two models of DPPA available under Decree 80: (i) the national grid-connected or virtual PPA model (“**On-grid Model**”) and (ii) the off-grid or private line model (“**Off-grid Model**”).

### Eligible renewable energy generators and large electricity consumers

Decree 80 applies to various types of renewable energy generators including solar, wind, small hydropower, biomass, geothermal, tidal and other renewable energy generators, and rooftop solar systems which have either been granted an electricity operation licence or are exempted from such requirement.

Decree 80 defines large electricity consumers as those purchasing electricity for their own use without reselling it to any third party, with a monthly consumption of at least 200,000 kWh.

### On-grid Model

The On-grid Model is only available to wind and solar renewable energy generators with a capacity of 10 MW or more which are connected to the national electricity grid, and large electricity consumers purchasing electricity for production purposes with a connection voltage of 22 kV or higher.

This model allows renewable energy generators to sell their entire output to the competitive wholesale electricity market at a spot price. The spot price is determined based on the supply and demand of electricity in each trading cycle in accordance with the regulations on operating the

competitive wholesale electricity market issued by the Ministry of Industry and Trade (“**MOIT**”). The trading cycle is 30 minutes per trading day, and the payment cycle is monthly, starting from the first day of each month.

Large electricity consumers or their authorised retail electricity units in zones and clusters (including industrial parks, economic zones, export processing zones, industrial clusters, high-tech parks, centralised information technology parks, high-tech industrial parks and other similar models) can purchase electricity from power corporations (“**Power Corporations**”) under Vietnam Electricity (“**EVN**”) or other retail units at a retail price that includes the spot price and applicable service charges (which cover the cost of transmission, distribution, load dispatch, administration, operation and maintenance).

To hedge against the fluctuation of the spot price, the renewable energy generators and large electricity consumers or their authorised retail electricity units will enter into a contract for differences (“**CfD**”) with a fixed strike price and a committed electricity output for each transaction cycle. The CfD provides for the settlement of the difference in the strike and spot prices. For example, if the strike price is higher than the spot price, the generator will pay the consumer the difference, and vice versa.

The parties must register the proposed DPPA arrangements with the National Load Dispatch Centre (“**NLDC**”), which will respond within five business days after receiving relevant opinions from EVN and the relevant Power Corporations on the expected timeline for the execution of power purchase agreements and application of DPPA mechanism.

Templates of the power purchase agreements to be executed for the On-grid Model are annexed to Decree 80.

#### **Off-grid Model**

The Off-grid Model enables renewable energy generators and large electricity consumers to sign DPPAs and deliver/receive electricity through private connection lines. The private connection lines are the electrical infrastructure that connects the generation units and the consumers without using the national power grid. The parties have the flexibility to negotiate the electricity price and other contract terms, such as duration, termination, liability, and service standards.

Unlike the On-grid Model, the Off-grid Model is available to all eligible renewable energy generators under Decree 80 without restriction on the capacity or type of renewable energy, and all large electricity consumers without any limitation on the purpose of utilisation of electricity (such as for production purposes).

Decree 80 also allows renewable energy generators to sell their surplus electricity to EVN or its authorised purchaser. Similarly, large electricity consumers can purchase additional electricity from Power Corporations or other retail units.

The parties must report the execution of DPPAs to the relevant provincial-level People's Committee, the relevant Power Corporation operating in their location, and the NLDC. They must also comply

with the legal regulations on investment, construction, electrical safety, land, fire fighting and prevention, environmental protection, and other relevant matters.

Decree 80 is expected to create more opportunities and incentives for renewable energy development and consumption in Vietnam, as well as promoting clean energy transition in Vietnam. There remain some uncertainties in the implementation of DPPAs under Decree 80, including commercial matters such as the availability and quality of private connection lines, and legal issues such as the risk allocation and flexibility to agree terms in documentation for DPPA arrangements, on which investors should seek professional advice before entering into any DPPA arrangements.

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