

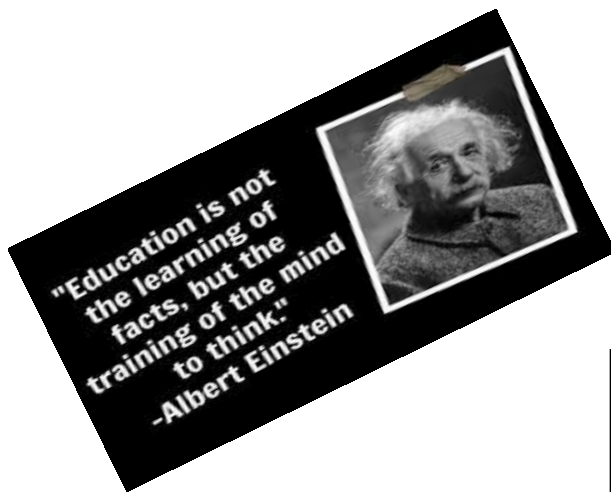


FOREIGN TRADE UNIVERSITY - HCMC CAMPUS

PROFESSIONAL OPERATION FACULTY

DEPARTMENT OF LAW

BANKING & FINANCE LAW



**PART II: LEGAL
DOCUMENTS**

HCMC, 2021

**LAW
ON
CREDIT INSTITUTIONS**
(16 June 2010)

As amended 20 November 2017

TABLE OF CONTENTS

CHAPTER 1	1
General Provisions	1
Article 1 <i>Governing scope</i>	1
Article 2 <i>Applicable entities</i>	1
Article 3 <i>Application of the Law on Credit Institutions, international treaties, international commercial practice and relevant laws</i>	2
Article 4 <i>Interpretation of terms</i>	2
Article 5 <i>Use of terms related to banking operation</i>	7
Article 6 <i>Organizational forms of credit institution</i>	7
Article 7 <i>Autonomy in conduct of operation</i>	7
Article 8 <i>Right to conduct banking activities</i>	7
Article 9 <i>Co-operation and competition in banking operation</i>	8
Article 10 <i>Protection of client interests</i>	8
Article 11 <i>Responsibility to prevent and fight money laundering and terrorism funding</i>	8
Article 12 <i>Legal representative of credit institution</i>	9
Article 13 <i>Provision of information</i>	9
Article 14 <i>Confidentiality of information</i>	9
Article 15 <i>Back-up database</i>	9
Article 16 <i>Purchase of shares by foreign investors</i>	10
Article 17 <i>Policy banks</i>	10
CHAPTER 2	10
Licences	10
Article 18 <i>Authority to issue and revoke licences</i>	10
Article 19 <i>Legal capital</i>	10
Article 20 <i>Conditions for issuance of licence</i>	10
Article 21 <i>File, order and procedures for application for licence</i>	12
Article 22 <i>Time-limit for issuance of licence</i>	12
Article 23 <i>Fees for issuance of licence</i>	12
Article 24 <i>Business registration and operational registration</i>	12
Article 25 <i>Publication of operational information</i>	12
Article 26 <i>Conditions for commencement of operation</i>	13
Article 27 <i>Use of licence</i>	14
Article 28 <i>Revocation of licence</i>	14
Article 29 <i>Changes for which State Bank approval must be obtained</i>	15
CHAPTER 3	16
Organization, Management and Executive Operation of Credit Institutions	16
Section 1	16
General Provisions	16
Article 30 <i>Establishment of branch, representative office, professional entity and commercial presence</i>	16
Article 31 <i>Charter</i>	16
Article 32 <i>Organizational and managerial structure of credit institution</i>	17

Article 33	Cases in which people are not permitted to hold positions.....	17
Article 34	Cases in which people are not permitted to hold concurrent positions.....	19
Article 35	Automatic loss of status	20
Article 36	Removal and dismissal	20
Article 37	Suspension and temporary suspension of positions on board of management, members' council, board of controllers and general director (director).....	21
Article 38	Rights and obligations of managers and executives of credit institution	21
Article 39	Responsibility to publish related interests.....	22
Article 40	Internal control system	23
Article 41	Internal audit.....	23
Article 42	Independent audit.....	23
Section 2		24
General Provisions Applicable to Credit Institutions		24
Being Shareholding Companies and Limited Liability Companies		24
Article 43	Board of management, members' council and structure of board of management or members' council	24
Article 44	Board of controllers and structure of board of controllers.....	25
Article 45	Duties and powers of board of controllers:	25
Article 46	Rights and obligations of head of board of controllers.....	26
Article 47	Rights and obligations of members of board of controllers:.....	27
Article 48	General director (director)	27
Article 49	Rights and obligations of general director (director)	27
Article 50	Conditions and criteria for managers, executives and a number of other positions of credit.....	28
Article 51	Approval of list of persons proposed for election or appointment as members of board of management or members' council, members of board of controllers and general director (director) of credit institution.....	30
Section 3		31
Credit Institutions being Shareholding Companies		31
Article 52	Classes of shares and shareholders.....	31
Article 53	Rights of ordinary shareholders	32
Article 54	Obligations of ordinary shareholders	32
Article 55	Ratio of ownership of shares.....	33
Article 56	Offer for sale and assignment of shares	34
Article 57	Redemption of shares of shareholders	34
Article 58	Share certificates.....	34
Article 59	General meeting of shareholders.....	34
Article 60	Convening meeting of general meeting of shareholders upon request of State Bank	36
Article 61	Report on result of meeting of general meeting of shareholders.....	37
Article 62	Board of management of shareholding credit institution.....	37
Article 63	Duties and powers of board of management:	37
Article 64	Rights and obligations of chairman of board of management:	39
Article 65	Rights and obligations of members of board of management	39
Section 4		40
Credit Institutions Being Single Member Limited Liability Companies		40
Article 66	Duties and powers of owner.....	40
Article 67	Duties and powers of members' council	41
Article 68	Rights and obligations of chairman of members' council.....	42
Article 69	Rights and obligations of members of members' council.....	42
Section 5		43
Credit Institutions Being Multiple Member Limited Liability Companies		43
Article 70	Capital contributing members and duties and powers of capital contributing members	43

Article 71	Assignment and redemption of capital contribution portion	43
Article 72	Members' council	44
Section 6	.....	45
Credit Institutions Being Co-Operatives	.....	45
Article 73	Operational nature and objectives	45
Article 74	Establishment of credit institution being co-operative	45
Article 75	Organizational structure	45
Article 76	Charter capital	46
Article 77	Charter	46
Article 78	Rights of members	47
Article 79	Obligations of members	47
Article 80	General meeting of members	48
Article 81	Board of management	48
Article 82	Duties and powers of board of management	49
Article 83	Organization and operation of board of controllers	49
Article 84	Duties and powers of board of controllers	50
Article 85	General director (director) of co-operative bank and people's credit fund	50
Article 86	Rights and obligations of general director (director)	50
Section 7	.....	51
Micro-Finance Institutions	.....	51
Article 87	Forms of micro-finance institution	51
Article 88	Members, capital contribution, organizational structure and operational locality of micro-finance institution	51
Section 8	.....	51
Foreign Bank Branches in Vietnam	.....	51
Article 89	Management and executive operation of foreign bank branch	51
CHAPTER 4	.....	52
Operation of Credit Institutions	.....	52
Section 1	.....	52
General Provisions	.....	52
Article 90	Scope of permissible operation of credit institution	52
Article 91	Interest rates and fees in business activities of credit institution	52
Article 92	Issuance of deposit certificates, promissory notes, banks notes and bonds by credit institution	52
Article 93	Internal rules	52
Article 94	Consideration and approval of extension of credit and inspection of use of loan monies	53
Article 95	Termination of extension of credit, dealing with debts, and exemption and reduction of interest rates	53
Article 96	Maintenance of loan files	54
Article 97	E-banking operation	54
Section 2	.....	54
Operation of Commercial Banks	.....	54
Article 98	Banking operation of commercial bank	54
Article 99	Borrowing from State Bank	55
Article 100	Borrowing from credit institutions and financial institutions	55
Article 101	Opening accounts	55
Article 102	Organization and participation in payment systems	55
Article 103	Capital contribution and share purchase	56
Article 104	Participation in monetary market	56
Article 105	Trading and provision of foreign exchange services and derivative products	57
Article 106	Trust and agency activities	57
Article 107	Other business activities of commercial banks	57

Section 3	57
Operation of Finance Companies	57
Article 108 <i>Banking activities of finance company</i>	57
Article 109 <i>Opening accounts by finance company</i>	58
Article 110 <i>Capital contribution and share purchase by finance company</i>	58
Article 111 <i>Other business activities of finance company</i>	59
Section 4	59
Operation of Finance Leasing Companies	59
Article 112 <i>Banking activities of finance leasing company</i>	59
Article 113 <i>Finance leasing activities</i>	60
Article 114 <i>Opening accounts by finance leasing company</i>	60
Article 115 <i>Capital contribution and purchase of shares by finance leasing company</i>	60
Article 116 <i>Other activities of finance leasing company</i>	60
Section 5	61
Operation of Credit Institutions being Co-operatives	61
Article 117 <i>Operation of co-operative bank</i>	61
Article 118 <i>Operation of people's credit fund</i>	61
Section 6	62
Operation of Micro-Finance Institutions	62
Article 119 <i>Raising capital by micro-finance institution</i>	62
Article 120 <i>Extension of credit by micro-finance institution</i>	62
Article 121 <i>Opening accounts by micro-finance institution</i>	62
Article 122 <i>Other activities of micro-finance institution</i>	62
Section 7	63
Operation of Foreign Bank Branches in Vietnam	63
Article 123 <i>Operation of foreign bank branch</i>	63
CHAPTER 5	63
Representative Offices of Foreign Credit Institutions and	63
Of Other Foreign Institutions Engaged in Banking Operation	63
Article 124 <i>Establishment of representative office</i>	63
Article 125 <i>Operational contents of representative office</i>	63
CHAPTER 6	64
Restrictions to Ensure Security During Operation of Credit Institutions	64
Article 126 <i>Entities to whom extension of credit is not permitted</i>	64
Article 127 <i>Restrictions on extension of credit</i>	65
Article 128 <i>Limits on extension of credit</i>	65
Article 129 <i>Limits on capital contribution and share purchase</i>	66
Article 130 <i>Prudential ratios</i>	67
Article 131 <i>Risk reserves</i>	69
Article 132 <i>Real estate business</i>	69
Article 133 <i>Requirements for safety in e-banking activities</i>	69
Article 134 <i>Rights and obligations of controlling company</i>	69
Article 135 <i>Capital contribution and share purchase between subsidiary companies and affiliated companies, and controlling company</i>	70
CHAPTER 7	70
Finance, Cost Accounting and Reporting	70
Article 136 <i>Finance regime</i>	70
Article 137 <i>Fiscal year</i>	70
Article 138 <i>Cost accounting and accounting</i>	70
Article 139 <i>Reserve funds</i>	70
Article 140 <i>Purchase of and investment in fixed assets</i>	71
Article 141 <i>Reporting</i>	71
Article 142 <i>Reports of controlling company</i>	72

Article 143	<i>Publication of financial statements</i>	72
Article 144	<i>Overseas remittance of profit and assets</i>	72
CHAPTER 8		73
Special Control, Restructuring,		73
Bankruptcy, Dissolution and Liquidation of Credit Institutions		73
Section 1		73
Special Control		73
Article 145	<i>Cases in which a credit institution shall be placed under special control.</i>	73
Article 145a	<i>Decision placing a credit institution under special control</i>	73
Article 145b	<i>Termination of special control</i>	74
Article 146	<i>Authority to make a decision restructuring a credit institution under special control.</i> ..	74
Article 146a	<i>Duties and powers of the State Bank with respect to a credit institution placed under special control</i>	75
Article 146b	<i>Duties and powers of the special controlling board</i>	75
Article 146c	<i>Responsibilities of a credit institution placed under special control, and of the owner, capital contributing members, shareholders, board of management or members' council, board of controllers and general director (director)</i>	76
Article 146d	<i>Special loans</i>	76
Article 146dd	<i>Management, executive operation and activities of a credit institution placed under special control</i>	77
Section 1a		78
Assessment of Actual Status of an In-principle Decision on Restructuring a Credit Institution under Special Control		78
Article 147	<i>Overall assessment of actual status of a credit institution under special control</i>	78
Article 147a	<i>Proposal on an in-principle decision on restructuring a credit institution under special control</i>	78
Section 1b		79
Remedial Plan for a Credit Institution under Special Control		79
Article 148	<i>Formulation and approval of a remedial plan</i>	79
Article 148a	<i>Contents of a remedial plan</i>	79
Article 148b	<i>Assisting measures [or support] for implementation of a remedial plan</i>	80
Article 148c	<i>Organizing implementation of a remedial plan</i>	81
Article 148d	<i>Conditions applicable to an assisting credit institution</i>	82
Article 148dd	<i>Rights and obligations of an assisting credit institution</i>	82
Section 1c		83
Plan on Merger, or Consolidation or Transfer of the Entire Shareholding and Capital Contribution Portions in the Credit Institution under Special Control		83
Article 149	<i>Merger or consolidation or transfer of the entire shareholding and capital contribution portions in the credit institution under special control</i>	83
Article 149a	<i>Formulation and approval of a plan on merger or consolidation or transfer of the entire shareholding and capital contribution portions</i>	83
Article 149b	<i>Contents of a plan on merger, or consolidation, or on transfer of the entire shareholding and capital contribution portions</i>	84
Article 149c	<i>Assisting measures for implementing [realizing] a plan on merger, or consolidation, or transfer of the entire shareholding and capital contribution portions</i>	84
Article 149d	<i>Organization of implementation of the plan on merger, or consolidation, or transfer of the entire shareholding and capital contribution portions</i>	85
Section 1d		85
Plan on Dissolution of a Credit Institution under Special Control		85
Article 150	<i>Dissolution of a Credit Institution under Special Control</i>	85
Article 150a	<i>Organizing implementation of dissolution</i>	85
Section 1dd		85
Plan on Compulsory Transfer of a Commercial Bank under Special Control		85

Article 151	<i>Compulsory transfer of a commercial bank under special control</i>	85
Article 151a	<i>Formulation and approval of a plan on compulsory transfer by a commercial bank under special control</i>	86
Article 151b	<i>Contents of a plan on compulsory transfer</i>	87
Article 151c	<i>Assisting measures for implementing a plan on compulsory transfer</i>	87
Article 151d	<i>Organizing implementation of a plan on compulsory transfer</i>	87
Article 151dd	<i>Conditions applicable to a transferee</i>	88
Article 151e	<i>Rights of a transferee</i>	88
Article 151g	<i>Dealing with shares and capital contribution portions which exceed the prescribed limits and dealing with a legal entity in the case of a commercial bank under special control after it has been compulsorily transferred</i>	89
Section 1e		89
Bankruptcy Plan for a Credit Institution under Special Control		89
Article 152	<i>Bankruptcy of a credit institution under special control</i>	89
Article 152a	<i>Formulation and approval of a bankruptcy plan</i>	90
Article 152b	<i>Contents of a bankruptcy plan</i>	90
Article 152c	<i>Organizing implementation of a bankruptcy plan</i>	90
Article 153	<i>Restructuring a credit institution</i>	90
Article 154	<i>Dissolution of credit institution or foreign bank branch</i>	91
Article 155	<i>Bankruptcy of credit institution</i>	91
Article 156	<i>Liquidation of assets of credit institution</i>	91
Article 157	<i>Freezing capital and assets of foreign bank branch</i>	91
CHAPTER 9		92
State Administrative Agencies		92
Article 158	<i>State administrative agencies</i>	92
Article 159	<i>Authority to conduct checks, inspection and supervision</i>	92
Article 160	<i>Rights and obligations of entities subject to inspection and supervision:</i>	92
CHAPTER 10		93
Implementing Provisions		93
Article 161	<i>Transitional provision</i>	93
Article 162	<i>Effectiveness</i>	93
Article 163	<i>Detailed regulations and guidelines for implementation</i>	94

As amended 20 November 2017¹

**LAW
ON
CREDIT INSTITUTIONS**

**National Assembly of the
Socialist Republic of Vietnam
Legislature XII, 7th Session
(16 June 2010)**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by Resolution 51-2001-QH10;

The National Assembly hereby promulgates the *Law on Credit Institutions*.

CHAPTER 1

General Provisions

Article 1 *Governing scope*

This Law regulates establishment, organization, operation, special control, restructuring and dissolution of credit institutions; and establishment, organization and operation of foreign bank branches and of representative offices of foreign credit institutions and of other foreign organizations conducting a banking operation.

Article 2 *Applicable entities*

This Law shall apply to the following entities:

1. Credit institutions.
2. Foreign bank branches.
3. Representative offices of foreign credit institutions and of other foreign organizations conducting a banking operation.
4. Organizations and individuals related to the establishment, organization, operation, special control, restructuring and dissolution of credit institutions; and to the establishment, organization and operation of foreign bank branches and representative offices of foreign credit institutions and of other foreign organizations conducting a banking operation.

¹ Allens footnote: As amended by Law 17/2017/QH14 dated 20 November 2017 (effective 15 January 2018). All amendments are footnoted.

Article 3 *Application of the Law on Credit Institutions, international treaties, international commercial practice and relevant laws*

1. The establishment, organization and operation, special control, restructuring and dissolution of credit institutions; and the establishment, organization and operation of foreign bank branches and of representative offices of foreign credit institutions and of other foreign organizations conducting a banking operation shall comply with the provisions of this Law and other relevant laws.
2. Where this Law and another law contain different provisions on establishment, organization, operation, special control, restructuring and dissolution of credit institutions; and on establishment, organization and operation of foreign bank branches and of representative offices of foreign credit institutions and of other foreign organizations conducting a banking operation, the provisions of this Law shall prevail.
3. In the event that an international treaty of which the Socialist Republic of Vietnam is a member contains different provisions from those in this Law, the provisions of such treaty shall prevail.
4. Organizations and individuals participating in banking activities are entitled to reach agreement on application of commercial practice comprising:
 - (a) International commercial practice issued by the International Chamber of Commerce;
 - (b) Other commercial practice, provided it is not contrary to the law of Vietnam.

Article 4 *Interpretation of terms*

In this Law, the following terms are construed as follows:

1. *Credit institution* means an enterprise which conducts one, a number of or all banking activities. Credit institutions comprise banks, non-banking credit institutions, micro-finance institutions and people's credit funds.
2. *Bank* means a form of credit institution which may conduct all banking activities in accordance with this Law. The various forms of banks comprise, depending on the nature and objectives of their operation, commercial banks, policy banks and co-operative banks.
3. *Commercial bank* means a form of bank which is permitted to conduct all banking and other business activities in accordance with this Law for profit-making purposes.
4. *Non-banking credit institution* means a form of credit institution which is permitted to conduct one or a number of banking activities in accordance with this Law, except for receipt of deposits from individuals and provision of payment services via accounts of clients. Non-banking credit institutions comprise finance companies, finance leasing companies and other non-banking credit institutions.

Finance leasing company means a form of finance company with its main operation being finance leasing in accordance with this Law.
5. *Micro-finance institution* means a form of credit institution which mainly conducts a number of banking activities aimed at satisfying requirements of low-income individuals and households and of super-small enterprises.
6. *People's credit fund* means a credit institution which is voluntarily established by legal entities, individuals and households in the form of a co-operative in order to carry out a number of banking

activities in accordance with this Law and the *Law on Co-operatives*, with its main purpose being mutual assistance amongst members to develop their production and business activities and living standards.

