

ORDINANCE ON THE STATE BANK OF VIETNAM

Hanoi, 23 May 1990

In order to define the State management responsibility of the State Bank of Vietnam for the establishment and implementation of the State's monetary policy, to facilitate the development of a multi-sector economy, to conform with the policy of renovation of the economic system and the method of management of business and production, simultaneously protect the legitimate interests of organizations and individuals;

Pursuant to article 19 and article 100 of the Constitution of the Socialist Republic of Vietnam;

This Ordinance provides for the organization and operation of the State Bank of Vietnam.

CHAPTER I

General Provisions

Article 1

The State Bank of Vietnam, called in short the State Bank, is an agency subject to the supervision of the Council of Ministers, which has the function, on behalf of the State, of managing money, credit, and banking operations throughout the country in order to stabilize a value of money, and is the only agency with power to circulate the currency of the Socialist Republic of Vietnam.

Article 2

The State Bank is a legal entity, is based in Hanoi, and has branches where necessary at home and representatives offices abroad.

Article 3

The State Bank has the following powers and duties:

1. To participate in the development of strategy and plans for social and economic development, policies relating to the monetary operations and develop laws relating to operations, currency, credit payments, foreign exchange and banking.
2. To issue rules and regulations under its authority in relation to currency, credit payments, foreign exchange and banking and to implement and review the implementation of laws and regulations relating to currency, credit payment, foreign exchange and banking.
3. To act as banker for credit organizations.
4. To apply measures of management in order to ensure that credit organizations are managed in a professional manner.
5. To organize the printing and casting of currency, to maintain the reserves of currency, to issue currency and manage its circulation.
6. To receive deposits from the State Treasury, foreign agencies and international organizations, and where necessary to make loans to the State.
7. To manage the State's, reserve of foreign currency and gold, manage the international balance of payments and foreign exchange, and conduct foreign exchange transactions in the international market.
8. To maintain the State's reserve of foreign currency and gold.
9. To sign directly, or delegate the signing of, international treaties on currency, credit, payments, foreign exchange and banking.

10. To represent the Government in international currency, credit and banking institutions.
11. To inspect credit organizations to ensure compliance with the laws on currency, credit payments, foreign exchange and banking.
12. To organize training in the operations of banking.

CHAPTER II

Organization of the State Bank

I. Management of the State Bank

Article 4

1. The management of the State Bank shall be carried out by a board of management.
2. The board of management has the following powers and duties:
 - (a) To provide consultancy to the Government on currency, the economy and finance.
 - (b) To approve draft legislation and policies on currency, credit, foreign exchange and banking before the Governor of the State Bank submits them to the Council of Ministers.

- (c) To supervise all agencies and units, which are subject to the supervision of the State Bank, in their performance of the tasks delegated to them.
- (d) To determine the rate of the compulsory minimum reserve, the re-discounted interest rate, and the proportion of bonds and other securities to be purchased by credit organizations.
- (e) To arrange the printing and casting, circulating, re-collecting, exchanging, and destroying of paper money and coins.
- (g) To adopt a budget and prepare an accounting report for the fiscal year, and an annual report of the State Bank.

Article 5

The board of management shall be comprised of the following members:

- a president who shall be the Governor of the State Bank;
- a vice president who shall be the First Deputy Governor;
- four Members, each of whom shall have the title of Vice Minister representing, respectively, the Ministry of Finance, the Ministry of Commerce, the State Planning Committee, and the State Committee for Co-operation and Investment; and
- four Members to be selected from amongst economic and financial experts;

All members of the board of management must be well qualified in the area of monetary affairs.

Article 6

The appointment and dismissal of those members of the board of management who represent the Ministries and the State Committees shall be proposed by the Ministers, the Chairmen of the Committees concerned, and the Governor of the State Bank, and determined by the Chairman of the Council of Ministers.

The appointment and dismissal of all other members of the board of management shall be proposed by the Governor of the State Bank, and determined by the Chairman of the Council of Ministers.

Article 7

The term of office of each member of the board of management shall be five years. After two and a half years of the first term, half of the members representing the Ministries and the State Committees, and half of the other members shall retire. The retirees shall be determined by the drawing of lots and may be reappointed.

Article 8

The following persons shall not be appointed as the members of the board of management:

1. The spouse of a member or ancestor or descendent within three generations of another member, and all persons who are shareholders in a company which has issued shares.
2. Any member of the board of management of a credit organization or its General Director, other director or employees.
3. Any person under prosecution for a criminal offence or who has been previously convicted of a crime.

Article 9

A member of the board of management shall be dismissed in the following cases:

1. Article 8 of this Ordinance has been breached.
2. The Chairman of the Council of Ministers approves an application made by the member for resignation.
3. The member is unable to perform his duty in accordance with the provisions of the law.

Article 10

A quorum for a meeting of the board of management shall be six members of the board of management including the Chairman, and if the Chairman is absent, the Vice Chairman.

Article 11

The board of management shall make decisions by a majority vote of its members present. Where the result of a vote is equal, the Chairman or Vice Chairman who presides over the meeting shall have a casting vote.

Article 12

The board of management shall have a government supervisor. The supervisor shall attend the meetings of the board of management, and have the right to participate in them but shall not be entitled to vote. In the event that the supervisor disagrees with a resolution of the board of management, the disagreement shall be reported to the Council of Ministers.

The appointment and dismissal of the supervisor shall be determined by the Chairman of the Council of Ministers.

Article 13

The regulations for operation of the board of management shall be issued by the Chairman of the Council of Ministers.

II. Administration of the State Bank

Article 14

1. The State Bank shall be administered by the Governor of the State Bank. The Governor of the State Bank shall be a member of the Council of Ministers and shall be assisted by Deputy Governors, of whom one shall be the First Deputy Governor.

2. The Governor of the State Bank has the following powers and duties:

(a) To convene and preside over all meetings of the board of management.

(b) To monitor all operations of the State Bank.

(c) To determine the structure and regulations for operation of all agencies and units of the State Bank, its branches and representative offices.

(d) To appoint, dismiss, transfer, reward and punish employees of the State Bank in accordance with the regulations applicable to State employees.

(e) To organize the implementation of policy on currency and credit, and of the regulations of the State Bank and the resolutions of the board of management.

(g) To sign, within his power, international agreements and contracts for credit, payments, foreign exchange and banking.

- (h) To commence civil action and propose prosecution of criminal cases in relation to currency, credit, payments, foreign exchange and banking operations.
- (i) To submit, on behalf of the board of management, to the Chairman of the Council of Ministers, the annual report on the operations of the State Bank.

Article 15

1. The audit of the State Bank is subject to administration by the chief auditor. The appointment or dismissal of the chief auditor of the State Bank shall be proposed by the Governor of the State Bank, and submitted by the State General Auditor to the Chairman of the Council of Ministers for determination.
2. The auditor of the State Bank shall undertake audit of credit organizations throughout the country and administer the audit of agencies and units of the State Bank in accordance with the powers and duties stipulated in the Ordinance on Audit.

Article 16

The supervision of the operation of agencies and units of the State Bank shall be undertaken by the general comptroller of the State Bank, who shall be appointed and dismissed by the Governor of the State Bank.

Article 17

1. The employees of the State Bank shall keep confidential all details of the operations of the State Bank and credit organizations, except where required otherwise by an administrative or judicial authority pursuant to law.
2. The employees of the State Bank shall not take advantage of their positions or work relationships to receive any allowances or shares of profits of credit organizations in any form.

Article 18

Regulations concerning the employees of the State Bank shall, after approval has been granted by the Chairman of the Council of Ministers, be issued by the Governor of the State Bank.

CHAPTER III

Capital Fund and Financial Management

Article 19

The State Bank has prescribed capital owned by the State, and shall operate in accordance with the principles of economic cost accounting.

Article 20

The profit made by the State Bank shall at the end of each fiscal year be determined by adding fees, commissions and other types of income, and subtracting the following:

1. Expenses of operation.
2. Additions to a reserve fund for contingencies including reduction of asset values.
3. Additions to other reserve funds where the board of management finds it necessary, and the approval of the Chairman of the Council of Ministers has been given.

Article 21

The State Bank may deduct ten (10) per cent of its profits for the purpose of establishing a reserve fund to be used to implement national currency policy.

Article 22

After establishing the reserve fund stipulated in article 21 of this Ordinance and other funds in accordance with the provisions of the State, the remaining profits of the State Bank, if any, shall be paid to the State Treasury. In the event of losses, the State Bank shall report to the Council of Ministers for consideration to provide funds to off-set the loss.

Article 23

1. The State Bank shall not lend money to the following:
 - (a) Its employees, including the members of the board of management.
 - (b) Enterprises, agencies, economic organizations, and private persons.
2. The State Bank is not permitted to contribute capital to enterprises, economic organizations or credit organizations, or to establish companies or enterprises for the purpose of business or carrying out of activities which are inconsistent with the function as stipulated in this Ordinance.