7. *Co-operative bank* means a bank of all people's credit funds which is established by capital contributions by people's credit funds and a number of legal entities in accordance with this Law, with its main purpose being an association of systems, and mutual financial support and capital adjustment in the system of people's credit funds.
8. *Foreign credit institution* means a credit institution established in a foreign country under the law of the foreign country.

Foreign credit institutions are permitted to have a commercial presence in Vietnam in the forms of representative office, joint venture bank, bank with one hundred (100) per cent foreign owned capital, foreign bank branch, joint venture finance company, finance company with one hundred (100) per cent foreign owned capital, joint venture finance leasing company, and finance leasing company with one hundred (100) per cent foreign owned capital.

Joint venture banks and banks with 100% per cent foreign owned capital are a form of commercial bank; joint venture finance companies and finance companies with 100% foreign owned capital are a form of finance company; and joint venture finance leasing companies and finance leasing companies with 100% foreign owned capital are a form of finance leasing company in accordance with this Law.

9. *Foreign bank branch* means a dependent unit of a foreign bank and does not have legal entity status and is guaranteed by its foreign bank for all obligations and undertakings of such branch in Vietnam.
10. *Equity* comprises actual value of the charter capital of a credit institution or funded² capital of a foreign bank branch plus reserve funds and a number of other asset liabilities as stipulated in regulations of the State Bank of Vietnam (hereinafter referred to as *State Bank*).
11. *Licence* comprises establishment and operating licence for a credit institution, licence for establishment of a foreign bank branch, and licence for establishment of a representative office of a foreign credit institution or other foreign organization conducting a banking operation, as issued by the State Bank. Any document of the State Bank on amendments and additions to a licence shall constitute an integral part of such licence.
12. *Banking operation* means regular business and [regular] provision of one or more of the following services:
 - (a) receipt of deposits;
 - (b) extension of credit;
 - (c) provision of payment services via accounts.
13. *Receipt of deposits* means the operation of receiving money from organizations and individuals in the form of on-call deposit, fixed term deposit and savings deposit, issuance of deposit certificates, promissory notes, bank notes and other forms of receipt of deposits on the principle of repayment of principal and interest in full to the depositor as agreed [with such client].

² Allens footnote: Alternative translation is "issued".

14. *Extension of credit* means an agreement for an organization or individual to use a sum of money or an undertaking to permit use of a sum of money on the principle that such money is repayable, in the form of a loan, discount, finance leasing, factoring or bank guarantee and other professional forms of extension of credit.
15. *Provision of payment services via an account* means the provision of payment instruments; [and] providing payment services for cheques, payment orders, authorized payment orders, collection orders, authorized collection orders, bank cards, letters of credit and other payment services for clients via the accounts of such clients.
16. *Lending* means a form of extension of credit whereby the lender delivers or undertakes to deliver to a client a sum of money to use for a definite purpose for a definite term as agreed, on the principle that principal and interest are fully repayable.
17. *Factoring* means a form of extension of credit to a seller or purchaser of goods via repurchase with reservation of the right to claim recovery of accounts receivable or accounts payable arising from the purchase [or] sale of goods [or] provision of services in accordance with a contract for purchase [and] sale of goods [or] for provision of services.
18. *Bank guarantee* means a form of extension of credit whereby a credit institution undertakes to the beneficiary that the credit institution will fulfil financial obligations on behalf of its client when such client fails to fulfil or inadequately fulfils the obligations undertaken; the client shall owe to the credit institution the amount paid on its behalf by the credit institution and shall be liable to repay such amount to the credit institution.
19. *Discounting* means the purchase for a term or the purchase with reservation of the right to claim recovery of negotiable instruments and other valuable papers of beneficiaries, prior to maturity.
20. *Re-discounting* means the discounting of already discounted negotiable instruments and other valuable papers, prior to maturity.
21. *Currency brokerage* means acting as intermediary with collection of a broking fee in order to arrange conduct of banking and other business activities between credit institutions and other finance institutions.
22. *Payment account* means an on-call deposit account of a client opened with a bank to be used for payment services provided by the bank.
23. *Derivative product* means a financial instrument which is valued in accordance with the forecast change in value of an underlying financial asset such as exchange rate, interest rate, foreign exchange rate, currency rate or other financial asset.
24. *Capital contribution and/or share purchase by a credit institution* means a credit institution contributes capital to form the charter capital of, or purchases shares in other enterprises or credit institutions, including funding capital or contributing capital to a subsidiary company or affiliated company of the credit institution; or contributing capital to an investment fund, or entrusting capital to other organizations to make a capital contribution and/or purchase shares in the above-mentioned forms.
25. *An investment in the form of a capital contribution and/or share purchase in order to control an enterprise* comprises an investment accounting for more than fifty (50) per cent of the charter capital or voting shareholding capital of any one enterprise, or another investment sufficient to control decisions of the general meeting of shareholders or members' council.

26. *Major shareholder* of a shareholding credit institution means any shareholder directly or indirectly owning five per cent or more of the voting shareholding of such shareholding credit institution.
27. *Indirect ownership* means that an organization or individual owns the charter capital or shareholding capital of a credit institution via a related person or via a trust investment.
28. *Related person* means any organization or individual directly or indirectly related to another organization or individual in one of the following cases:
- (a) A parent company with regard to its subsidiary company and vice versa; a credit institution with regard to its subsidiary company and vice versa; between subsidiary companies of the same parent company or of the same credit institution; a manager or member of the board of controllers of a parent company or of a credit institution, or an individual or organization with power to appoint such person with regard to a subsidiary company and vice versa.
 - (b) A company or a credit institution with regard to a manager or member of the board of controllers of such company or credit institution, or with regard to a company or organization with power to appoint such person and vice versa;
 - (c) A company or credit institution with regard to an organization or individual owning five per cent or more of the charter capital or voting shareholding capital of such company or credit institution and vice versa;
 - (d) An individual with regard to the spouse, parent, child or sibling of such individual;
 - (dd) A company or credit institution with regard to an individual prescribed in sub-clause (d) of this clause of a manager, member of the board of controllers, capital contributor or shareholder owning five per cent or more of the charter capital or voting shareholding capital of such company or credit institution and vice versa;
 - (e) An individual authorized to act as representative of an organization or individual prescribed in sub-clauses (a), (b), (c), (d) and (dd) of this clause with regard to the organization or individual who is principal; between individuals authorized to act as representatives of capital contribution portions of the same organization;
 - (g)³ Any other organization or individual with a potentially risky relationship for the operation of a credit institution or foreign bank branch determined in accordance with the internal rules of such credit institution or foreign bank branch or pursuant to a written request from the State Bank via an inspection or supervision on a case-by-case basis.
29. *Affiliated company of a credit institution* means a company in which the credit institution, or the credit institution and a related person of the credit institution, owns more than eleven (11) per cent of the charter capital or voting shareholding capital, but which is not a subsidiary of such credit institution.
30. *Subsidiary company of a credit institution* means a company in one of the following cases:
- (a) The credit institution, or the credit institution and a related person of the credit institution, owns more than fifty (50) per cent of the charter capital or voting shareholding capital;

³ Allens footnote: As added by Law 17 dated 20 November 2017.

- (b) The credit institution has the right to directly or indirectly appoint the majority or all members of the board of management or members' council [and/or] the general director (director) of such subsidiary company;
 - (c) The credit institution has the right to amend or supplement the charter of the subsidiary company;
 - (d) The credit institution and a related person of the credit institution directly or indirectly control the passing of resolutions and decisions of the general meeting of shareholders, of the board of management or members' council of the subsidiary company.
31. *Manager of a credit institution* comprises the chairman and members of the board of management or chairman and members of the members' council; the general director (director) and other managerial positions as stipulated in the charter of the credit institution.
32. *Executive of a credit institution* comprises the general director (director), deputy general directors (deputy directors), chief accountant, directors of branches and other similar executive positions as stipulated in the charter of the credit institution.
- 33.⁴ *Early intervention* means the State Bank requires the credit institution or foreign bank branch to remedy the situation prescribed in article 130(a).1 of this Law.
34. *Special control* means a credit institution is placed under the direct control of the State Bank in accordance with the provisions in Section 1 of Chapter 8 of this Law.
35. *Plan on restructuring a credit institution under special control (abbreviated as restructuring plan)* means one of the following plans:
- (a) Remedial plan;
 - (b) Plan on merger, or consolidation, or transfer of the entire shareholding and capital contribution portions;
 - (c) Plan on dissolution;
 - (d) Plan on compulsory transfer;
 - (dd) Plan on bankruptcy.
36. *Remedial plan* means a plan applying measures in order for the credit institution under special control to itself remedy the situation which lead to it being placed under special control.
37. *Plan on merger, or consolidation or transfer of the entire shareholding and capital contribution portions* means a plan applicable when a credit institution merges or consolidates, or when an investor receives a transfer of the entire shareholding and capital contribution portions of the credit institution under special control.
38. *Plan on compulsory transfer* means a plan whereby the owner, capital contributing members and/or shareholders of a commercial bank under special control must transfer all of their shares and capital contribution portions to a transferee.

⁴ Allens footnote: Clauses 33 to 40 were added by Law 17 dated 20 November 2017.

39. *Transferee* means another domestic or foreign credit institution or investor which makes a request for receipt of a compulsory transfer and which is subject to the decision of a competent State agency to receive a transfer.
40. *Assisting credit institution* means a credit institution which is appointed to participate in management, control, executive operation and assistance of the organization and operation of a credit institution under special control.

Article 5 *Use of terms related to banking operation*

No organization other than a credit institution is permitted to use the expressions or terms "credit institution", "bank", "finance company", "finance leasing company" or other expressions or terms in its name or title or in any appendage to its name or title or in any transaction document or advertisement, if the use of such expressions or terms may cause clients of such organization to mistake it for a credit institution.

Article 6 *Organizational forms of credit institution*

1. Domestic commercial banks shall be established and organized in the form of a shareholding company, except for the case stipulated in clause 2 of this article.
2. State commercial banks shall be established and organized in the form of a single member limited liability company with one hundred (100) per cent charter capital owned by the State.
3. Domestic non-banking credit institutions shall be established and organized in the form of a shareholding or limited liability company.
4. Joint venture credit institutions and credit institutions with one hundred (100) per cent foreign owned capital shall be established and organized in the form of a limited liability company.
5. Co-operative banks and people's credit funds shall be established and organized in the form of a co-operative.
6. Micro-finance institutions shall be established and organized in the form of a limited liability company.

Article 7 *Autonomy in conduct of operation*

1. Credit institutions and foreign bank branches shall have autonomy in the conduct of their business operation and shall be liable⁵ for the results of their business operation. No organization or individual is permitted to illegally intervene in the business operation of a credit institution or foreign bank branch.
2. Credit institutions and foreign bank branches have the right to refuse any request for extension of credit or for provision of other services if they consider that conditions are not fully satisfied, that such [loan or services will be] ineffective [or] are inconsistent with the provisions of law.

Article 8 *Right to conduct banking activities*

1. Any organization which satisfies all conditions in accordance with this Law and other relevant laws and which is issued by the State Bank with a licence has the right to conduct one or several banking activities in Vietnam.

⁵ Allens footnote: The literal translation is "shall bear self-responsibility".

2. Any organization or individual other than a credit institution is strictly prohibited from conducting any banking activities, except for escrow deposit transactions and transactions being the purchase and resale of securities by securities companies.

Article 9 *Co-operation and competition in banking operation*

1. Credit institutions and foreign bank branches shall co-operate and compete in banking and other business activities in accordance with provisions of law.
2. Any conduct of restriction of competition or of unfair competition which may cause loss and damage to implementation of the national monetary policy, safety of the credit institution system or the lawful interests of the State or rights and interests of individuals and organizations is strictly prohibited.
3. The Government shall provide specific regulations on unfair competitive acts during a banking operation and on forms of penalty for such acts.

Article 10 *Protection of client interests*

Credit institutions and foreign bank branches are responsible:

1. To participate in a preservation [or] insurance organization for deposits in accordance with law and to publicly announce participation in such organization at its head office and branches.
2. To facilitate clients in depositing or withdrawing money, ensuring full and prompt payment of principal and interest on deposits.
3. To refuse to investigate, freeze, withhold or make deductions from deposits of clients, except when requested by a competent State agency in accordance with law or when the client consents.
4. To publicly announce deposit interest rates, service fees, and the rights and obligations of clients in respect of each type of product or service currently provided.
5. To announce their official business hours and not to arbitrarily suspend trading⁶ during such announced hours. In the event that suspension of trading is required, a credit institution or foreign bank branch must, at least twenty four (24) hours prior to the [proposed] time of suspending trading, list such suspension at the transaction location. Credit institutions and foreign bank branches are not permitted to suspend trading for more than one business day, except in the case stipulated in article 29.1(e) of this Law.

Article 11 *Responsibility to prevent and fight money laundering and terrorism funding*

Credit institutions and foreign bank branches are responsible:

1. Not to conceal, or conduct any business activity involving sums of money the origin of which has been proved illegal.
2. To formulate internal rules on prevention and fighting money laundering and terrorism funding in accordance with law.

⁶ Allens footnote: Alternative translation is "transactions".

3. To take measures to prevent and fight money laundering and terrorism funding.
4. To co-operate with competent State agencies in investigating activities of money laundering and terrorism funding.

Article 12 *Legal representative of credit institution*

1. The legal representative of a credit institution shall be specified in the charter of the credit institution and shall be one of the following persons:
 - (a) The chairman of the board of management or of the members' council of the credit institution;
 - (b) The general director (director) of the credit institution.
2. The legal representative of a credit institution must reside in Vietnam, and in the case of his or her absence from Vietnam must authorize in writing another person being a manager or executive of the credit institution currently residing in Vietnam to exercise the former's rights and discharge his or her obligations.

Article 13 *Provision of information*

1. Credit institutions and foreign bank branches shall provide account holders with information on transactions conducted via their accounts and on their account balances in accordance with the agreement with such account holders.
2. Credit institutions and foreign bank branches are responsible to provide the State Bank with information about their business operation and shall be provided by the State Bank with information about clients with a credit relationship with such credit institution or foreign bank branch in accordance with State Bank regulations.
3. Credit institutions and foreign bank branches are permitted to exchange information with each other about their operation.

Article 14 *Confidentiality of information*

1. Employees, managers and executives of a credit institution or foreign bank branch are not permitted to disclose the business secrets of such credit institution or foreign bank branch.
2. Credit institutions and foreign bank branches must ensure confidentiality of information about accounts, deposits, deposited assets and transactions of clients conducted at such credit institution or foreign bank branch.
3. Credit institutions and foreign bank branches are not permitted to provide information to any other organization or individual about accounts, deposits, deposited assets or transactions of clients conducted at such credit institution or foreign bank branch, except when requested by a competent State agency in accordance with law or when the client consents.

Article 15 *Back-up database*

1. Credit institutions and foreign bank branches must construct a back-up database in order to ensure that their operation is safe and continuous.

2. The construction of a back-up database by people's credit funds, micro-finance organizations and credit institutions which do not receive deposits shall be carried out in accordance with State Bank regulations.

Article 16 *Purchase of shares by foreign investors*

1. Foreign investors are permitted to purchase shares in Vietnamese credit institutions.
2. The Government regulates the conditions, procedures and total aggregate level of share ownership by foreign investors, and the maximum ratio of share ownership by a single foreign investor in any one Vietnamese credit institution; and conditions applicable to Vietnamese credit institutions selling their shares to foreign investors.

Article 17 *Policy banks*

1. The Government shall establish policy banks to conduct an operation for non-profit making purposes, aimed at implementing the socio-economic policies of the State.
2. The Government shall regulate the organization and operation of policy banks.
3. Policy banks must carry out internal control and audit; shall formulate and issue internal rules on their professional activities; and shall implement regimes on reporting statistics and their operation and payment activities in accordance with State Bank regulations.

CHAPTER 2

Licences

Article 18 *Authority to issue and revoke licences*

The State Bank is [the agency] authorized to issue, amend and supplement, and revoke licences in accordance with this Law.

Article 19 *Legal capital*

1. The Government regulates the levels of legal capital applicable to each form of credit institution and to foreign bank branches.
2. Credit institutions and foreign bank branches must maintain the actual value of their charter capital or funded capital respectively, at least equal to the level of their legal capital.
3. The State Bank provides specific regulations on dealing with cases where the actual value of the charter capital of a credit institution or of the funded capital of a foreign bank branch reduces to a level lower than that of its legal capital.

Article 20 *Conditions for issuance of licence*

1. A credit institution shall be issued with a licence when it satisfies all the following conditions:
 - (a) Having charter capital or funded capital at least equal to the level of its legal capital;

- (b) The owner of the credit institution being a single member limited liability company, and the founding shareholders [or] founding members must be legal entities currently conducting a lawful operation and must have sufficient financial capacity to participate in capital contribution; and the founding shareholders [or] founding members of the credit institution must be individuals with full capacity for civil acts and with sufficient financial capacity to make capital contributions.

The State Bank regulates the conditions applicable to owners of credit institutions which are single member limited liability companies and founding shareholders [or] founding members.

- (c) Managers, executives and members of the board of controllers must satisfy all the criteria and conditions prescribed in article 50 of this Law;
- (d) Having a charter consistent with the provisions of this Law and other relevant laws;
- (dd) Having a proposal for establishment and a feasible business plan which do not adversely affect the safety and stability of the credit institution system, and which do not create a monopoly, restrict competition or create unfair competition within the credit institution system.

2. A joint venture credit institution or a credit institution with one hundred (100) per cent foreign owned capital shall be issued with a licence when it satisfies all the following conditions:

- (a) The conditions prescribed in clause 1 of this article;
- (b) The foreign credit institution is permitted to conduct a banking operation in accordance with the law of the country where it has its head office;
- (c) The proposed operation for which a licence is sought to conduct in Vietnam must be an operation which the foreign credit institution is currently permitted to conduct in the country where it has its head office;
- (d) The foreign credit institution must have a healthy operation and satisfy all conditions on total assets, financial status and prudential ratios prescribed in State Bank regulations;
- (dd) The foreign credit institution gives a written commitment to provide support in terms of finance, technology, management, executive operation and operation to the joint venture credit institution [or] credit institution with 100% foreign owned capital; and ensures that the actual value of the charter capital [of either of the latter credit institutions] will be maintained at no less than the level of their legal capital and that [either of the latter credit institutions] will implement the provisions of this Law on ensuring safety;
- (e) The competent authority of the foreign country has signed an agreement with the State Bank on inspection and supervision of the banking operation and on exchange of information about supervision of banking safety, and has given a written commitment on unified supervision of the operation of the foreign credit institution in accordance with international practice.

3. A foreign bank branch shall be issued with a licence when it satisfies all the following conditions:

- (a) The conditions prescribed in sub-clauses (a), (b), (c) and (dd) of clause 1 and in sub-clauses (b), (c) (d) and (e) of clause 2 of this article;
- (b) The foreign bank must give a written commitment that it accepts liability for all obligations and commitments of the foreign bank branch in Vietnam; and ensures that the actual value of the

funded capital [of the foreign bank branch] will be maintained at no less than the legal capital and that [the foreign bank branch] will implement the provisions of this Law on ensuring safety;

4. A representative office of a foreign credit institution or of another foreign organization conducting a banking operation shall be issued with a licence when it satisfies all the following conditions:
 - (a) The foreign credit institution or other foreign organization conducting a banking operation is a legal entity licensed to conduct a banking operation in the foreign country;
 - (b) The law of the country where the foreign credit institution or other foreign organization conducting a banking operation has its head office permits such foreign credit institution or other foreign organization to establish a representative office in Vietnam.
5. The State Bank regulates the conditions for issuance of a licence applicable to co-operative banks, people's credit funds and micro-finance organizations.