Article 24

The organization of cost accounting and book keeping of the State Bank must comply with lawful regulations.

Article 25

1. The fiscal year begins on 1 January and ends on 31 December of the same year.

2. Within three months of the end of the fiscal year, the Governor of the State Bank shall submit to the Chairman of the Council of Ministers a balance sheet and profit and loss statement of the State Bank and an annual report, and shall send to the Ministry of Finance the profit and loss statement.

CHAPTER IV

The Operations of the State Bank

I. Relations with the Ministry of Finance

Article 26

The State Bank may open transaction accounts for the State Treasury. In places where there are no branches of the State Bank, a State owned bank shall be appointed.

Article 27

The State Bank may agree with the Ministry of Finance to act as an agent for the State Treasury in the following operations:

1. The issuing of short-term and long-term bonds.
2. Repayment of principal and payment of interest on the bonds.

Article 28

The State Bank shall have the right to ask State bodies for provision of necessary information and data relating to the economy and finance to be used for the purposes of analysis and providing advice to the Council of Ministers on economic and monetary policy.

Article 29

1. The State Bank may participate in developing the State Bank plan and, together with the Ministry of Finance, estimate for the purpose of submission to the Council of Ministers, the total amount to be lent by the State Bank to the State Treasury in the next fiscal year.
2. The State Bank shall agree with the Ministry of Finance on the amount of advance monies, the lending, the level of borrowed money, duration, and interest rate for the State Treasury.
3. The monies advanced and loans must be backed by interest generating Treasury bonds transferred by the Ministry of Finance to the State Bank. These Treasury bonds shall have a maximum duration of eighty (80) days and be transferable.

Article 30

The State Bank shall maintain the State reserve of foreign currencies and gold.

Article 31

The State Bank may sell to and buy back from credit organizations, Treasury bonds with a duration of not more than one year.

Article 32

The total amount of money to be advanced, and specific lending for the State Treasury stipulated in article 29 of this Ordinance, and Treasury bonds to be purchased by the State Bank as stipulated in article 31 of this Ordinance, shall not exceed the limit determined by the National Assembly. The State Bank shall make a timely report to the Council of Ministers together with recommendations in the event that any risk arises of this limit being exceeded.

II. Issuing of Currency

Article 33

The State Bank is the sole agency with the power to issue paper money and coins in accordance with the amounts determined by the Chairman of the Council of Ministers. The monetary unit of the Socialist Republic of Vietnam is "dong", its national sign is "d" and its international sign is "VND".

Article 34

The value, form, weight, artwork, and other features of the paper money and coins shall be determined by the State Bank.

Article 35

The paper money and coins issued by the State Bank is the legal money circulated and used as legal tender in the territory of the Socialist Republic of Vietnam.

Article 36

The State Bank shall keep currency in reserve and ensure that the supply of paper money and coins is sufficient to meet the requirements of the national economy for money in circulation.

Article 37

The State Bank shall stipulate the criteria by which money shall be classified as defaced, the principles and procedures for the destruction and replacement of money which is no longer suitable, and for the recalling and changing of all defaced money which is still in the process of circulation.

The State Bank shall not agree to replace notes defaced as the result of deliberate acts or which do not meet criteria for replacement.

Article 38

The following acts are strictly prohibited:

1. Forging money; accumulating and circulating forged money.
2. Destroying paper and coins.
3. Using coins for other purposes.
4. Changing the colour of money, or its face value with the intent to deceive.
5. Refusing to circulate paper and coins issued by the State Bank.

III. Relations with Credit Organizations

Article 39

The State Bank shall grant licences to credit organizations in Vietnam and examine them as to their observance of laws relating to money, credit, payments, foreign exchange and banking, and shall itself take precautions to ensure that full and timely payments are made in accordance with the requirements of customers and of credit organizations.

Article 40

The State Bank shall open deposit accounts in the name of credit organizations and shall respect the rights of the owners of those accounts.

Article 41

The State Bank may lend, purchase and sell, discount, and re-discount valuable documents of the credit organization.

Article 42

The State Bank shall lend money to the head offices of credit organizations only, and not directly to their branches.

Article 43

The State Bank shall announce the re-discounted interest rates; the minimum interest rates for deposited money; and the maximum interest rates for loans to credit organizations.

Article 44

The State Bank is entitled to compel credit organizations to maintain:

1. Legal reserve funds.
2. Other sources of money for ready payment of deposits and debts in accordance with provisions of the State Bank.