Article 21 *File, order and procedures for application for licence*

The State Bank provides specific regulations on the file, order and procedures for an application for issuance of a licence.

Article 22 *Time-limit for issuance of licence*

1. The State Bank shall, within one hundred and eighty (180) days from the date of receipt of a complete and valid file, issue a licence or refuse to issue a licence to the applicant organization.
2. The State Bank shall, within sixty (60) days from the date of receipt of a complete and valid file, issue a licence or refuse to issue a licence to the representative office of a foreign credit institution or other foreign organization conducting a banking operation.
3. Where [the application for] issuance of a licence is refused, the State Bank shall specify in writing the reasons therefor.

Article 23 *Fees for issuance of licence*

Any credit institution, foreign bank branch or representative office of a foreign credit institution or other foreign organization conducting a banking operation which is issued with a licence must pay a fee for same in accordance with the law on fees and charges.

Article 24 *Business registration and operational registration*

Credit institutions and foreign bank branches must, after being issued with their licence, carry out business registration; and the representative office of a foreign credit institution or other foreign organization conducting a banking operation must carry out registration of its operation in accordance with law.

Article 25 *Publication of operational information*

Credit institutions, foreign bank branches, and representative offices of foreign credit institutions and of other foreign organizations conducting a banking operation must, at least thirty (30) days before the proposed date of commencement of their operation, publish the following information on the information media of the State Bank and in three consecutive issues of a daily newspaper of Vietnam or on an electronic newspaper of Vietnam:

1. Name and the address of the head office of the credit institution, foreign bank branch or representative office of the foreign credit institution or other foreign organization conducting a banking operation.
2. Serial number and date of issuance of licence, of business registration certificate or of certificate of registration of operation, and the business activities which are permitted to be conducted.
3. Charter capital or funded capital.
4. Legal representative of the credit institution, the general director (director) of the foreign bank branch, or the head of the representative office of the foreign credit institution or other foreign organization conducting a banking operation.
5. List of founding shareholders or capital contributing members or owner of the credit institution and their respective capital contribution ratios.
6. Proposed date of commencement of operation.

Article 26 *Conditions for commencement of operation*

1. Credit institutions, foreign bank branches, and representative offices of a foreign credit institution or other foreign organization conducting a banking operation which are issued with a licence shall only be permitted to conduct activities as from the date of commencement of operation.
2. Any credit institution or foreign bank branch issued with a licence must satisfy all of the following conditions in order to commence its operation:
 - (a) It has registered its charter with the State Bank;
 - (b) It has a business registration certificate, it has a full complement of charter capital or funded capital, it has a safe/s which satisfy all conditions prescribed in State Bank regulations, and its head office satisfies all conditions for ensuring safety of assets and is appropriate for the requirements of the banking operation;
 - (c) Its organizational structure, managerial and executive apparatus, internal audit, risk management and internal control system is appropriate for the operational form as prescribed in this Law and other relevant laws;
 - (d) It has an information technology system which satisfies managerial requirements and the operational scale;
 - (dd) It has internal management rules on organization and operation of the board of management [or] members' council and board of controllers, of the general director (director) and of professional divisions and departments at the head office; it has internal rules on risk control; and it has rules on network management;
 - (e) The full amount of its charter capital or funded capital in Vietnamese Dong is deposited in an escrow, non-interest bearing account opened at the State Bank at least thirty (30) days prior to the date of commencement of operation. Such amount of capital shall only be released after the credit institution or foreign bank branch has commenced its operation;
 - (g) It has published its operational information in accordance with article 25 of this Law.

3. Credit institutions, foreign bank branches, and representative offices of a foreign credit institution or other foreign organization conducting a banking operation must commence their operation within a period of twelve (12) months from the date of issuance of their licence, and if they fail to do so then the State Bank shall revoke their licence.
4. Any credit institution or foreign bank branch issued with a licence must notify the State Bank of the conditions [satisfied] in order to commence operation as prescribed in clause 2 of this article at least fifteen (15) days prior to the proposed date of commencement of operation; and in a case of failure to fully satisfy the conditions prescribed in clause 2 of this article, the State Bank shall suspend the commencement of operation.

Article 27 *Use of licence*

1. An institution issued with a licence must use the correct name specified in, and operate in accordance with the items prescribed in the licence.
2. An institution issued with a licence shall be prohibited from erasing, purchasing, selling, transferring, leasing or lending its licence.

Article 28 *Revocation of licence*

1. The State Bank shall revoke an issued licence in the following cases:
 - (a) The application file for issuance of the licence contained fraudulent information in order to fully satisfy the conditions for issuance of the licence;
 - (b)⁷ The credit institution is divided, demerged, merged, consolidated, dissolved, becomes bankrupt or converts its legal form;
 - (c) The credit institution, foreign bank branch, or representative office of a foreign credit institution or other foreign organization conducting a banking operation conducts incorrect banking activities in terms of the items prescribed in its licence;
 - (d) The credit institution or foreign bank branch commits a serious breach of the provisions of law on compulsory reserves [and/or] prudential ratios during operation;
 - (dd) The credit institution or foreign bank branch fails to implement or to fully implement a decision of the State Bank dealing with [it] aimed at ensuring safety during banking operation;
 - (e) In the case of a foreign bank branch, credit institution with one hundred (100) per cent foreign owned capital, or representative office of a foreign credit institution or other foreign organization conducting a banking operation, the foreign credit institution or other foreign organization conducting the banking operation is dissolved or becomes bankrupt or its licence is revoked or its operation suspended by the competent authority of the country where such institution has its head office.
2. The State Bank provides specific regulations on the order and procedures for revocation of issued licences in the cases prescribed in clause 1 of this article.

⁷ Allens footnote: The underlined words were added by Law 17 dated 20 November 2017.

3. Any institution whose licence is revoked must immediately suspend its business activities as from the effective date of the decision of the State Bank revoking the licence.
4. Any decision revoking a licence shall be published by the State Bank on the mass media.

Article 29 *Changes for which State Bank approval must be obtained*⁸

1. A credit institution or foreign bank branch must obtain written approval from the State Bank before carrying out procedures to change any one of the following items:
 - (a) Name [or] location of head office of the credit institution; name [or] location of office of the foreign bank branch;
 - (b) Level of charter capital or funded capital, except for the case stipulated in clause 3 of this article;
 - (c) Location of office of a branch of the credit institution;
 - (d) Contents, scope and duration of operation;
 - (dd) Purchase and sale or a transfer of the capital contribution portion of the owner; purchase and sale or transfer of a capital contribution portion of a capital contributing member; purchase and sale or transfer of shares of a major shareholder; or purchase and sale or transfer of shares resulting in a major shareholder becoming an ordinary shareholder and vice versa;

In the case of purchase and sale or transfer of capital contribution portions in a credit institution being a single member limited liability company, the purchaser or transferee must satisfy the conditions applicable to owners and capital contributing members prescribed in articles 20, 70 and 71 of this Law;
 - (e) Temporary suspension of business activities for five or more business days, except for a case of temporary suspension of operation due to an event of force majeure;
 - (g) Listing of shares on offshore securities markets.
2. The file, sequence and procedures for approval of the changes prescribed in clause 1 shall be implemented in accordance with State Bank regulations.
3. Change of level of charter capital and transfer of capital contribution portions of capital contributing members in people's credit funds shall be implemented in accordance with State Bank regulations.
4. When one or more changes prescribed in clause 1 of this article is approved, the credit institution or foreign bank branch must:
 - (a)⁹ Make amendments and/or additions to its charter in conformity with the approved changes;
 - (b) Register the changes prescribed in clause 1 of this article with the competent State agency;

⁸ Allens footnote: Clauses 1(c), (dd), (e) and (g), 2 and 3 are as amended by Law 17 dated 20 November 2017.

⁹ Allens footnote: As amended by Law 17 dated 20 November 2017.

- (c) Publish the changed items prescribed in sub-clauses (a), (b), (c) and (d) of clause 1 of this article on the information media of the State Bank and in three consecutive issues of a daily newspaper of Vietnam or on an electronic newspaper of Vietnam, within seven (7) business days after the date of State Bank approval.

CHAPTER 3

Organization, Management and Executive Operation of Credit Institutions

Section 1

General Provisions

Article 30 *Establishment of branch, representative office, professional entity and commercial presence*

1. A credit institution is permitted to establish, depending on the operational form of the credit institution and after obtaining written approval from the State Bank:
 - (a) Branches, representative offices and professional entities within Vietnam, including within the province or city under central authority where the credit institution has its head office;
 - (b) Offshore branches, representative offices and other forms of commercial presence.
2. The State Bank provides specific regulations on conditions, application files and procedures for establishment, termination and dissolution of the entities prescribed in clause 1 of this article as applicable to each form of credit institution.

Article 31 *Charter*

1. The charter of a credit institution being a shareholding or limited liability company must not be inconsistent with the provisions of this Law and other relevant laws. A charter shall contain the following main particulars:
 - (a) Name and location of head office;
 - (b) Contents and scope of operation;
 - (c) Duration of operation;
 - (d) Charter capital, method of capital contribution and of increasing or reducing charter capital;
 - (dd) Duties and powers of the general meeting of shareholders, of the board of management or members' council, and of the general director (director) and board of controllers;
 - (e) Method of election, appointment and dismissal of members of the board of management or members' council, and of the general director (director) and board of controllers;
 - (g) Full names, addresses, nationalities and other basic characteristics of the owner and capital contributing members in the case of a credit institution being a limited liability company; and of the founding shareholders in the case of a credit institution being a shareholding company;

- (h) Rights and obligations of the owner and capital contributing members in the case of a credit institution being a limited liability company; rights and obligations of shareholders in the case of a credit institution being a shareholding company;
 - (i) Legal representative;
 - (k) Principles on finance, accounting, and internal control and audit;
 - (l) Method of passing decisions of the credit institution; principles on resolution of internal disputes;
 - (m) Bases and method of determining remuneration, salaries and bonuses of managers, executives and members of the board of controllers;
 - (n) Circumstances in which the credit institution will be dissolved;
 - (o) Procedures for amending and supplementing the charter.
2. The charter of a co-operative bank or people's credit fund shall comply with the provisions of article 77 of this Law.
 3. The charter of a credit institution and all amendments and additions to such charter must be sent [not registered]¹⁰ with the State Bank within fifteen (15) days from the date of passing [such charter or amendments and additions].

Article 32 *Organizational and managerial structure of credit institution*

1. The organizational and managerial structure of a credit institution established in the form of a shareholding company shall comprise the general meeting of shareholders, board of management, board of controllers and general director (director).
2. The organizational and managerial structure of a credit institution established in the form of either a single or multiple member limited liability company shall comprise the members' council, board of controllers and general director (director).
3. The organizational and managerial structure of co-operative banks and people's credit funds shall comply with the provisions of article 75 of this Law.

Article 33 *Cases in which people are not permitted to hold positions*

1. The following people are not permitted to be a member of the board of management or members' council or board of controllers, or the general director (director) or deputy general director (deputy director) or hold an equivalent position in a credit institution:
 - (a) People within the category stipulated in clause 2 of this article;
 - (b) People within the category not permitted to participate in management or executive operation pursuant to the law on State employees and officials and the law on anti-corruption;

¹⁰ Allens footnote: As amended by Law 17 dated 20 November 2017.

- (c) A person who was once the owner of a private enterprise, partner of a partnership, general director (director), member of the board of management or members' council or board of controllers of an enterprise, or the chairman and members of the committee of management of a co-operative at the time when such enterprise or co-operative was declared bankrupt, except where the enterprise or co-operative was declared bankrupt due to an event of force majeure;
 - (d) A person who was the legal representative of an enterprise when its operation was suspended or the enterprise was compulsorily dissolved as the result of a serious breach of the law, except where such person acted as the representative upon request of the competent State agency in order to restructure and strengthen such enterprise;
 - (dd) A person who was once suspended from the position of chairman or member of the board of management, chairman or member of the members' council, chairman or member of the board of controllers or general director (director) of a credit institution pursuant to article 37 of this Law, or a person whom a competent agency determined committed a breach resulting in revocation of the licence of a credit institution;
 - (e) A related person of a member of the board of management or of the members' council or of the general director (director) is not permitted to be a member of the board of controllers of the same credit institution;
 - (g) A related person of the chairman of the board of management or of the chairman of the members' council is not permitted to be the general director (director) of the same credit institution;
 - (h)¹¹ A person who must be responsible pursuant to an inspection conclusion resulting in the credit institution or foreign bank branch being subject to a penalty for an administrative breach in the currency and banking sector within the highest fine bracket (applicable to breaches of the regulations on licences, management, executive operation, shares, share certificates, capital contribution, purchase of shares, extension of credit, purchase of enterprise bonds and prudential ratios in accordance with the law on dealing with administrative breaches in the currency and banking sector).
2. The following people are not permitted to be chief accountant, director of a branch, or director of a subsidiary of a credit institution:
- (a) People who are minors; people who have restricted capacity for, or who have lost capacity for civil acts;
 - (b) People currently subject to criminal prosecution, currently serving a sentence or subject to a court decision on a crime;
 - (c) People who were once convicted of a crime from the serious level upwards;
 - (d) People who were once convicted of a crime of infringement of ownership and the conviction has not been removed from the record;

¹¹ Allens footnote: As added by Law 17 dated 20 November 2017.

- (dd) State employees and officials, and managers at the divisional or higher level in enterprises in which fifty (50) per cent or more of the charter capital is held by the State, except for any person appointed to act as representative managing the capital contribution portion of the State in the credit institution;
 - (e) Professional officers, non-commissioned officers, professional soldiers and military workers of bodies and units of the Vietnamese People's Army; professional officers and non-commissioned officers of bodies and units of the Vietnamese People's Public Security, except for any person appointed to act as representative managing the capital contribution portion of the State in the credit institution;
 - (g) Other cases as stipulated in the charter of the credit institution.
3. A parent, spouse, child or sibling of a member of the board of management or members' council or of the general director (director) and the spouse of such person is not permitted to be chief accountant or the person in charge of finance of the credit institution.

Article 34 *Cases in which people are not permitted to hold concurrent positions*

1. The chairman of the board of management or members' council of a credit institution is not permitted to concurrently be an executive of such credit institution and of other credit institutions, except that the chairman of the board of management of a people's credit fund may concurrently be a member of the board of management of the co-operative bank. A member of the board of management or members' council of a credit institution is not permitted to concurrently be a manager of another credit institution, unless such institution is a subsidiary company of the credit institution or a member of the board of controllers of such credit institution.
2. The head of the board of controllers is not permitted to concurrently be a member of the board of controllers or a manager of another credit institution. A member of the board of controllers is not permitted to concurrently hold any one of the following positions:
 - (a) A member of the board of management or members' council, an executive official or employee of the same credit institution or its subsidiary, or an employee of an enterprise of which a member of the board of management or members' council or the general director (director) of the credit institution is a member of the board of management, an executive or major shareholder [i.e. of such enterprise];
 - (b) A member of the board of management or members' council, or an executive of an enterprise of which a member of the board of controllers of such enterprise is currently a member of the board of management or members' council or an executive of the credit institution.
- 3.¹² The general director (director), a deputy general director (deputy director) or person in an equivalent position in a credit institution is not permitted to concurrently be a member of the board of management or members' council or board of controllers of another credit institution, unless it is a subsidiary of the former credit institution. The deputy general director (deputy director) or person in an equivalent position of a credit institution is not permitted to be the general director (director) or person in an equivalent position of another enterprise.

¹² Allens footnote: As amended by Law 17 dated 20 November 2017.

- 4.¹³ The chairman of the board of management or of the members' council, or the general director (director) of a credit institution is not permitted to concurrently be the chairman or a member of the board of management or of the members' council the company chairman, the general director (director), deputy general director (deputy director) or person in an equivalent position of another enterprise.

Article 35 *Automatic loss of status*

1. Status as a member of the board of management or members' council or of the board of controllers, or as general director (director) shall automatically be lost in the following cases:
 - (a) [He or she] loses capacity for civil acts or dies;
 - (b) [He or she] commits a breach of the provisions of article 33 of this Law regarding cases in which people are not permitted to hold positions;
 - (c) [He or she] is a representative of the capital contribution portion of an organization being a shareholder or capital contributing member of the credit institution when the legal entity status of such organization is terminated;
 - (d) [He or she] is no longer the representative of a capital contribution portion as authorized by a shareholder being an organization;
 - (dd) [He or she] is deported from the territory of the Socialist Republic of Vietnam;
 - (e) The licence of the credit institution is revoked;
 - (g) The validity of the [labour] contract engaging the general director (director) expires;
 - (h) [He or she] is no longer a member of the co-operative bank or people's credit fund.
2. The board of management or members' council of the credit institution shall send a written report enclosing data proving that the person concerned has automatically lost status as prescribed in clause 1 of this article, to the State Bank within five business days from the date of determination that the such person has automatically lost status and shall be liable for the accuracy and truthfulness of such report; and shall carry out procedures in accordance with law to elect [or] appoint a person to the vacant position.
3. After a member of the board of management or members' council or of the board of controllers or the general director (director) of a credit institution has automatically lost his or her status, such person shall remain liable for his or her decisions made during the term of office.

Article 36 *Removal and dismissal*

1. The chairman of and a member of the board of management; the chairman of and a member of the members' council; the head of and a member of the board of controllers, and the general director (director) of a credit institution shall be removed or dismissed in any one of the following cases:
 - (a) [He or she] has restricted capacity for civil acts;

¹³ Allens footnote: As added by Law 17 dated 20 November 2017.

- (b) [He or she] submits an application for resignation to the board of management, members' council or board of controllers of the credit institution;
 - (c) [He or she] has failed to participate in activities of the board of management, members' council or board of controllers for six (6) consecutive months, except in a case of force majeure;
 - (d) [He or she] fails to satisfy the conditions and criteria stipulated in article 50 of this Law;
 - (dd) An independent member of the board of management fails to satisfy the requirements on independence;
 - (e) Other cases as stipulated in the charter of the credit institution.
2. After the chairman of or a member of the board of management; the chairman of or a member of the members' council; the head of or a member of the board of controllers, or the general director (director) of a credit institution has been removed or dismissed, such person shall remain liable for his or her decisions made during the term of office.
 3. The board of management or the members' council of the credit institution shall, within ten (10) business days from the date of passing the decision on removal or dismissal of any person prescribed in clause 1 of this article, submit a written report accompanied by relevant data to the State Bank.

Article 37 *Suspension and temporary suspension of positions on board of management, members' council, board of controllers and general director (director)*

1. The State Bank has the right to suspend or temporarily suspend performance of rights and obligations by the chairman and members of the board of management, by the chairman and members of the members' council, by the head and members of the board of controllers, or by executives of a credit institution who are in breach of the provisions of article 34 of this Law and/or of other relevant laws during the performance of their assigned duties; and may request the competent body¹⁴ to remove and elect or appoint a substitute, or appoint a substitute if it considers it necessary.
2. A special controlling board shall have the right to suspend or temporarily suspend performance of rights and obligations by the chairman and members of the board of management, by the chairman and members of the members' council, by the head and members of the board of controllers, or by executives of a credit institution placed under special control, if such special controlling board considers it necessary.
3. Any person whose rights and obligations are suspended or temporarily suspended in accordance with clauses 1 or 2 of this article is responsible to participate in dealing with outstanding matters and breaches related to his or her personal liability upon request of the State Bank, of the board of management or members' council, of the board of controllers of the credit institution or of the special controlling board.

Article 38 *Rights and obligations of managers and executives of credit institution*

1. To exercise rights and to discharge obligations in accordance with law, the charter of the credit institution, and resolutions and decisions of the general meeting of shareholders or owner or capital contributing members of the credit institution.