3. A compulsory minimum reserve ratio and other safety reserves.

Article 45

The State Bank shall provide that the compulsory reserve ratio be at least ten (10) per cent and not more than thirty five (35) per cent of all the deposits in the credit organizations. In necessary cases, the board of management of the State Bank shall make a decision to increase the reserve ratio to the level of thirty five (35) per cent and the State Bank shall pay interest on this increase.

The State Bank shall make provisions as to the levels of penalties to be imposed upon those credit organizations which breach this article.

Article 46

The State Bank shall, depending on the form of the credit organizations, stipulate limits on the number of its employees, commissions, and fee levels.

Article 47

The State Bank shall organize a clearing house for the credit organizations.

Article 48

The State Bank may issue, buy and sell bills, and organize the control of money markets.

Article 49

The State Bank shall, in conjunction with the Ministry of Finance, organize a stock exchange in conformity with the provisions of the law.

CHAPTER V

Foreign Exchange

Article 50

In relation to State management of foreign exchange, the State Bank has the following rights and obligations:

1. To draft the law on the management of foreign exchange.
2. To issue regulations on the management of foreign exchange, and to organize and examine the implementation of those regulations.
3. To grant and withdraw licences to organizations and private persons for foreign exchange transactions.
4. To determine and publish the exchange rates for Vietnamese Dong.
5. To monitor the international balance of payments, examine the credit relations with foreign countries and international organizations, organize and regulate the domestic currency exchange markets, and buy and sell foreign exchange in the international market.

Article 51

1. All acts of export, import, purchase and sale, monitoring, transferring, and payment of foreign exchange shall take place in accordance with State regulations on the management of foreign exchange.
2. The management of foreign exchange shall take place in accordance with the following principles:
 - (a) All foreign currency earnings from the export of goods and services to a foreign country shall be transferred to other countries through a bank authorized by the State Bank.
 - (b) Vietnamese organizations and citizens are not permitted to open accounts and deposit foreign currency in a foreign country, except where otherwise permitted by the State Bank.
 - (c) All purchases and sales made and services provided in Vietnam shall be transacted in Vietnamese Dong except where the State Bank has licensed them to be transacted in foreign currencies.
 - (d) All organizations in Vietnam having foreign currency shall sell all such currency, apart from the amount permitted to be retained in accordance with the regulations of the State concerning the management of foreign exchange, to banks which are permitted to engage in the business of foreign exchange, or shall sell it in the domestic foreign exchange market organized by the State Bank. When required they shall purchase foreign currency at a bank or in the domestic foreign exchange market.
 - (e) Vietnamese citizens having foreign currency shall sell it to a bank permitted to engage in the business of foreign exchange. When required, they shall purchase foreign exchange at a bank in accordance with regulations of the State on the management of foreign exchange.
 - (g) Foreign organizations, individuals investing into Vietnam, bank branches based in Vietnam, and joint venture banks wishing to transfer foreign currency to Vietnam from foreign countries and vice versa shall conduct that business in accordance with the provisions of the Law on Foreign Investment in Vietnam, and the provisions of the State on the management of foreign exchange.
 - (h) All operations of borrowing, debt servicing, lending, recovering of debt carried out with foreign countries shall take place through banks licensed by the State Bank. Economic organizations which borrow money from, or repay debts to, foreign countries in the form of commercial credits shall report the details to the State Bank.

- (i) The organizations permitted to engage in the business of foreign exchange shall report to the State Bank on their foreign exchange operations in accordance with the provisions of the State Bank.

CHAPTER VI

Dealing with Breaches

Article 52

Persons who reveal secrets concerning the operations of the State Bank or of credit organizations; who breach the restrictions in relation to paper money and coins; who fail to observe the compulsory reserve levels; who breach the stipulations on the management of foreign exchange and other provisions of this ordinance shall, depending on the seriousness of the offence, be disciplined or be subject to administrative penalty or prosecution for criminal responsibility in accordance with the provisions of the law.

Article 53

Persons who take advantage of their positions or power to protect those who breach this Ordinance, or who themselves profit personally from their occupation shall, depending on the seriousness of the offence, be disciplined or be subject to administrative penalty or prosecution for criminal responsibility in accordance with the provisions of the law.

CHAPTER VII

Final Provisions

Article 54

This Ordinance shall be of full force and effect as of 10 October 1990.

Article 55

All previous provisions which are inconsistent with this Ordinance are hereby repealed.

On behalf of the State Council of the

Socialist Republic of Vietnam

President

VO CHI CONG