¹⁴ Allens footnote: This is the literal translation but it is unclear if it refers to the competent body of the credit institution.

2. To exercise rights and to discharge obligations honestly, carefully and in the interests of the credit institution, shareholders, capital contributing members and owner of the credit institution.
3. To be loyal to the credit institution; not to use information, know-how or business opportunities of the credit institution, nor to misuse the status, position and assets of the credit institution for personal benefit or to serve the interests of any other organization or individual causing loss to the interests of the credit institution, shareholders, capital contributing members and owner of the credit institution.
4. To ensure that files of the credit institution are archived in order to provide data serving managerial and executive activities, control of all activities of the credit institution, and activities of checks, supervision and inspection by the State Bank.
5. To have a thorough knowledge of all types of risks during the operation of the credit institution.
6. To promptly, precisely and fully notify the credit institution of his or her interests in other organizations or transactions with other organizations and individuals which may conflict with the interests of the credit institution, and shall only be permitted to participate in such transactions with consent from the board of management or members' council.
7. Not to facilitate him or herself or a related person in borrowing or using other banking services of the credit institution on terms which are more preferential or favourable than the general terms stipulated by the credit institution.
8. Not to be entitled to an increase in salary or remuneration nor to request bonuses when the credit institution suffers losses.
9. Other obligations stipulated in the charter of the credit institution.

Article 39 *Responsibility to publish related interests*

1. Members of the board of management or of the members' council or of the board of controllers, the general director (director) and deputy general director (deputy director) of a credit institution must publish the following information to the credit institution:
 - (a) Name and address of head office, lines of business, serial number and date of issuance of business registration certificate and place of business registration of any enterprise or economic organization in which such person or a related person owns a capital contribution portion or shares in his/her/their name or authorizes or entrusts another organization or individual to own in the latter's name, of five or more per cent of the charter capital;
 - (b) Name and address of head office, lines of business, serial number and date of issuance of business registration certificate and place of business registration of any enterprise in which such person and a related person is currently a member of the board of management or members' council, a member of the board of controllers, or the general director (director).
2. The publication of information pursuant to clause 1 of this article and changes in relevant information shall be made in writing within seven (7) business days from the date on which the [event] occurs or the change arises.
3. The credit institution must [also] publish the information prescribed in clause 1 of this article annually to the general meeting of shareholders or members' council of the credit institution, and display and retain such information at the head office of the credit institution.

- 4.¹⁵ The credit institution must send a written report to the State Bank on the information prescribed in clause 1 of this article within seven (7) business days after the date on which the credit institution received the published information prescribed in clause 2 above.

Article 40 *Internal control system*

1. *Internal control system* means a set of regimes, policies, procedures, internal rules and organizational structure of a credit institution or foreign bank branch which have been established in accordance with State Bank guidelines and which are arranged and implemented in order to prevent, discover and promptly deal with risks and to achieve stated requirements.
2. A credit institution or foreign bank branch must establish an internal control system in order to ensure that the following requirements are realized:
 - (a) Efficiency and safety during the operation; protection, management and use of assets and resources in a safe and efficient manner;
 - (b) A truthful, reasonable, complete and prompt system of financial and management information;
 - (c) Observance of law and of internal regulations, procedures and rules.
3. The operation of the internal control system of a credit institution or foreign bank branch must be periodically evaluated by the internal audit unit [and/or] by an independent auditor¹⁶.

Article 41 *Internal audit*

1. Credit institutions must establish a specialized internal audit unit under the board of controllers to carry out internal audit of the credit institution.
2. The internal audit unit shall independently and objectively review and evaluate the internal control system; shall independently evaluate the suitability of and regulatory compliance by internal rules, policies and procedures and processes already formulated within the credit institution; and shall make recommendations in order to raise the efficiency of systems, procedures and rules, and contribute to ensuring that the credit institution operates safely, effectively and correctly in accordance with law.
3. Internal audit results must be promptly reported to the board of management or members' council and to the board of controllers and sent to the general director (director) of the credit institution.

Article 42 *Independent audit*

1. Credit institutions and foreign bank branches must, before the end of the fiscal year, select one independent auditor who is eligible in accordance with State Bank regulations to audit the operation of such credit institution or foreign bank branch in the next fiscal year.
2. The credit institution or foreign bank branch shall, within thirty (30) days from the date of its decision selecting an independent auditor, notify the State Bank of such selected auditor.

¹⁵ Allens footnote: As added by Law 17 dated 20 November 2017.

¹⁶ Allens footnote: The literal translation is "independent auditing organization" but "independent auditor" is used throughout this translation.

3. A credit institution must re-conduct an independent audit if the audit report contains a reservation [or qualification]¹⁷ made by the independent auditor.
4. Independent audit of a credit institution being a co-operative shall be carried out in accordance with the provisions of article 75.3 of this Law.

Section 2

General Provisions Applicable to Credit Institutions Being Shareholding Companies and Limited Liability Companies

Article 43 *Board of management, members' council and structure of board of management or members' council*

1. The board of management or members' council shall be the body managing the credit institution with full authority to make decisions in the name of the credit institution and to exercise the rights and discharge the obligations of the credit institution, except for issues within the authority of the general meeting of shareholders or owner.
2. The term of the board of management or members' council shall not exceed five years. The term of office of members of the board of management or members' council shall conform with the term of office of such board or council. Members of the board of management or members' council may be re-elected or re-appointed for an unlimited number of terms. The term of office of an additional or replacement member of the board of management or members' council shall be the residual period of the term of office of such board or council. The board of management or members' council of a term which has recently expired shall continue to operate until the new such board or council takes over the work.
3. Where the board of management or members' council does not have two-thirds of the number of members required for a term of office or does not have the minimum number of members stipulated in the charter of the credit institution, then the credit institution shall, within a period of sixty (60) days from the date on which the number of members is insufficient, add additional member/s to ensure a sufficient number of members of the board of management or members' council.
4. The board of management or members' council shall use the seal of the credit institution to perform its duties and exercise its powers.
5. The board of management or members' council shall be assisted in its work by a secretary of such board or council. The functions and duties of the secretary shall be as decided by the board of management or members' council.
6. The board of management or members' council must establish committees to assist such board or council to perform its duties and exercise its powers, to include at least a risk control committee and a personnel committee. The board of management or members' council shall stipulate the duties and powers of these committees in accordance with State Bank regulations.

¹⁷ Allens footnote: The literal translation is "an opinion on an exception".

Article 44 *Board of controllers and structure of board of controllers*

1. The board of controllers shall carry out internal audit, control and assessment of compliance with law, with internal rules, the charter, and resolutions and decisions of the general meeting of shareholders, of the owner, and of the board of management or members' council.
2. The board of controllers of a credit institution shall comprise at least three members and the specific number shall be set out in the charter of the credit institution, but at least half the total number of members shall be full-time members not concurrently holding another position or performing other work in another credit institution or enterprise.
3. The board of controllers shall have a section assisting it and also an internal audit section, and shall be entitled to use resources of the credit institution [and] to hire external experts and organizations in order to implement its duties.
4. The term of the board of controllers shall not exceed five years. The term of office of members of the board of controllers shall conform with the term of office of such board. Members of the board of controllers may be re-elected or re-appointed for an unlimited number of terms. The term of office of an additional or replacement member shall be the residual period of the term of office. The board of controllers of a term which has recently expired shall continue to operate until the new such board takes over the work.
5. Where the board of controllers does not have two-thirds of the number of members required for a term of office or does not have the minimum number of members stipulated in the charter of the credit institution, then the credit institution shall, within a period of sixty (60) days from the date on which the number of members is insufficient, add additional member/s to ensure a sufficient number of members of the board of controllers.

Article 45 *Duties and powers of board of controllers:*

1. To supervise compliance with provisions of law and the charter of the credit institution during management and executive operation of the credit institution; and to be responsible before the general meeting of shareholders, the owner and the capital contributing members for the performance of assigned duties and powers.
2. To issue internal rules of the board of controllers; to review annually the internal rules of the board of controllers and important policies on accounting and reporting.
- 2a.¹⁸ To appoint, remove, discipline and suspend positions within the internal audit section and to make decisions on the amount of salaries and other benefits for such positions.
3. To perform the internal audit function; to have the right to use independent consultants and to access and be promptly provided with complete and accurate information and data relevant to managerial and executive activities of the credit institution in order to perform its assigned duties.
4. To assess the financial statements for the first six months of the year and the annual financial statements of the credit institution; and to report to the general meeting of shareholders, owner, and capital contributing members on the results of assessment of annual financial statements and the results of evaluation of the appropriateness, legality, truthfulness and level of care in statistical and accounting work and in preparation of financial statements. The board of controllers may consult the

¹⁸ Allens footnote: As added by Law 17 dated 20 November 2017.

board of management or members' council prior to submission of reports and recommendations to the general meeting of shareholders or owner or capital contributing members.

5. To inspect books of account, other data and the work of managerial and executive operation of the credit institution when considered necessary, or pursuant to a resolution or decision of the general meeting of shareholders, or upon request consistent with law made by a major shareholder or group of major shareholders, or by the owner, or by a capital contributing member or the members' council. The board of controllers shall conduct the inspection within seven (7) business days from the date of receipt of the request. The board of controllers shall, within fifteen (15) days from the date of completing the inspection, submit a report and explanatory statement on the issues required to be inspected to whoever made the request.
6. To provide prompt notice to the board of management or members' council upon discovery of a breach by a manager of the credit institution; and to require the offender to cease the conduct in breach and to provide a solution for remedying consequences, if any.
7. To prepare a list of founding shareholders, major shareholders, capital contributing members and related persons of members of the board of management or members' council, of members of the board of controllers and of the general director (director) of the credit institution; and to retain such list and update changes to it.
8. To request the board of management or members' council to hold an extraordinary meeting or to request the board of management to convene an extraordinary meeting of the general meeting of shareholders in accordance with the provisions of this Law and the charter of the credit institution.
9. To convene an extraordinary meeting of the general meeting of shareholders where the board of management makes a decision committing a serious breach of the provisions of this Law or exceeding its assigned authority or in any other case prescribed in the charter of the credit institution.
10. Other duties and powers as stipulated in the charter of the credit institution.

Article 46 *Rights and obligations of head of board of controllers*

1. To arrange commencement of performance of duties and powers of the board of controllers in accordance with the provisions of article 45 of this Law.
2. To prepare the agenda of meetings of the board of controllers on the proposal of members of such board relating to duties and powers of the board of controllers; and to convene and chair meetings of the board of controllers.
3. To sign documents within the authority of the board of controllers on behalf of such board.
4. To represent the board of controllers in convening an extraordinary meeting of the general meeting of shareholders in accordance with article 45 of this Law or on request from the board of management or members' council to conduct an extraordinary meeting.
5. To attend meetings of the board of management or members' council and to express his or her opinions and recommendations, but the head shall not be permitted to vote.
6. To request his or her opinion be recorded in the minutes of meeting of the board of management or members' council if such opinion differs from the resolution or decision of such board or council and to report [such opinion] to the general meeting of shareholders, the owner and capital contributing members.

7. To prepare work plans for and assign duties to members of the board of controllers.
8. To ensure that members of the board of controllers receive complete, objective and accurate information and have sufficient time to discuss issues which the board of controllers must consider.
9. To supervise and direct members of the board of controllers in performing their assigned work and in exercising their rights and discharging their obligations as members of such board.
10. To authorize another member of the board of controllers to undertake the work of such head in his or her absence.
11. Other rights and obligations as stipulated in the charter of the credit institution.

Article 47 *Rights and obligations of members of board of controllers:*

1. To comply with provisions of law, of the charter of the credit institution and internal rules of the board of controllers in a truthful and careful manner and in the interests of the credit institution and its shareholders, capital contributing members and owner.
2. To elect one member of the board of controllers to act as head of such board.
3. To request the head of the board of controllers to convene extraordinary meetings of such board.
4. To control the business activities, and to control the books of account, assets and financial statements and to make recommendations on remedial measures.
5. To have the right to require officials and employees of the credit institution to provide data on and to explain business activities in order to perform their assigned duties.
6. To report unusual financial activities to the head of the board of controllers and to be personally liable for his or her evaluations and conclusions.
7. To participate in meetings of the board of controllers and to discuss and vote on issues within the duties and powers of the board of controllers, except for issues on which such member has a conflict of interest.
8. Other rights and obligations as stipulated in the charter of the credit institution.

Article 48 *General director (director)*

1. The board of management or members' council shall appoint one of its members as the general director (director) or shall hire a general director (director), except in the case stipulated in article 66.1(c) of this Law.
2. The general director (director) is the highest executive of the credit institution and is responsible before the board of management or members' council for the exercise of his or her rights and discharge of his or her obligations.

Article 49 *Rights and obligations of general director (director)*

1. To organize implementation of resolutions and decisions of the general meeting of shareholders and of the board of management or members' council.

2. To make decisions on issues within his or her authority relating to the day-to-day business activities of the credit institution.
3. To establish and maintain an internal control system which operates efficiently.
4. To prepare financial statements and submit them to the board of management or members' council for approval or for report to the authorized level for approval. To be responsible for the accuracy and truthfulness of financial statements, statistics reports, accounting finalization data and other financial information.
5. To issue internal rules and regulations within his or her authority, and operational rules and procedures in order to operate the business executive operational system and the information reporting system.
6. To report the business operation and business results of the credit institution to the board of management or members' council, to the board of controllers, general meeting of shareholders and competent State agencies.
7. To make decisions taking measures exceeding his or her authority in the event of a natural calamity, enemy-inflicted destruction, fire or breakdown and to be liable for such decisions, and to promptly report [any such decision] to the board of management or members' council.
8. To recommend and/or propose the organizational and operational structure of the credit institution and submit same to the board of management or members' council and general meeting of shareholders for decision in accordance with its authority.
9. To request an extraordinary meeting of the board of management or members' council in accordance with the provisions of this Law.
10. To appoint, remove or dismiss managerial and executive positions of the credit institution, except for positions within the decision-making authority of the general meeting of shareholders, the owner, capital contributing members, the board of management or members' council.
11. To enter into contracts in the name of the credit institution in accordance with provisions of the charter and the internal rules of the credit institution.
12. To recommend plans for using profit or dealing with losses during the business of the credit institution.
13. To recruit employees, and to make decisions on salaries and bonuses for employees within his or her authority.
14. Other rights and obligations as stipulated in the charter of the credit institution.

Article 50 *Conditions and criteria for managers, executives and a number of other positions of credit institutions*

- 1.¹⁹ Members of the board of management or members' council must satisfy the following criteria and conditions:

¹⁹ Allens footnote: Sub-clause (c) is as amended and sub-clause (d) is as added by Law 17 dated 20 November 2017.

- (a) Not belong to the category of people stipulated in article 33.1 of this Law;
 - (b) Having professional ethics;
 - (c) Having a university or post-graduate degree;
 - (d) Having at least 3 years' working experience as manager or executive of a credit institution or having at least 5 years' experience as manager or executive of an enterprise operating in the finance, banking, accounting [or] auditing sectors or of another enterprise with equity at least equalling the legal capital level stipulated by law for each corresponding form of credit institution, or at least 5 years' direct working experience in a finance, banking, accounting or auditing professional section.
2. Independent members of the board of management must satisfy the criteria and conditions specified in clause 1 of this article and also the following criteria and conditions:
- (a) Not being a person currently working for the same credit institution or its subsidiary company, or who has worked for the same credit institution or its subsidiary company within the last three consecutive years;
 - (b) Not being a person earning regular salary or remuneration from the credit institution other than allowances to which a member of the board of management is entitled in accordance with regulations;
 - (c) Not being a person whose spouse, parent, child or sibling, and spouse of such persons, is a major shareholder of the credit institution or manager or member of the board of controllers of the credit institution or its subsidiary company;
 - (d) Not directly or indirectly own, or as a representative own, one or more per cent of the charter capital or voting share capital of the credit institution; and not jointly with a related person own five or more per cent of the charter capital or voting share capital of the credit institution;
 - (dd) Not have been a manager or member of the board of controllers of the credit institution at any time within the last five consecutive years.
3. Members of the board of controllers must satisfy the following criteria and conditions:
- (a) Not belong to the category of people stipulated in article 33.1 of this Law;
 - (b) Having professional ethics;
 - (c) Having a university or post-graduate degree in one of the faculties of economics, business administration, law, accounting or auditing; and or having at least three years' experience working directly in the banking, financial, auditing or accounting sectors;
 - (d) Not be a related person of a manager of the credit institution;
 - (dd) Full-time members of the board of controllers must reside in Vietnam during their term of office.
4. The general director (director) must satisfy the following criteria and conditions:

- (a) Not belong to the category of people stipulated in article 33.1 of this Law;
 - (b) Having professional ethics;
 - (c) Having a university or post-graduate degree in one of the faculties of economics, business administration or law;
 - (d)²⁰ Having worked for at least 5 years as an executive of a credit institution, or for at least 5 years as the general director (director) or deputy general director (deputy director) of an enterprise with equity at least equalling the legal capital level as stipulated by law for each corresponding form of credit institution and having worked for at least 5 years directly in the financial, banking, accounting or auditing sectors, or having worked for at least 10 years directly in the financial, banking, accounting or auditing sectors.
 - (e) Reside in Vietnam during his or her term of office.
5. Deputy general directors (deputy directors), the chief accountant, directors of branches and directors of subsidiary companies and equivalent positions must satisfy the following criteria and conditions:
- (a) Not belong to the category of people stipulated in article 33.2; and in the case of a deputy general director (deputy director), not belong to the category of people stipulated in article 33.1 of this Law;
 - (b) Having a university or post-graduate degree in one of the faculties of economics, business administration or law or in the professional sector in which he or she will hold the position; or having a university or post-graduate degree in [one of] the above-mentioned faculties and sectors and at least three years' experience working directly in the banking or financial sector or in the professional sector in which he or she will hold the position;
 - (c) Reside in Vietnam during his or her term of office.
6. The State Bank provides specific regulations on the criteria and conditions applicable to managers, executives and members of the boards of controllers of a micro-finance institution.

Article 51 *Approval of list of persons proposed for election or appointment as members of board of management or members' council, members of board of controllers and general director (director) of credit institution*

1. The list of proposed people for election or appointment as members of the board of management or members' council, members of the board of controllers, and general director (director) of a credit institution must be approved in writing by the State Bank before election or appointment to such positions. People who are [in fact] elected or appointed as members of the board of management or members' council, members of the board of controllers, and general director (director) of the credit institution must be those on the list approved by the State Bank.
2. The State Bank provides specific regulations on procedures and files for approval of the proposed list for election or appointment to the positions stipulated in clause 1 of this article.

²⁰ Allens footnote: As amended by Law 17 dated 20 November 2017.

3. A credit institution must notify the State Bank of the list of persons elected or appointed to the positions stipulated in clause 1 of this article within ten (10) business days from the date of such election or appointment.

Section 3

Credit Institutions being Shareholding Companies

Article 52 *Classes of shares and shareholders*

1. A shareholding credit institution must have ordinary shares. Owners of ordinary shares shall be ordinary shareholders.
2. A shareholding credit institution may have preference shares. Preference shares shall comprise the following classes:
 - (a) Dividend preference shares;
 - (b) Voting preference shares.
3. *Dividend preference share* means a share for which a dividend is paid at a rate higher than that paid for an ordinary share or at an annual fixed rate. Annual dividends shall comprise fixed dividends and bonus dividends. Fixed dividends shall not depend on the business results of the credit institution and shall only be paid when the credit institution makes a profit. When a credit institution suffers a business loss, or makes a profit which is insufficient for payment of fixed dividends, the fixed dividend payable on dividend preference shares shall be accumulated in subsequent years. The specific rate of fixed dividends and the method for determining bonus dividends shall be decided by the general meeting of shareholders and stipulated on the dividend preference share certificates.

Members of the board of management, members of the board of controllers, the general director (director) and other managers and executives of a credit institution are not permitted to purchase dividend preference shares issued by such credit institution. People permitted to purchase dividend preference shares shall be stipulated in the charter of the credit institution or shall be decided by the general meeting of shareholders.

Shareholders holding dividend preference shares have the same rights as ordinary shareholders, except for the voting right, the right to attend the general meeting of shareholders, and the right to nominate persons for the board of management and board of controllers.

4. Only organizations authorized by the Government and founding shareholders are entitled to hold voting preference shares. The voting preference right of founding shareholders shall only be valid for three years from the date on which the credit institution is issued with its business registration certificate. After such period, voting preference shares of founding shareholders shall be converted into ordinary shareholders. Voting preference shareholders shall have the same rights as ordinary shareholders, except for the right to assign such shares to others.
5. Ordinary shares may not be converted into preference shares. Preference shares may be converted into ordinary shares pursuant to a resolution of the general meeting of shareholders.
- 6.²¹ A shareholding credit institution must have a minimum of one hundred (100) shareholders and the maximum number of shareholders shall be unlimited, except for a commercial bank under special

²¹ Allens footnote: The underlined words were added by Law 17 dated 20 November 2017.

control which is currently implementing a plan on compulsory transfer as prescribed in Section 1(dd) in Chapter 8 of this Law.

Article 53 *Rights of ordinary shareholders*

1. To attend and express opinions at the general meeting of shareholders and to exercise the right to vote personally²² or via an authorized representative; each ordinary share shall carry one vote.
2. To receive dividends pursuant to a resolution of the general meeting of shareholders.
3. To be given priority in subscribing for new shares offered for sale in proportion to the number of ordinary shares each such shareholder holds in the credit institution.
4. To assign their shares to other shareholders of the credit institution and to non-shareholders²³ in accordance with the provisions of this Law and the charter of the credit institution.
5. To sight, consult and extract information from the list of shareholders with voting rights and to request amendment of incorrect information.
6. To sight, consult and make an extract or copy of the charter of the credit institution, the book of minutes of meetings of the general meeting of shareholders and of resolutions of the general meeting of shareholders.
7. To receive a part of the remaining assets in proportion to the number of shares held in the credit institution, upon dissolution or bankruptcy of the credit institution.
8. To authorize another person in writing to exercise their rights and discharge their obligations; the proxy shall not be permitted to stand for election in his or her own capacity.
9. To stand for election or nominate people for the board of management or board of controllers in accordance with the provisions of the charter, or in accordance with provisions of law if the charter does not contain a relevant provision. A list of candidates must be submitted to the board of management within the deadline stipulated by such board.

Article 54 *Obligations of ordinary shareholders*

1. Shareholders of a credit institution must discharge the following obligations:
 - (a) Pay in full for the shares undertaken to be subscribed for, within the deadline stipulated by the credit institution; and be liable for debts and other asset obligations of the credit institution to the extent of the amount of share capital contributed to the credit institution;
 - (b) Not withdraw contributed share capital from the credit institution in any form resulting in a reduction of the charter capital of the credit institution;
 - (c)²⁴ Be legally liable for the lawfulness of the source of capital contributed to or used to purchase shares or used to receive a transfer of shares in the credit institution; not to use capital sources from credit extended by a credit institution or foreign bank branch for the purpose of purchasing or receiving a transfer of shares in a credit institution; and not to contribute capital

²² Allens footnote: The literal translation is "directly".

²³ Allens footnote: The literal translation is "other organizations and individuals".

²⁴ Allens footnote: As amended by Law 17 dated 20 November 2017.

to or to purchase shares in a credit institution in the name of another individual or legal entity in any form, except in a case of entrustment in accordance with law.

- (d) Comply with the charter and internal management rules of the credit institution;
- (dd) Comply with resolutions and decisions of the general meeting of shareholders and of the board of management;
- (e) Be personally liable when such shareholders in the name of the credit institution in any form commit a breach of law [or] conduct a business or other transaction for their own personal benefit or for the benefit of another organization or individual.

2. Any shareholder who invests [in shares] as trustee for another entity²⁵ must provide information to the credit institution about the real owner/s of the shares for which such shareholder invests as trustee. The credit institution is entitled to suspend the shareholders' rights of such shareholders if it discovers that the shareholders failed to provide truthful information about [who are] the real owners of such shares.

Article 55 *Ratio of ownership of shares*

1. Any one shareholder being an individual is not permitted to own over five per cent of the charter capital of any one credit institution.
2. Any one shareholder being an organization is not permitted to own over fifteen (15) per cent of the charter capital of any one credit institution, except in the following cases:
 - (a)²⁶ Ownership of shares in a credit institution under special control in accordance with the restructuring plan approved by the authorized level; ownership of shares by a credit institution in its subsidiary company or affiliated company as prescribed in articles 103.2, 103.3 and 110.3 of this Law;
 - (b) Ownership of shares held by the State in equitized credit institutions;
 - (c) Ownership of shares by foreign investors in accordance with article 16.2 of this Law.
- 3.²⁷ A shareholder and related persons of such shareholder are not permitted to own over twenty (20) per cent of the charter capital of any one credit institution, except in the cases prescribed in sub-clauses (a), (b) and (c) of clause 2 above. A major shareholder of a credit institution and related persons of such shareholder are not permitted to own from five (5) per cent or more of the charter capital of any other credit institution.
4. The ratios stipulated in clauses 1, 2 and 3 of this article shall include any capital portion entrusted by other entities to purchase shares.
5. For the period of five years from the date of issuance of the licence, founding shareholders must hold the number of shares equalling at least fifty (50) per cent of the charter capital of the credit institution, and founding shareholders being legal entities must hold the number of shares equalling at least fifty (50) per cent of the total number of shares held by the founding shareholders.

²⁵ Allens footnote: Alternative translation is "Any shareholder who invests [in shares] as authorized by another organization or individual". Similarly "entity" has been used instead of the literal "organization or individual" in clause 4.

²⁶ Allens footnote: As amended by Law 17 dated 20 November 2017.

²⁷ Allens footnote: As amended by Law 17 dated 20 November 2017.

Article 56 *Offer for sale and assignment of shares*

1. Shareholders being individuals or shareholders being legal entities whose representative is a member of the board of management, member of the board of controllers or the general director of a credit institution are not permitted to assign their shares during the term of office.
2. During the period in which consequences of personal liability are being dealt with pursuant to a resolution of the general meeting of shareholders or decision of the State Bank, a member of the board of management or of the board of controllers or the general director (director) is not permitted to assign their shares, unless such member:
 - (a) Is an authorized representative of a shareholder being an organization which is merged, consolidated, divided, demerged, dissolved or becomes bankrupt in accordance with law;
 - (b) Is compelled to assign shares pursuant to a decision of a court;
 - (c)²⁸ Is a member of the board of management or of the board of controllers or the general director (director) who transfers/assigns his or her shares to other investors in order to carry out the restructuring plan approved by the authorized level.
3. Assignment of listed shares of a credit institution must be carried out in accordance with the law on securities.
4. For the period of five years from the date of issuance of the licence, a founding shareholder is only permitted to assign its shares to another founding shareholder on condition that the share ownership ratio stipulated in article 55 of this Law is ensured.

Article 57 *Redemption of shares of shareholders*

A credit institution is only entitled to redeem shares of shareholders if, after such redeemed shares are fully paid for, the credit institution will still ensure the prudential limits in a banking operation and the actual value of its charter capital will not be lower than the level of its legal capital; if the redemption will result in a reduction of the charter capital of the credit institution, then the State Bank must provide prior written consent.

Article 58 *Share certificates*

If shares are issued in the form of certificates, the credit institution must issue certificates to its shareholders within thirty (30) days from the date of commencement of operation in the case of a newly established credit institution; or within thirty (30) days from the date on which shareholders pay in full for the shares undertaken to be subscribed for, in the case of a credit institution increasing its charter capital.

Article 59 *General meeting of shareholders*

1. The general meeting of shareholders must hold its annual meeting within four (4) months from the end of the fiscal year. An extraordinary meeting of the general meeting of shareholders shall be held pursuant to a decision to convene same by the board of management in the following cases:

²⁸ Allens footnote: As amended by Law 17 dated 20 November 2017.

- (a) The board of management considers that it is necessary to do so in the interests of the credit institution;
 - (b) The number of remaining members of the board of management is less than the minimum number of members stipulated in article 62.1 of this Law;
 - (c) Upon request by a shareholder or group of shareholders holding over ten (10) per cent of the total number of ordinary shares for a period of at least six consecutive months;
 - (d) Upon request by the board of controllers;
 - (dd) In other cases stipulated in the charter of the credit institution.
2. The general meeting of shareholders shall include all shareholders entitled to vote and shall be the highest decision-making authority of the credit institution. The general meeting of shareholders has the following rights and duties:
- (a) To pass the developmental direction of the credit institution;
 - (b) To make amendments of and additions to the charter of the credit institution;
 - (c) To approve rules on organization and operation of the board of management and board of controllers;
 - (d) To make decisions on the number of members of the board of management and board of controllers for each term of office; to elect, remove, discharge or elect new members and replace members of the board of management and of the board of controllers in compliance with the criteria and conditions stipulated in this Law and the charter of the credit institution;
 - (dd) To make decisions on the amount of remuneration, bonuses and other benefits for members of the board of management and board of controllers and on the operational budgets for such boards;
 - (e) To consider and deal, within its authority, with breaches by the board of management and board of controllers causing loss to the credit institution and its shareholders;
 - (g) To make decisions on the organizational structure and managerial and executive apparatus of the credit institution;
 - (h) To approve plans for change of the level of charter capital, and plans for share offers including classes of shares and the number of new shares to be offered;
 - (i) To approve redemption of shares sold;
 - (k) To approve plans for issuance of convertible bonds;
 - (l) To approve annual financial statements, and profit distribution plans after full discharge of tax and other financial obligations of the credit institution;
 - (m) To approve reports on implementation of assigned duties by the board of management and board of controllers;
 - (n) To make decisions on establishment of subsidiary companies;

- (o) To approve plans for capital contribution to and share purchase in enterprises and other credit institutions valued at twenty (20) per cent or more of the charter capital of the credit institution as recorded in its most recent audited financial statements;
 - (p) To make investment decisions and decisions on purchase and sale of assets of the credit institution valued at twenty (20) per cent or more of the charter capital of the credit institution as recorded in its most recent audited financial statements or at a lower percentage if stipulated in the charter of the credit institution;
 - (q) To approve contracts valued at more than twenty (20) per cent of the charter capital of the credit institution as recorded in its most recent audited financial statements or at a lower percentage if stipulated in the charter of the credit institution between the credit institution [on the one hand] and a member of the board of management or board of controllers, the general director (director), a major shareholder or a related person of a manager, of a member of the board of controllers or of a major shareholder; and a subsidiary company or affiliated company of the credit institution [on the other hand];
 - (r) To make decisions on division, demerger, consolidation, merger and conversion of the legal form, on dissolution and on petition for bankruptcy of the credit institution;
 - (s) To make decisions on solutions to overcome major changes in the finances of the credit institution.
3. Resolutions of the general meeting of shareholders shall be passed in accordance with the following provisions:
- (a) The general meeting of shareholders shall pass resolutions which fall within its authority by way of voting in a meeting or collecting written opinions;
 - (b) Except for the cases stipulated in sub-clause (c) of this clause, a resolution of the general meeting of shareholders shall be passed in a meeting when it is approved by the number of shareholders representing over fifty one (51) per cent of the total voting shares of all attending shareholders or a higher percentage if stipulated in the charter of the credit institution;
 - (c) In respect of decisions on the issues stipulated in clause 2(b), (h), (p) and (r) of this article, approval by the number of shareholders representing over sixty five (65) per cent of the total voting shares of all attending shareholders or a higher percentage if stipulated in the charter of the credit institution shall be required;
 - (d) Voting to elect members of the board of management and of the board of controllers shall be implemented by the method of cumulative voting.
4. Decisions on the issues stipulated in clause 2(a), (d), (e) and (r) of this article must be passed by way of voting at a meeting of the general meeting of shareholders.

Article 60 *Convening meeting of general meeting of shareholders upon request of State Bank*

If an event occurs affecting the safety of the operation of a shareholding credit institution, the State Bank has the right to request the board of management of such credit institution to convene an extraordinary meeting of the general meeting of shareholders and to decide on items requested by the State Bank.

Article 61 *Report on result of meeting of general meeting of shareholders*

All resolutions and decisions passed by the general meeting of shareholders must be sent to the State Bank within fifteen (15) days from the date of closing of the meeting, or from the date of closure of the counting of votes in a case of collecting written opinions.

Article 62 *Board of management of shareholding credit institution*

1. The board of management of a shareholding credit institution shall have at least five (5) members and not more than eleven (11) members, including at least one independent member. At least half of the number of members of the board of management shall be independent members and members who are not executives of the credit institution.
2. Individuals and related persons of such individuals or people being representatives of the capital contribution portions of shareholders being organizations and related persons of such representatives are permitted to participate on the board of management, but are not permitted to account for more than one-third of the total number of members of the board of management of any one shareholding credit institution, unless a representative is the representative of the capital contribution portion of the State.

Article 63 *Duties and powers of board of management:*

1. To be responsible for establishment and commencement of operation of the credit institution after the first meeting of the general meeting of shareholders.
2. To be responsible to the general meeting of shareholders for implementation of the board's assigned duties and powers.
3. To submit issues which fall within the authority of the general meeting of shareholders as stipulated in article 59.2 of this Law to the general meeting of shareholders for decision or passing.
4. To make decisions on establishment of branches, representative offices and professional units.
- 5.²⁹ To appoint, remove, discipline and/or suspend the positions of general director (director), deputy general director (deputy director), chief accountant and secretary of the board of management and other managers and executives and make decisions on the amount of salaries and other benefits for such positions in accordance with internal rules of the board of management.
6. To pass plans on capital contribution to or share purchase in other enterprises or credit institutions valued at below twenty (20) per cent of the charter capital of the credit institution as recorded in its most recent audited financial statements.
7. To appoint representatives of the capital contribution portion of the credit institution in other enterprises and credit institutions.
8. To make decisions on investment or transactions for purchase or sale of assets of the credit institution valued at ten (10) per cent or more of the charter capital of the credit institution as recorded in its most recent audited financial statement, except for investments and transactions for purchase or sale of assets of the credit institution stipulated in article 59.2(p) of this Law.
9. To make decisions on extension of credit stipulated in article 128.7 of this Law, except for

²⁹ Allens footnote: As amended by Law 17 dated 20 November 2017.

transactions falling within the decision-making authority of the general meeting of shareholders pursuant to article 59.2(q) of this Law.

10. To approve contracts between the credit institution and subsidiary companies or affiliated companies of the credit institution; contracts between the credit institution and members of the board of management or board of controllers, the general director (director), major shareholders or their related persons valued at twenty (20) per cent or less of the charter capital of the credit institution as recorded in its most recent audited financial statements or at a smaller specific percentage if stipulated in the charter of the credit institution. In this case, the relevant member shall not be entitled to vote.
11. To inspect, supervise and direct the general director (director) in performing his or her assigned duties; to evaluate annually the efficiency of the work of the general director (director).
12. To issue internal rules on organization, management and operation of the credit institution in compliance with this Law and relevant laws, except for issues falling within the authority of the board of controllers or the general meeting of shareholders.
13. To make decisions on risk management policies and to supervise implementation of risk preventive measures of the credit institution.
14. To consider and approve annual reports.
15. To select valuers³⁰ to value in accordance with law assets used for capital contribution other than Vietnamese currency, freely convertible foreign currency and gold.
16. To submit issues to the Governor of the State Bank for his approval in accordance with law.
17. To make decisions on offering new shares within the number of shares which may be offered for sale.
18. To make decisions on the price of shares and convertible bonds of the credit institution offered for sale.
19. To make decisions on redemption of shares of the credit institution.
20. To recommend plans for distribution of profit and dividend rates to be paid; to make decisions on the time-limit and procedures for payment of dividends or for dealing with losses incurred during the business process.
21. To prepare items and relevant data and submit them to the general meeting of shareholders for decision on issues falling within the authority of the general meeting of shareholders, except for matters falling within the functions and powers of the board of controllers.
22. To approve operational plans and programs of the board of management; the agenda, contents and data for meetings of the general meeting of shareholders; to convene meetings of the general meeting of shareholders or obtain written opinions in order for the general meeting of shareholders to pass resolutions and decisions.

³⁰ Allens footnote: The literal translation is "professional evaluation organizations".

23. To organize implementation, inspection and supervision of implementation of resolutions and decisions of the general meeting of shareholders and of the board of management.
24. To promptly notify the State Bank of any information negatively affecting the status of a member of the board of management or of the board of controllers or of the general director (director).
25. Other rights and duties as stipulated in the charter of the credit institution.

Article 64 *Rights and obligations of chairman of board of management:*

1. To prepare operational plans and programs of the board of management.
2. To prepare the agenda, contents and data for meetings of the board of management, and to convene and chair such meetings.
3. To organize decisions of the board of management to be passed.
4. To supervise the process of organizing implementation of decisions of the board of management.
5. To chair meetings of the general meeting of shareholders.
6. To ensure that members of the board of management receive complete, objective and accurate information about and have sufficient time to discuss issues which such board must consider.
7. To assign duties to members of the board of management.
8. To supervise members of the board of management in performing their assigned work and general rights and obligations.
9. To evaluate, at least once each year, the efficiency of the work of each member and of committees of the board of management and to report the results of such evaluation to the general meeting of shareholders.
10. Other rights and obligations as stipulated in the charter of the credit institution.

Article 65 *Rights and obligations of members of board of management*

1. To exercise the rights and discharge the obligations of a member of the board of management in accordance with the internal rules of such board and as assigned by the chairman of such board, honestly and in the interests of the credit institution and shareholders.
2. To study financial statements prepared by the independent auditor, to give opinions thereon or on request by executives of the credit institution, the independent auditor and internal auditor in order to explain issues relevant to such reports.
3. To request the chairman of the board of management convene extraordinary meetings of the board of management.
4. To attend meetings of the board of management, to discuss and vote on all issues within the duties and powers of the board of management in accordance with this Law, but not to vote on issues in which they have a conflict of interest. To be liable to the general meeting of shareholders and the board of management for their decisions.

5. To commence implementation of resolutions and decisions of the general meeting of shareholders and of the board of management.
6. To be responsible to explain performance of their assigned duties to the general meeting of shareholders and to the board of management upon request.
7. Other rights and obligations as stipulated in the charter of the credit institution.

Section 4

Credit Institutions Being Single Member Limited Liability Companies

Article 66 *Duties and powers of owner*

1. The owner of a credit institution being a single member limited liability company has the following powers:
 - (a) To make decisions on the number of members of the members' council for each term of office, but the minimum shall be five members and the maximum shall be eleven (11) members;
 - (b) To appoint an authorized representative with a term of office not exceeding five years to implement the duties and powers of the owner in accordance with this Law. The authorized representative must satisfy all criteria and conditions stipulated in article 50.1 of this Law;
 - (c) To appoint, remove, discharge and add members of the members' council, the chairman of the members' council, members of the board of controllers, the general director (director), deputy general directors (deputy directors) and the chief accountant;
 - (d) To make a decision changing the charter capital of the credit institution; to assign all or part of the charter capital of the credit institution and change the legal form of the credit institution;
 - (dd) To make decisions on establishment of subsidiary companies and affiliated companies;
 - (e) To approve annual financial statements; and to make decisions on use of profit after full discharge of tax and other financial obligations of the credit institution;
 - (g) To make decisions on restructuring, dissolution, or petitioning a court to commence proceedings for bankruptcy of the credit institution;
 - (h) To make decisions on the amount of remuneration, salaries and other benefits of members of the members' council, members of the board of controllers and the general director (director).
2. The owner of a credit institution being a single member limited liability company has the following duties:
 - (a) To contribute capital in full and on time as undertaken;
 - (b) To comply with the charter of the credit institution;
 - (c) To identify and separate assets of the company owner from assets of the credit institution;
 - (d) To comply with the provisions of law during any purchase, sale, borrowing, lending, lease or lease out and other transactions between the credit institution and its owner;

- (e) To perform other duties stipulated in this Law and the charter of the credit institution.

Article 67 *Duties and powers of members' council*

1. The members' council of a credit institution being a single member limited liability company shall comprise all authorized representatives of the owner, and shall, in the name of the owner, organize exercise of rights and discharge of obligations of the owner in accordance with regulations; and shall, in the name of the credit institution, exercise rights and discharge obligations of the credit institution; and shall be responsible to the owner for implementation of such council's rights and obligations in accordance with this Law and the charter of the credit institution.
2. The members' council of a credit institution being a single member limited liability company has the following duties and powers:
 - (a) To make decisions on the contents of the charter, and on amendments and additions to the charter of the credit institution;
 - (b) To make decisions on the annual developmental strategy and business plan of the credit institution;
 - (c) To submit issues within the decision-making authority of the owner as stipulated in article 66.1(c), (d), (dd), (e) and (g) of this Law to the owner for decision;
 - (d) To consider and approve annual reports;
 - (dd) To make decisions on selection of an independent auditor;
 - (e) To inspect, supervise and direct the general director (director) in performing his or her assigned duties; to evaluate annually the efficiency of the work of the general director;
 - (g) To make decisions on dealing with losses arising during the business process;
 - (h) To make decisions on extension of credit in accordance with article 128.7 of this Law;
 - (i) To make decisions on plans for capital contribution and share purchase in other enterprises or credit institutions valued at twenty (20) per cent or more of the charter capital of the credit institution as recorded in its most recent audited financial statements or at a lower percentage if stipulated in the charter of the credit institution;
 - (k) To pass investment decisions and decisions on purchase and sale of assets of the credit institution valued at twenty (20) per cent or more of the charter capital of the credit institution as recorded in its most recent audited financial statements or at a lower percentage if stipulated in the charter of the credit institution;
 - (l) To make decisions on entering into contracts between the credit institution with subsidiary companies or affiliated companies of the credit institution; and contracts between the credit institution with members of the members' council, members of the board of controllers, the general director (director) or their related persons. In such case, the relevant member shall not be entitled to vote;
 - (m) To make decisions on solutions for market development, marketing and technology transfer;

- (n) To issue internal rules on organization, management and operation of the credit institution in compliance with law;
- (o) To submit issues to the Governor of the State Bank for approval in accordance with law;
- (p) To organize supervision and evaluation of the business activities of the credit institution;
- (q) Other rights and duties as stipulated in the charter of the credit institution.

Article 68 *Rights and obligations of chairman of members' council*

1. To prepare operational programs and plans of the members' council.
2. To prepare the program, agenda and data for meetings of the members' council or to collect opinions from members.
3. To convene and chair meetings of the members' council or to organize collection of opinions from members.
4. To supervise or organize supervision of implementation of decisions of the members' council.
5. To sign decisions of the members' council on behalf of such council.
6. To ensure that members of the members' council receive complete, objective and accurate information and have sufficient time to discuss issues which the members' council must consider.
7. To assign duties to members of the members' council.
8. To supervise members of the members' council in performing their assigned duties and general rights and obligations.
9. To evaluate, at least once each year, the efficiency of the work of each member of the members' council and of such council itself, and to report the results of the evaluations to the owner.
10. Other rights and obligations as stipulated in the charter of the credit institution.

Article 69 *Rights and obligations of members of members' council*

1. To exercise rights and to discharge obligations of a member of the members' council in accordance with internal rules of the members' council and as assigned by the chairman of the members' council, honestly and in the interests of the credit institution and the owner.
2. To provide their opinions or request an executive of the credit institution, the independent auditor or an internal auditor to explain issues related to the financial reports prepared by the independent auditor.
3. To request the chairman convene an extraordinary meeting of the members' council.
4. To attend meetings of the members' council, to discuss and vote on all issues falling within the duties and powers of the members' council, but not to vote on issues on which such member has a conflict of interest. To be liable to the owner and the members' council for their decisions.
5. To commence implementation of decisions of the owner and resolutions of the members' council.

6. To be responsible to explain performance of their assigned duties to the owner and to the members' council upon request.
7. Other rights and obligations as stipulated in the charter of the credit institution.

Section 5

Credit Institutions Being Multiple Member Limited Liability Companies

Article 70 *Capital contributing members and duties and powers of capital contributing members*

1. A capital contributing member of a credit institution being a multiple member limited liability company must be a legal entity, except for the cases stipulated in article 88 of this Law. The total number of members shall not exceed five members. The maximum ratio of ownership of any one member and its related persons shall not exceed fifty (50) per cent of the charter capital of the credit institution.
2. Capital contributing members have the following powers:
 - (a) To appoint, remove and dismiss their representative as a member of the members' council or board of controllers on the basis of the amount of their capital contribution portion to the credit institution or upon agreement among capital contributing members;
 - (b) To be provided with information and reports on the operational status of the members' council and board of controllers, with books of account, annual financial statements and other documents and data of the credit institution;
 - (c) To receive distribution of profit corresponding to their capital contribution portion after the credit institution has fully paid taxes and fulfilled all other financial obligations;
 - (d) To receive distribution of the remaining assets of the credit institution corresponding to their capital contribution portion, upon dissolution or bankruptcy of the credit institution;
 - (dd) To make a complaint about or initiate legal action against a member of the members' council, a member of the board of controllers or the general director (director) for failure to fully discharge his or her obligations thereby causing loss to the lawful rights and interests of the credit institution or of the capital contributing member.
3. Capital contributing members have the following duties:
 - (a) Not to withdraw their contributed capital in any form, except in a case of assignment of the contributed capital portion as prescribed in article 71 of this Law;
 - (b) To comply with the charter of the credit institution;
 - (c) Other duties as stipulated in the charter of the credit institution.

Article 71 *Assignment and redemption of capital contribution portion*

1. Capital contributing members are permitted to assign their capital contribution portions and shall be given priority in making additional capital contributions when the credit institution increases its charter capital.

2. The State Bank provides specific regulations on conditions for receipt of assignment of capital contribution portions by a credit institution and for redemption of capital contribution portions by the credit institution.

Article 72 *Members' council*

1. The members' council of a credit institution being a multiple member limited liability company has the following duties and powers:
 - (a) The duties and powers stipulated in article 67.2(a), (b), (d), (dd), (h), (i), (k), (l), (m), (n) and (o) of this Law;
 - (b) To make decisions on any increase or reduction of charter capital and on the timing and method of raising capital;
 - (c) To report, upon request by a capital contributing member or the competent State agency, on the financial status and business results of the credit institution and on the performance by the members' council and its members of their delegated duties and powers;
 - (d) To make decisions on redemption of a capital contribution portion in accordance with this Law;
 - (dd) To elect, remove or dismiss the chairman of the members' council; to make decisions on appointment, removal and dismissal and on signing and terminating contracts of the general director (director), deputy general directors (deputy directors), chief accountant and other managers and executives in accordance with internal rules of the members' council;
 - (e) To make decisions on the amount of salary, bonus, remuneration and other benefits of the chairman and members of the members' council, of the head and members of the board of controllers, and of the general director (director) on the basis of compliance with this Law, unless otherwise stipulated in the charter of the credit institution;
 - (g) To pass the annual financial statements, plans for use and distribution of profit or plans for dealing with losses of the credit institution;
 - (h) To make decisions on establishment of subsidiary companies, branches and representative offices; [and on] capital contribution for establishment of affiliated companies;
 - (i) To make decisions on restructuring the credit institution;
 - (k) To make decisions on dissolution or petitioning a court to commence proceedings for bankruptcy of the credit institution;
 - (l) Other duties and powers as stipulated in the charter of the credit institution.
2. The chairman of the members' council of a credit institution being a multiple member limited liability company has the following rights and obligations:
 - (a) The rights and obligations stipulated in clauses 1 to 8 inclusive of article 68 of this Law.
 - (b) To evaluate, at least once each year, the efficiency of the work of each member and of committees of the members' council;

- (c) Other rights and obligations as stipulated in the charter of the credit institution.
- 3. Members of the members' council of a credit institution being a multiple member limited liability company have the following rights and obligations:
 - (a) The rights and obligations stipulated in clauses 1 to 3 inclusive of article 69 of this Law;
 - (b) To attend meetings of the members' council, to discuss and vote on all issues falling within the duties and powers of the members' council in accordance with this Law, but not to vote in the cases prescribed in article 67.2(l) of this Law; to be liable to the members' council for their decisions;
 - (c) To implement resolutions and decisions of the members' council;
 - (d) To explain performance of their assigned duties to capital contributing members or to the members' council upon request;
 - (e) Other rights and obligations as stipulated in the charter of the credit institution.

Section 6

Credit Institutions Being Co-Operatives

Article 73 *Operational nature and objectives*

A credit institution being a co-operative means a form of credit institution organized in accordance with the model of a co-operative conducting activities in the banking sector for the main purpose of mutual support amongst members in order to effectively conduct production, business and service activities and to improve living conditions. Credit institutions being co-operatives comprise co-operative banks and people's credit funds.

Article 74 *Establishment of credit institution being co-operative*

1. Members of a co-operative bank shall comprise people's credit funds and other capital contributing legal entities.
2. Members of a people's credit fund shall comprise individuals, households and other capital contributing legal entities.

Article 75 *Organizational structure*

1. The organizational structure of a co-operative bank or people's credit fund shall comprise the general meeting of members, the board of management, the board of controllers and the general director (director).
- 2.³¹ The chairman and other members of the board of management, the head and other members of the board of controllers, and the general director (director) of a co-operative bank or people's credit fund must satisfy the criteria on professional qualifications and professional ethics and must have a thorough knowledge of banking activities in accordance with State Bank regulations and must be named on the list which the State Bank approved.

³¹ Allens footnote: As amended by Law 17 dated 20 November 2017.

The State Bank shall provide specific regulations on the procedures and application file for approval of the list of people proposed to be elected or appointed to the positions prescribed in this clause.

3. Co-operative banks and people's credit funds must establish an internal audit section and an internal control system and shall carry out an independent audit in accordance with State Bank regulations.

Article 76 *Charter capital*

1. The charter capital of a co-operative bank or people's credit fund shall be the total capital contributed by members and shall be specified in the charter.
2. The maximum and minimum capital contribution of a member shall be as decided by the general meeting of members in accordance with State Bank regulations.

Article 77 *Charter*

1. The charter of a co-operative bank or people's credit fund must not be contrary to the provisions of this Law, the *Law on Co-operatives* and other relevant laws. The charter of a co-operative bank or people's credit fund must contain the following main particulars:
 - (a) Name and address of head office;
 - (b) Contents and scope of operation;
 - (c) Duration of operation;
 - (d) Charter capital and method of capital contribution;
 - (dd) Organizational structure, duties and powers of the board of management, board of controllers and rights and obligations of general director (director);
 - (e) Procedures for holding the general meeting of members and passing decisions by the general meeting of members;
 - (g) Rights and obligations of members;
 - (h) Principles on finance, accounting, control and internal audit;
 - (i) Principles on payment of salaries, allowances and remuneration for official duties, on dealing with losses, on distribution of profit in accordance with capital contribution, on efforts made by members to contribute capital and level of use of services of the credit institution; and principles on establishment, management and use of funds;
 - (k) Procedures for management, use, preservation and dealing with common assets and accumulated capital;
 - (l) Cases and procedures for division, demerger, consolidation, merger, dissolution and bankruptcy;
 - (m) Procedures for amendment of the charter.

2. The charter of a co-operative bank or people's credit fund and all amendments and additions to such charter must be sent [not registered]³² with the State Bank within fifteen (15) days from the date of passing.

Article 78 *Rights of members*

1. To participate in the general meeting of members or elect representatives to do so, and to attend such meetings and vote on matters within the authority of the general meeting of members.
2. To stand for election or nominate a person to the board of management, board of controllers and other positions subject to election in accordance with the charter of the co-operative bank or people's credit fund.
3. To deposit money, borrow capital and receive distribution of profit corresponding to their capital contribution portion and level of use of services of the co-operative bank or people's credit fund.
4. To enjoy the common social welfare [benefits] of the co-operative bank or people's credit fund.
5. To be provided with necessary information relevant to the operation of the co-operative bank or people's credit fund.
6. To propose issues relevant to the operation of the co-operative bank or people's credit fund and request responses thereto; to request the board of management or board of controllers to convene an extraordinary meeting of the general meeting of members to resolve urgent issues.
7. To assign their contributed capital and interests and obligations to another person in accordance with law and the charter of the co-operative bank or people's credit fund.
8. To request withdrawal from the co-operative bank or people's credit fund in accordance with the charter of such bank or credit fund.
9. Other rights in accordance with law and the charter of the co-operative bank or people's credit fund.

Article 79 *Obligations of members*

1. To implement the charter of the co-operative bank or people's credit fund and resolutions of the general meeting of members.
2. To make capital contributions in accordance with the charter of the co-operative bank or people's credit fund and relevant laws.
3. To co-operate with and support [other] members, to contribute to building and promoting development of the co-operative bank or people's credit fund.
4. To be jointly liable for risks and losses during the operation of the co-operative bank or people's credit fund to the extent of such member's contributed capital.
5. To fully repay principal and interest on loans from the co-operative bank or people's credit fund in accordance with the [loan] undertaking.

³² Allens footnote: As amended by Law 17 dated 20 November 2017.

6. To pay compensation for loss caused by such member to the co-operative bank or people's credit fund.

Article 80 *General meeting of members*

1. The general meeting of members shall be the highest decision-making authority of the co-operative bank or people's credit fund.
2. The general meeting of members shall discuss and make decisions on the following issues:
 - (a) Reports on business operational results of the relevant year, public financial and accounting statements, proposed profit distribution and dealing with losses if any; reports on operation of the board of management and board of controllers;
 - (b) Direction of business operation for the next year;
 - (c) Increase or reduction of charter capital; amount of capital contribution by members;
 - (d) Election, removal or dismissal of the chairman and other members of the board of management, and of the head and other members of the board of controllers;
 - (dd) Approval of a list of new members to be admitted and/or of members permitted to withdraw from the co-operative bank or people's credit fund upon proposal of the board of management; and decisions expelling a member;
 - (e) Division, demerger, consolidation, merger and dissolution of the people's credit fund;
 - (g) Amendment of and addition to the charter;
 - (h) Other issues upon the proposal of the board of management, board of controllers or of at least one-third of the total number of members.

Article 81 *Board of management*

1. The board of management shall be the body managing the co-operative bank or people's credit fund, and shall comprise a chairman and other members of the board of management.
2. The number of members of the board of management shall be as decided by the general meeting of members, but shall be at least three members.
3. The term of office of the board of management shall be as decided by the general meeting of members and shall be stipulated in the charter, but shall be at least two years and shall not exceed five years.
4. Members of the board of management must be individual members or representatives of the capital contribution portion of a member being a legal entity. Members of the board of controllers, the chief accountant and cashier of the co-operative bank or people's credit fund shall not concurrently be a member of the board of management and must not be a related person of a member of the board of management.
5. The chairman and members of the board of management shall not be permitted to authorize a person other than a member of such board to exercise their rights and discharge their obligations.

Article 82 *Duties and powers of board of management*

1. To appoint, remove or dismiss, hire or terminate the [labour] contract hiring the general director (director) in accordance with a resolution or decision of the general meeting of members.
2. To appoint or remove deputy general directors (deputy directors) upon the recommendation of the general director (director).
3. To organize implementation of resolutions and decisions of the general meeting of members.
4. To prepare reports on evaluation of the business operational results; to approve financial statements, reports on business operational plans or operational reports of the board of management and submit same to the general meeting of members.
5. To prepare the agenda for the general meeting of members and to convene such meeting.
6. To organize exercise of rights and discharge of obligations of the co-operative bank or people's credit fund in accordance with law.
7. To consider admission of new members and resolve applications for withdrawal of members (except for the case where a member is expelled) and report same to the general meeting of members for approval.
8. To be liable for its decisions before the general meeting of members.
9. Other duties and powers as stipulated in the charter of the co-operative bank or people's credit fund.

Article 83 *Organization and operation of board of controllers*

1. The board of controllers shall have at least three members at least one of whom is a full-time controller. The State Bank shall regulate conditions applicable to a people's credit fund to elect one full-time controller.
2. The head and members of the board of controllers shall be elected directly by the general meeting of members.
3. Members of the board of controllers must be individual members or representatives of the capital contribution portion of a legal entity member. A member of the board of controllers shall not concurrently be a member of the board of management, the general director (director), deputy general director (deputy director), chief accountant, cashier or professional staff of the co-operative bank or people's credit fund and shall not be a related person of a member of the board of management, the general director (director), deputy general director (deputy director), chief accountant or cashier.
4. The board of controllers shall be liable to the general meeting of members for performance of the former's assigned duties.
5. The term of office of the board of controllers shall be the same as the term of office of the board of management.

Article 84 *Duties and powers of board of controllers*

1. To check and supervise that the operation of the co-operative bank or people's credit fund complies with law.
2. To check observance with the charter, and resolutions and decisions of the general meeting of members and of the board of management; to supervise activities of the board of management, the general director (director) and members of the co-operative bank or people's credit fund.
3. To check financial activities, to supervise observance of the accounting regime, distribution of income, dealing with losses, and use of funds, assets and subsidies provided by the State; and to supervise safety of the operation of the co-operative bank or people's credit fund.
4. To carry out an internal audit from time to time and in each sector, in order to accurately evaluate business activities and the actual financial status of the co-operative bank or people's credit fund.
5. To receive and resolve in accordance with authority, complaints and denunciations relevant to the operation of the co-operative bank or people's credit fund in accordance with law and the charter of such co-operative bank or people's credit fund.
6. To convene an extraordinary meeting of the general meeting of members in the following cases:
 - (a) When the board of management or general director (director) commits a breach of law, of the charter of the co-operative bank or people's credit fund or a resolution of the general meeting of members; and when the board of management fails to take, or takes ineffectively, preventive measures at the request of the board of controllers;
 - (b) Where at least one-third of the total number of members of the board of controllers request the board of management or board of controllers to convene a meeting, but the board of management fails to convene an extraordinary meeting of the general meeting of members within fifteen (15) days from the date of receipt of such request.
7. To notify the board of management and report to the general meeting of members and the State Bank on results of its control; and to make recommendations to the board of management and general director (director) on remedying shortcomings and breaches during the operation of the co-operative bank or people's credit fund.

Article 85 *General director (director) of co-operative bank and people's credit fund*

The board of management shall appoint one member of such board or hire another person to act as general director (director) of the co-operative bank or people's credit fund. The general director (director) shall be the highest executive and shall have the duty to executively operate the day-to-day operation of the co-operative bank or people's credit fund.

Article 86 *Rights and obligations of general director (director)*

1. To implement business plans.
2. To organize implementation of decisions of the board of management.
3. To recommend to the board of management a plan on the structural apparatus [of management] of the co-operative bank or people's credit fund.

4. To enter into contracts in the name of the co-operative bank or people's credit fund.
5. To submit annual financial statements to the board of management.
6. To be liable to the board of management for [implementation of] duties assigned to him or her.
7. To exercise other rights and discharge other obligations stipulated in the charter of the co-operative bank or people's credit fund.

Section 7

Micro-Finance Institutions

Article 87 *Forms of micro-finance institution*

1. Micro-finance institutions shall be established in the form of a limited liability company.
2. The organizational structure, management and executive operation of micro-finance institutions shall be implemented in accordance with the provisions of this Law and other relevant laws.

Article 88 *Members, capital contribution, organizational structure and operational locality of micro-finance institution*

The State Bank shall provide regulations on participation in capital contribution by foreign organizations and individuals for establishment of micro-finance institutions; on the number of capital contributing members; on the ratio of ownership of capital contribution and capital contribution portions by both domestic and foreign organizations and individuals in micro-finance institutions; and on restrictions on organizational structure of networks and operating localities of micro-finance institutions.

Section 8

Foreign Bank Branches in Vietnam

Article 89 *Management and executive operation of foreign bank branch*

1. A foreign bank shall make decisions on the organizational structure, management and executive operation of its foreign bank branch in Vietnam in conformity with the law of the country where the head office of such foreign bank is located, and in conformity with the provisions of this Law on organizational structure, management, executive operation, internal control and internal audit; and must obtain written approval of the State Bank before implementation.
2. The general director (director) of a foreign bank branch shall represent the foreign bank branch before the law and shall be the person responsible for all activities of the foreign bank branch and shall executively operate the day-to-day operation in accordance with his or her rights and obligations in compliance with the provisions of this Law and other relevant laws.
3. The general director (director) of a foreign bank branch shall not participate in management or executive operation of another credit institution or economic organization and shall not be permitted to concurrently be the head of the representative office in Vietnam of the foreign bank.
4. The general director (director) of a foreign bank branch must satisfy the criteria and conditions stipulated in article 50.4 of this Law. The person proposed to be appointed as the general director (director) of a foreign bank branch must be approved by the State Bank before appointment. The

procedures and file for approval of general directors (directors) of foreign bank branches and notification of such appointees shall be implemented in accordance with article 51.2 and 51.3 of this Law.

5. Where a foreign bank has two or more branches operating in Vietnam and carries out a consolidated finance, cost accounting and reporting system, the foreign bank must authorize one general director (director) to be legally liable for all activities of the foreign bank branches in Vietnam.

CHAPTER 4

Operation of Credit Institutions

Section 1

General Provisions

Article 90 *Scope of permissible operation of credit institution*

1. The State Bank shall, in the licence issued to each credit institution, specifically regulate the scope, form and contents of the banking operation and other business activities of each such credit institution.
2. A credit institution is not permitted to conduct any business activity other than the banking operation and other business activities specified in its licence issued by the State Bank.
3. The banking operation and other business activities of credit institutions prescribed in this Law shall be conducted in accordance with State Bank regulations.

Article 91 *Interest rates and fees in business activities of credit institution*

1. A credit institution has the right to fix its interest rates for raising capital and the level of its fees for providing services during its business operation, and must publish such rates and fees.
2. A credit institution and clients have the right to agree, in accordance with law, on interest rates and fees for extension of credit during the banking operation of the credit institution.
3. In the case of any abnormal fluctuation in banking activities, the State Bank has the right, in order to ensure the safety of the credit institution system, to provide a mechanism for fixing fees and interest rates during business activities of credit institutions.

Article 92 *Issuance of deposit certificates, promissory notes, banks notes and bonds by credit institution*

1. Credit institutions are entitled to issue deposit certificates, promissory notes and bank notes in order to raise capital in accordance with this Law and State Bank regulations.
2. The Government shall, based on this Law and the *Law on Securities*, provide regulations on issuance of bonds of credit institutions in order to raise capital, except for convertible bonds.

Article 93 *Internal rules*

1. A credit institution must, based on this Law and other relevant laws, formulate and issue internal rules applicable to professional activities of the credit institution, ensuring there are mechanisms for

internal control and audit and risk control associated with each professional business procedure, and also ensuring that plans for dealing with emergency situations are available.

2. A credit institution must issue the following internal rules:
 - (a) Regulations on extension of credit and management of loan monies to ensure that loans are used for the proper purpose;
 - (b) Regulations on classification of current assets, and on establishment and use of risk reserves;
 - (c) Regulations on evaluation of quality of current assets and compliance with minimum capital adequacy ratios;
 - (d) Regulations on control of liquidity, including procedures and limits on control of liquidity;
 - (dd) Regulations on an internal control system and an internal audit mechanism appropriate for the operational nature and size of the credit institution;
 - (e) Regulations on an internal credit rating system;
 - (g) Regulations on risk control during the operation of the credit institution;
 - (h) Regulations on the process, procedures and principles for client identification in order to prevent any abuse of the credit institution for money laundering, terrorist funding or other criminal purpose.
 - (i) Regulations on plans for dealing with emergency situations.
3. The credit institution must forward the internal rules specified in clause 2 of this article to the State Bank after they have been issued.

Article 94 *Consideration and approval of extension of credit and inspection of use of loan monies*

1. A credit institution must require a client to provide data proving it has a feasible plan on use of capital and financial capability, a lawful capital use purpose, and measures to secure the loan before the credit institution makes a decision [approving] extension of credit.
2. A credit institution must consider approval of extension of credit on the principle of identification of responsibilities between the stage of conducting assessment and the stage of making a decision approving extension of credit.
3. A credit institution shall have the right and obligation to inspect and supervise use of loans and repayment by clients.
4. A credit institution shall have the right to require clients to report the use of loan monies and to prove the loan is being used for the correct loan purpose.

Article 95 *Termination of extension of credit, dealing with debts, and exemption and reduction of interest rates*

1. A credit institution has the right to terminate an extension of credit and recover a debt prior to the due date when it discovers that the client provided incorrect information [or] committed a breach of the provisions in the loan contract.

2. If a client fails to make repayment of a loan on the due date, the credit institution has the right, unless otherwise agreed by the two parties, to deal with the debt and security assets for the loan in accordance with the loan contract, the security agreement and provisions of law. Restructuring of terms for repayment of debt and sale and purchase of debts by credit institutions shall be implemented in accordance with State Bank regulations.
3. If a client borrower or the client's guarantor becomes bankrupt, loan recovery by the credit institution shall be implemented in accordance with the law on bankruptcy.
4. A credit institution shall have the right to make decisions exempting or reducing interest rates and fees for clients in accordance with its own internal rules.

Article 96 *Maintenance of loan files*

1. A credit institution must maintain loan files, comprising:
 - (a) Loan contracts and data clearly specifying the purpose of use of loans; and files on security measures;
 - (b) Reports on actual financial status of clients;
 - (c) Decisions extending credit signed by competent persons; where such decisions are collectively made, there must be minutes specifying the decision which was passed;
 - (d) Data arising in the course of using the loan monies related to the loan contract.
2. Loan files shall be archived for the duration stipulated by law.

Article 97 *E-banking operation*

A credit institution is permitted to conduct business activities via the use of electronic facilities in accordance with State Bank guidelines on risk management and in accordance with the law on electronic transactions.

Section 2

Operation of Commercial Banks

Article 98 *Banking operation of commercial bank*

[Commercial banks are permitted to conduct the following banking activities:]

1. Receipt of on-call deposits, fixed term deposits, savings deposits and other types of deposit.
2. Issuance of deposit certificates, promissory notes, bank notes and bonds in order to raise both domestic and foreign capital.
3. Extension of credit in the following forms:
 - (a) Loans;
 - (b) Discounts and rediscounts of negotiable instruments and other valuable papers;

- (c) Bank guarantees;
 - (d) Issuance of credit cards;
 - (dd) Domestic factoring; and international factoring applicable to banks authorized to conduct international payment [services];
 - (e) Other forms of extension of credit upon obtaining approval from the State Bank.
4. Opening payment accounts for clients.
 5. Provision of payment facilities.
 6. Provision of the following payment services:
 - (a) Provision of domestic payment services comprising cheques, payment orders, authorized payment orders, collection, collection orders, letters of credit, bank cards, and services of receipt [collection] and disbursement [payment] as trustee;
 - (b) Provision of international payment services and other payment services upon obtaining approval from the State Bank.

Article 99 *Borrowing from State Bank*

Commercial banks are permitted to borrow from the State Bank in the form of refinancing in accordance with the *Law on State Bank of Vietnam*.

Article 100 *Borrowing from credit institutions and financial institutions*

Commercial banks are permitted to borrow from both domestic and foreign credit institutions and financial institutions in accordance with law.

Article 101 *Opening accounts*

1. A commercial bank must open a deposit account at the State Bank and maintain in such account an average balance no less than the compulsory reserve level.
2. A commercial bank shall be permitted to open payment accounts at other credit institutions.
3. A commercial bank shall be permitted to open deposit accounts and payment accounts offshore in accordance with the law on foreign exchange.

Article 102 *Organization and participation in payment systems*

1. Commercial banks are permitted to organize their internal payment [systems] and participate in the national inter-bank payment system.
2. Commercial banks shall be permitted to participate in international payment systems after obtaining approval from the State Bank.

Article 103 *Capital contribution and share purchase*

1. Commercial banks shall only be permitted to use their charter capital and other reserve funds to contribute capital and purchase shares in accordance with the provisions of clauses 2, 3, 4 and 6 of this article.
2. A commercial bank must establish or acquire a subsidiary company or affiliated company to carry out the following business activities:
 - (a) Underwrite securities issues, securities broking; manage and distribute securities investment fund certificates; manage securities investment portfolios, and sell and purchase shares;
 - (b) Finance leasing;
 - (c) Insurance.
- 3.³³ A commercial bank is permitted to establish or acquire a subsidiary company or affiliated company to operate in the sectors of management of debts and exploitation of assets, receipt of foreign currency remitted by Vietnamese abroad, trading of foreign exchange or gold, factoring, issuance of credit cards, consumer credit, and services of payment intermediary and credit information.
4. A commercial bank is permitted to contribute capital to or purchase shares in enterprises operating in the following sectors:
 - (a) Insurance, securities, receipt of foreign currency remitted by Vietnamese abroad, trading of foreign exchange or gold, factoring, issuance of credit cards, consumer credit, and services of payment intermediary and credit information;
 - (b) Sectors other than those prescribed in sub-clause (a) above.
5. Establishment or acquisition of a subsidiary company or affiliated company as prescribed in clauses 2 and 3 of this article and capital contribution or share purchase by a commercial bank as prescribed in clause 4(b) of this article shall require prior written approval from the State Bank. The State Bank shall provide specific regulations on conditions, files, order and procedures for approval.

Conditions, procedures and order for establishment of subsidiary companies and affiliated companies of commercial banks shall be implemented in accordance with relevant laws.
6. A commercial bank and its subsidiary companies are permitted to purchase and hold shares in other credit institutions on the conditions and within the limitations stipulated by the State Bank.

Article 104 *Participation in monetary market*

Commercial banks are permitted to participate in auctions for Treasury bills, and to purchase and sell negotiable instruments, Government bonds, Treasury bills, State Bank bills and other valuable papers on the monetary market.

³³ Allens footnote: As amended by Law 17 dated 20 November 2017.

Article 105 *Trading and provision of foreign exchange services and derivative products*

1. A commercial bank is permitted, after obtaining written approval from the State Bank, to carry out trading and to provide services to domestic and overseas clients in relation to the following products:
 - (a) Foreign exchange;
 - (b) Derivatives in relation to exchange rates, interest rates, foreign exchange, currency and other financial assets.
2. The State Bank shall provide specific regulations on the scope of trading of foreign exchange; and on the conditions, order and procedures for approval of trading foreign exchange, and of trading and supply of derivative products by commercial banks.
3. Provision of foreign exchange services by commercial bank to clients shall be conducted in accordance with the law on foreign exchange.

Article 106 *Trust and agency activities*

Commercial banks are permitted to entrust others and to act as trustee and agent in sectors related to banking activities, insurance business and asset management in accordance with State Bank regulations.

Article 107 *Other business activities of commercial banks*

[Commercial banks may conduct the following other business activities:]

1. Provision of cash management services, banking and financial consultancy; asset management and preservation services; and safe³⁴ leasing and safe-keeping services.
2. Corporate financial consultancy; consultancy on purchase and sale, consolidation and merger of enterprises; and investment consultancy.
3. Purchase and sale of Government bonds and enterprise bonds.
4. Currency brokerage services.
5. Securities depository services, gold trading and other business activities related to banking activities, after obtaining written approval from the State Bank.

Section 3

Operation of Finance Companies

Article 108 *Banking activities of finance company*

1. A finance company is permitted to conduct one or a number of the following banking activities:
 - (a) Receipt of deposits from organizations;

³⁴ Allens footnote: Alternative translation is "strong-box".

- (b) Issuance of deposit certificates, promissory notes, bank notes and bonds in order to raise capital from organizations;
 - (c) Borrowing from both domestic and foreign credit institutions and finance institutions in accordance with law; and borrowing from the State Bank in the form of refinancing in accordance with the *Law on State Bank of Vietnam*;
 - (d) Provision of loans including loans for payment by instalment and consumer loans;
 - (dd) Bank guarantees;
 - (e) Discounts and rediscounts of negotiable instruments and other valuable papers;
 - (g) Issuance of credit cards, factoring, finance leasing and other forms of extension of credit after obtaining approval from the State Bank.
2. The Government shall provide specific regulations on the conditions for finance companies to undertake the banking activities prescribed in clause 1 of this article.

Article 109 *Opening accounts by finance company*

1. A finance company which receives deposits shall open a deposit account at the State Bank and maintain in such account an average balance of no less than the compulsory reserve level.
2. A finance company is permitted to open payment accounts at commercial banks and foreign bank branches.
3. A finance company authorized to issue credit cards shall be permitted to open accounts at foreign banks in accordance with the law on foreign exchange.
4. A finance company is permitted to open deposit accounts and loan management accounts for clients.

Article 110 *Capital contribution and share purchase by finance company*

1. A finance company is only permitted to use its charter capital and reserve funds to contribute capital and purchase shares in accordance with the provisions of clauses 2 and 3 of this article.
2. A finance company is permitted to contribute capital to and purchase shares in enterprises and investment funds.
- 3.³⁵ A finance company is only permitted to establish or acquire a subsidiary company or affiliated company operating in the sectors of insurance, securities, or management of debts and exploitation of assets after obtaining written approval from the State Bank.
4. The State Bank shall provide specific regulations on the conditions, files, order and procedures for approval of establishment of subsidiary companies and affiliated companies of finance companies as prescribed in clause 3 of this article.

Conditions, procedures and order for establishment of subsidiary companies and affiliated companies of finance companies shall be implemented in accordance with relevant laws.

³⁵ Allens footnote: As amended by Law 17 dated 20 November 2017.

Article 111 *Other business activities of finance company*

[Finance companies may conduct the following other business activities:]

1. Receipt of trust funds³⁶ from the Government, organizations or individuals to conduct investment activities in permissible production, business and credit extension projects; and to entrust credit institutions to use capital to extend credit. The receipt of trust funds from individuals and entrusting credit institutions to use capital to extend credit shall be carried out in accordance with State Bank regulations.
2. Participation in the monetary market prescribed in article 104 of this Law.
3. Purchase and sale of Government bonds and enterprise bonds.
4. Underwriting issues of Government bonds and enterprise bonds; and acting as agent for issues of bonds, shares and other valuable papers.
5. Foreign exchange trading and provision of foreign exchange services in accordance with State Bank regulations.
6. Acting as an insurance business agent.
7. Provision of consultancy services in the banking, finance and investment sectors.
8. Provision of services for management and preservation of assets of clients.

Section 4

Operation of Finance Leasing Companies

Article 112 *Banking activities of finance leasing company*

[A finance leasing company is permitted to conduct the following banking activities:]

1. Receipt of deposits from organizations.
2. Issuance of deposit certificates, promissory notes, bank notes and bonds in order to raise capital from organizations.
3. Borrowing from both domestic and foreign credit institutions and finance institutions in accordance with law; and borrowing from the State Bank in the form of refinancing in accordance with the *Law on State Bank of Vietnam*.
4. Finance leasing.
5. Provision of loans for working capital of finance lessees.
6. Provision of operating leases on condition that the total value of assets under operating leases shall not exceed thirty (30) per cent of the total assets of the finance leasing company.

³⁶ Allens footnote: Alternative translation is "To receive capital on trust".

7. Provision of other forms of extension of credit after obtaining approval from the State Bank.

Article 113 *Finance leasing activities*

Finance leasing activities means the extension of medium and long-term credit on the basis of a finance leasing contract and must satisfy one of the following conditions:

1. Upon expiry of the lease term under the contract, the lessee may take over ownership of the leased assets or may continue to lease them under the agreement of the two parties.
2. Upon expiry of the lease term under the contract, the lessee shall have the priority right to purchase the leased assets at a nominal value less than the actual value of the leased assets as at the date of purchase.
3. The minimum term of the lease of any one asset must equal at least sixty (60) per cent of the period necessary for depreciation of such leased asset.
4. The total rent for any one asset stipulated in the finance leasing contract must equal at least the value of such asset as at the date of signing the contract.

Article 114 *Opening accounts by finance leasing company*

1. A finance leasing company which receives deposits shall open a deposit account at the State Bank and maintain in such account an average balance of no less than the compulsory reserve level.
2. A finance leasing company shall be permitted to open payment accounts at commercial banks and foreign bank branches.

Article 115 *Capital contribution and purchase of shares by finance leasing company*

A finance leasing company is not permitted to contribute capital to, purchase shares in, or establish a subsidiary company or affiliated company in any form.

Article 116 *Other activities of finance leasing company*

[Finance leasing companies may conduct the following other business activities:]

1. Receipt of trust funds from the Government, organizations or individuals to conduct finance leasing activities. The receipt of trust funds from individuals shall be carried out in accordance with State Bank regulations.
2. Participation in auctions for Treasury bills held by the State Bank.
3. Purchase and sale of Government bonds.
4. Foreign exchange trading and provision of foreign exchange services and trust services for finance leasing in accordance with State Bank regulations.
5. Acting as an insurance business agent.
6. Provision of consultancy services in the banking, financial and investments sector to finance lessees.

Operation of Credit Institutions being Co-operatives

Article 117 *Operation of co-operative bank*

1. The main activity of a co-operative bank shall be transfer of capital [amongst its members] and conduct of banking activities in respect of members being people's credit funds.
2. Co-operative banks may, after obtaining approval from the State Bank, conduct a number of banking and other business activities in accordance with Section 2 of Chapter 4 of this Law.

Article 118 *Operation of people's credit fund*

[A people's credit fund may conduct the following activities:]

1. To receive deposits in Vietnamese Dong in the following cases:
 - (a) Receipt of deposits from its members;
 - (b) Receipt of deposits from non-members in accordance with State Bank regulations.
2. To extend credit in Vietnamese Dong in the following cases:
 - (a) Provision of loans to member clients;
 - (b) Provision of loans to clients who are non-members in accordance with State Bank regulations.
3. Provision of money remittance services, and conduct of payment and collection activities on behalf of its members.
4. Other activities comprising:
 - (a) Receipt of trust funds from the Government, organizations and individuals in order to provide loans;
 - (b) Borrowing funds from other credit institutions and finance institutions;
 - (c) Participation in capital contribution for establishment of a co-operative bank;
 - (d) Opening a deposit account at the State Bank;
 - (dd) Opening payment accounts at commercial banks and foreign bank branches;
 - (e) Trust services and acting as agent in a number of sectors related to banking activities, and asset management in accordance with State Bank regulations;
 - (g) Acting as an insurance business agent;
 - (h) Provision of consultancy services to its members on banking and finance matters.
5. The State Bank shall provide specific regulations in the licence of each people's credit fund on the locality of operation of such credit fund.

Section 6

Operation of Micro-Finance Institutions

Article 119 *Raising capital by micro-finance institution*

[A micro-finance institution may raise capital from the following sources:]

1. Receipt of deposits in Vietnamese Dong in the following forms:
 - (a) Compulsory savings in accordance with regulations of the micro-finance institution;
 - (b) Deposits from organizations and individuals including voluntary deposits of clients of the micro-finance institution, except for deposits for the purpose of making payment.
2. Borrowing funds from both domestic and foreign credit institutions, finance institutions, organizations and individuals in accordance with law.

Article 120 *Extension of credit by micro-finance institution*

1. A micro-finance institution shall only be permitted to extend credit in Vietnamese Dong in the form of loans. Extension of credit by the micro-finance institution may be secured by compulsory savings or guarantees of the group of clients making savings and borrowing funds.
2. A micro-finance institution must maintain a ratio of its total aggregate balance of extended credit to individuals and households earning low income and to super-small enterprises over its total balance of extended credit at no less than the ratio stipulated by the State Bank.

Article 121 *Opening accounts by micro-finance institution*

1. Micro-finance institutions are permitted to open deposit accounts at the State Bank and commercial banks.
2. Micro-finance institutions are not permitted to open payment accounts for clients.

Article 122 *Other activities of micro-finance institution*

[Micro-finance institutions may conduct the following other activities:]

1. Provide and receive trust services for provision of loans.
2. Provide financial consultancy services related to micro-financial matters.
3. Provide services for payment and collection, money remittance on behalf of their micro-finance clients.
4. Act as an agent providing insurance services.

Operation of Foreign Bank Branches in Vietnam

Article 123 *Operation of foreign bank branch*

1. A foreign bank branch is permitted to conduct the activities stipulated in Section 2 of Chapter 4 of this Law, except for the following:
 - (a) The activities stipulated in article 103 of this Law;
 - (b) Activities the foreign bank is not permitted to conduct in the country where it has its head office.
2. A foreign bank branch is only permitted to provide a number of foreign exchange services on the international market to clients in Vietnam in accordance with the law on foreign exchange.
3. The State Bank shall provide specific regulations on operational items in the licence issued to the foreign bank branch in accordance with this Law, and in compliance with the size, form and operational sector of the foreign bank.

CHAPTER 5

Representative Offices of Foreign Credit Institutions and Of Other Foreign Institutions Engaged in Banking Operation

Article 124 *Establishment of representative office*

Foreign credit institutions and other foreign institutions engaged in a banking operation are permitted to establish representative offices at provinces and cities under central authority in the territory of Vietnam. A foreign credit institution or other foreign institution engaged in a banking operation shall only be permitted to establish one representative office in each province or city under central authority.

Article 125 *Operational contents of representative office*

The representative office of a foreign credit institution or other foreign institution engaged in a banking operation may conduct all or part of the following activities as stipulated in its licence issued by the State Bank:

1. Exercise of the function of a liaison office.
2. Market research.
3. Facilitation of investment projects of the foreign credit institution or other foreign institution engaged in a banking operation in Vietnam.
4. Activating and monitoring performance of contracts and agreements signed between the foreign credit institution or other foreign institution engaged in a banking operation and Vietnamese credit institutions and Vietnamese enterprises, or of projects funded by the foreign credit institution or other foreign institution engaged in a banking operation in Vietnam.
5. Other activities in accordance with the law of Vietnam.

CHAPTER 6

Restrictions to Ensure Security During Operation of Credit Institutions

Article 126 *Entities to whom extension of credit is not permitted*

1. A credit institution or foreign bank branch is not permitted to extend credit to the following individuals and organizations:
 - (a) Members of the board of management, of the members' council or board of controllers, the general director (director) or deputy general directors (deputy directors) and equivalent positions in the credit institution or foreign bank branch, legal entities being a shareholder whose representative of the capital contribution portion is a member of the board of management or of the board of controllers of the shareholding credit institution, or legal entities being capital contributing members or the owner of the credit institution being a limited liability company;
 - (b) A parent, spouse or child of a member of the board of management, of a member of the members' council or of the board of controllers or of the general director (director) or a deputy general director (deputy director) and equivalent positions.
- 2.³⁷ The provisions of clause 1 above do not apply to people's credit funds or the case of extension of credits in the form of issuance of credit cards to individuals.

Credit card limits applicable to individuals as prescribed in clause 1 above shall accord with State Bank regulations.
3. A credit institution or foreign bank branch is not permitted to extend credit to clients on the basis of security provided by any of the subjects specified in clause 1 of this article. A credit institution or a foreign bank branch is not permitted to provide security in any form in order for another credit institution to extend credit to any of the subjects stipulated in clause 1 of this article.
4. A credit institution is not permitted to extend credit to an enterprise operating in the securities business sector if the credit institution has the right to control such enterprise.
5. A credit institution is not permitted to extend credit on the basis of receipt of security being shares owned by such credit institution or by a subsidiary company of such credit institution.
- 6.³⁸ A credit institution or foreign bank branch is not permitted to extend to credit in order to contribute capital to or to purchase shares in a credit institution.
- 7.³⁹ Extension of credit as prescribed in clauses 1, 3, 4, 5 and 6 of this article includes activities of purchase of and investment in enterprise bonds.

³⁷ Allens footnote: As amended by Law 17 dated 20 November 2017.

³⁸ Allens footnote: As amended by Law 17 dated 20 November 2017.

³⁹ Allens footnote: As added by Law 17 dated 20 November 2017.

Article 127 *Restrictions on extension of credit*

1. A credit institution or foreign bank branch is not permitted to extend credit without security or to extend credit on preferential conditions to the following:
 - (a) Auditing organizations and auditors currently conducting an audit at the credit institution or foreign bank branch; or inspectors currently conducting an inspection at the credit institution or foreign bank branch;
 - (b)⁴⁰ The chief accountant of a credit institution or foreign bank branch, the chairman or other members of the board of management, the head or other member of the board of controllers, directors, deputy directors and equivalent positions of a people's credit fund;
 - (c) Major shareholders and founding shareholders;
 - (d) Enterprises of which more than ten (10) per cent of the charter capital is owned by one of the subjects specified in article 126.1 of this Law;
 - (dd) People conducting appraisal and approval of loans;
 - (e) Subsidiary companies or affiliated companies of the credit institution or of an enterprise controlled by the credit institution.
2. The total balance of extension of credit to the subjects specified in sub-clauses (a) to (dd) of clause 1 of this article shall not exceed five per cent of the equity of the credit institution or foreign bank branch.
3. The extension of credit to any subjects specified in clause 1 of this clause must be approved by the board of management or members' council of the credit institution and shall be published within the credit institution.
4. The total balance of extension of credit to any one subject specified in sub-clause (e) of clause 1 of article shall not exceed ten (10) per cent of the equity of the credit institution or foreign bank branch; and to all subjects specified in sub-clause (e) of clause 1 of article, shall not exceed twenty (20) per cent of the equity of the credit institution.
- 5.⁴¹ The total balance of extension of credit prescribed in clause 2 above comprises the total amount for purchases or investments in bonds issued by the entities prescribed in sub-clauses (a), (c) and (d) of clause 1 above; and the total balance of extension of credit prescribed in clause 4 above comprises the total amount for purchases and investments in bonds issued by the entities prescribed in clause 1(a) above.

Article 128 *Limits on extension of credit*

1. The total balance of extension of credit to a single client shall not exceed fifteen (15) per cent of the equity of the commercial bank, foreign bank branch, people's credit fund or micro-finance institution; the total balance of loans made to a single client and related persons shall not exceed twenty five (25) per cent of the equity of the commercial bank, foreign bank branch, people's credit fund or micro-finance institution.

⁴⁰ Allens footnote: As amended by Law 17 dated 20 November 2017.

⁴¹ Allens footnote: As added by Law 17 dated 20 November 2017.

2. The total balance of extension of credit to a single client shall not exceed twenty five (25) per cent of the equity of the non-banking institution; and the total balance of extension of credit made to a single client and related persons shall not exceed fifty (50) per cent of the equity of the non-banking institution.
3. The total balance of extension of credit stipulated in clauses 1 and 2 of this article do not include loans from funds entrusted by the Government, organizations or individuals or where the borrower is another credit institution.
- 4.⁴² The total balance of extension of credit stipulated in clauses 1 and 2 of this article includes the total amount for purchases or investment in bonds issued by clients and/or their related persons.
- 5.⁴³ The State Bank provides regulations on limits and conditions for extending credit by credit institutions and foreign bank branches for investment in and trading shares and enterprise bonds.
6. Where the need for capital of a single client and related persons exceeds the limit on extension of credit stipulated in clauses 1 and 2 of this article, then the credit institution or foreign bank branch shall be permitted to extend syndicated credit in accordance with State Bank regulations.
- 7.⁴⁴ In a special case and in order to implement socio-economic tasks where the capacity of credit institutions and foreign bank branches to extend syndicated credit is unable to satisfy the requirement for a loan to a single client, the Prime Minister of the Government may make a decision on a maximum extension of credit exceeding the limits specified in clauses 1 and 2 of this article on a case-by-case basis.

The Prime Minister of the Government shall provide regulations on the conditions, application file and sequence for requesting approval of an extension of credit exceeding the limits prescribed in clauses 1 and 2 of this article.

8. The total amount of syndicated credit extended by any one credit institution or foreign bank branch as stipulated in clause 7 of this article shall not exceed four times the equity of such credit institution or foreign bank branch.

Article 129 *Limits on capital contribution and share purchase*

1. The level of capital contribution to, or share purchase in any one enterprise operating in the sectors specified in article 103.4 of this Law by a commercial bank and its subsidiary companies and affiliated companies shall not exceed eleven per cent (11%) of the charter capital of the enterprise receiving such capital contribution.
2. The total level of capital contribution to, or share purchase in, enterprises by a commercial bank including its subsidiary companies and affiliated companies shall not exceed forty per cent (40%) of the charter capital and reserve funds of the commercial bank.
3. The level of capital contribution to, or share purchase in, any one enterprise by a finance company and its subsidiary companies and affiliated companies in accordance with article 110.2 of this Law shall not exceed eleven per cent (11%) of the charter capital of the enterprise receiving such capital contribution.

⁴² Allens footnote: As amended by Law 17 dated 20 November 2017.

⁴³ Allens footnote: As amended by Law 17 dated 20 November 2017.

⁴⁴ Allens footnote: As amended by Law 17 dated 20 November 2017.

4. The total level of capital contribution to, or share purchase in, enterprises by a finance company including its subsidiary companies and affiliated companies in accordance with article 110.1 of this Law shall not exceed sixty per cent (60%) of the charter capital and reserve funds of the finance company.
5. A credit institution is not permitted to contribute capital to or purchase shares in any enterprise or other credit institution which is a shareholder or capital contributing member of such former credit institution.
- 6.⁴⁵ The level of capital contribution to or share purchase prescribed in clauses 1 and 3 of this article does not include the level of capital contribution to or share purchase by a fund management company being the subsidiary or affiliated company of a commercial bank or finance company in an enterprise, from funds managed by such [fund management] company.

Article 130 *Prudential ratios*⁴⁶

1. A credit institution or foreign bank branch shall maintain the following prudential ratios:
 - (a) Solvency ratio⁴⁷;
 - (b) Minimum capital adequacy ratio of eight per cent (8%) or a higher percentage as stipulated by the State Bank from time to time;
 - (c) Maximum ratio of short term funds used to provide medium and long-term loans;
 - (d) Status of current foreign currency and gold⁴⁸ over equity;
 - (dd) Ratio of loan balance over total monies deposited;
 - (e)⁴⁹ Ratio of purchase of or investment in Government bonds and in Government guaranteed bonds.
2. A commercial bank or foreign bank branch participating in the national inter-bank payment system must hold the minimum amount of valuable papers permitted to be pledged in accordance with State Bank regulations from time to time.
3. The State Bank shall specify the prudential ratios prescribed in clause 1 of this article as applicable to each form of credit institution and foreign bank branch.
4. The total amount of capital which a credit institution has invested in any other credit institution or subsidiary companies of the credit institution by way of capital contribution or share purchase and investments by way of capital contribution or share purchase in order to control enterprises operating in the banking, insurance or securities sectors must be subtracted from its equity when calculating prudential ratios.

⁴⁵ Allens footnote: As added by Law 17 dated 20 November 2017.

⁴⁶ Allens footnote: The literal translation is "Ratios ensuring safety".

⁴⁷ Allens footnote: Alternative translation is "Liquidity ratio".

⁴⁸ Allens footnote: The literal translation is "Maximum ratio of foreign currency/gold position over equity".

⁴⁹ Allens footnote: As amended by Law 17 dated 20 November 2017.

- [5.⁵⁰ Any credit institution or foreign bank branch which fails to meet or is unable to meet the minimum capital adequacy ratio specified in clause 1(b) of this article must report to the State Bank its solution and remedial plan in order to satisfy such ratio as stipulated. The State Bank shall be entitled to take necessary measures in accordance with article 149 of this Law including limiting the scope of operation and realizing assets of the credit institution or foreign bank branch in order to ensure that such credit institution or foreign bank branch meets the stipulated minimum capital adequacy ratio.]

Article 130a *Application of early intervention to a credit institution or foreign bank branch*⁵¹

1. The State Bank shall consider applying early intervention to a credit institution which falls into one of the following cases but has not yet been placed under special control in accordance with article 145 of this Law:
 - (a) [The credit institution] failed maintain the solvency ratio prescribed in article 130.1(a) of this Law for a consecutive three month period;
 - (b) It failed to maintain the capital adequacy ratio prescribed in article 130.1(b) of this Law for a consecutive six month period;
 - (c) It is ranked as below average in accordance with State Bank regulations.
2. The State Bank shall consider applying early intervention to a foreign bank branch in any one of the cases prescribed in sub-clauses (a), (b) and (c) of clause 1 above.
3. A credit institution or foreign bank branch must, within 30 days after the date of receipt of a letter from the State Bank applying early intervention, report to the State Bank on the actual status, reasons for and a plan on remedying the status describing clause 1 of this article and organize implementation of such a plan. The State Bank may provide a written request to the credit institution or foreign bank branch to amend its remedial plan if considered necessary. The period for implementing the remedial plan shall be a maximum one year from the date of the letter from the State Bank applying early intervention.
4. A remedial plan shall contain one or more of the following measures:
 - (a) Narrowing operational contents and scope, restricting major transactions;
 - (b) Increasing charter capital or issued capital; strengthening the possession of assets with high liquidity; selling or transferring assets and implementing other solutions in order to satisfy the requirements for ensuring safety in the banking operation;
 - (c) Restricting payment of dividends or distribution of profit;
 - (d) Reducing operational expenses or managerial expenses; restricting payment of remuneration, salaries and bonuses to managers and executives;
 - (dd) Strengthening risk management; restructuring the managerial apparatus and reducing personnel;
 - (e) Other measures as provided by law.

⁵⁰ Allens footnote: Repealed by Law 17 dated 20 November 2017.

⁵¹ Allens footnote: Article 130a was added by Law 17 dated 20 November 2017. "Early intervention" is defined in article 4.33.

5. If the credit institution or foreign bank branch is unable to formulate a remedial plan in accordance with clause 3 of this article or is unable to remedy the situation prescribed in clause 1 of this article upon expiry of the period for implementing the remedial plan, then the State Bank shall, depending on the nature and level of risks, require the credit institution or foreign bank branch to apply one or more of the measures prescribed in clause 4 above.
6. The State Bank shall issue a letter terminating application of early intervention after the credit institution or foreign bank branch has remedied the situation prescribed in clause 1 above or when the credit institution is placed under special control.
7. The State Bank shall provide detailed regulations for implementation of this article.

Article 131 *Risk reserves*

1. Credit institutions and foreign bank branches shall establish reserves for risks occurring during their operation. Such reserves shall be accounted for as operational expenses.
2. The State Bank shall, after reaching agreement with the Minister of Finance, regulate classification of assets in credit, and rates and methods of establishing risk reserves and use of risk reserves to deal with risks during operation.
3. Where a credit institution or foreign bank branch recovers [loan] capital already dealt with by a risk reserve, the amount so recovered shall be deemed income of the credit institution or foreign bank branch.

Article 132 *Real estate business*

A credit institution is not permitted to conduct real estate business, except for the following cases:

1. Purchasing, investing or owning real estate to use as its business head office, working location or warehouse directly servicing the professional activities of the credit institution.
2. Leasing out an unused part of the business head office owned by the credit institution.
3. Holding real estate resulting from realization of loan debts. A credit institution must, within three years from the date of the decision on realization of a security asset being real estate, sell, transfer or acquire such real estate in order to ensure the ratios on investment in fixed assets and use purpose of fixed assets stipulated in article 140 of this Law.

Article 133 *Requirements for safety in e-banking activities*

A credit institution or foreign bank branch must ensure safety and confidentiality during its e-banking activities in accordance with State Bank guidelines.

Article 134 *Rights and obligations of controlling company*

A company directly or indirectly owning above twenty (20) per cent of the charter capital or voting share capital, or holding the control, of any one commercial bank before the effective date of this Law; or a commercial bank with a subsidiary company or affiliated company (hereinafter referred to as the *controlling company*) has the following rights and obligations:

1. Subject to the legal form of subsidiary company or affiliated company, the controlling company shall exercise its rights and discharge its obligations as a capital contributing company, the owner or

shareholder in the relationship with the subsidiary company or affiliated company in accordance with the provisions of this Law and [other] relevant laws.

2. Contracts, transactions and other relationships between the controlling company and a subsidiary company or affiliated company must be made and performed in an independent and fair manner on conditions applicable to legally independent entities.
3. The controlling company shall not be permitted to intervene in the organization or operation of the subsidiary company or affiliated company other than [to exercise] rights of the owner, capital contributing members or shareholders.

Article 135 *Capital contribution and share purchase between subsidiary companies and affiliated companies, and controlling company*

1. Subsidiary companies and affiliated companies of the same controlling company are not permitted to contribute capital or purchase shares in each other.
2. Subsidiary companies and affiliated companies of any one credit institution are not permitted to contribute capital or purchase shares in such credit institution.
3. A credit institution which is currently a subsidiary company or affiliated company of a controlling company is not permitted to contribute capital or purchase shares in such controlling company.

CHAPTER 7

Finance, Cost Accounting and Reporting

Article 136 *Finance regime*

Finance regimes of credit institutions and foreign bank branches shall be implemented in accordance with Government regulations.

Article 137 *Fiscal year*

The fiscal year of credit institutions and foreign bank branches shall commence on 1 January and end on 31 December of each western calendar year.

Article 138 *Cost accounting and accounting*

Credit institutions and foreign bank branches must implement cost accounting and accounting in accordance with the law on accounting.

Article 139 *Reserve funds*

1. A credit institution or foreign bank branch shall annually contribute to and maintain the following reserve funds from after-tax profit:
 - (a) Reserve fund for supplementing charter capital or funded capital, with an annual contribution of five per cent of after-tax profit. The maximum level of such fund shall not exceed the charter capital of the credit institution or funded capital of the foreign bank branch;
 - (b) Financial reserve fund;

- (c) Other funds as stipulated by law.
- 2. Credit institutions are not permitted to use the funds mentioned in clause 1 of this article to pay dividends to shareholders or to distribute profit to the owner or capital contributing members.

Article 140 *Purchase of and investment in fixed assets*

A credit institution or foreign bank branch may purchase or invest in fixed assets directly used for its operation provided that the value of such assets shall not exceed fifty (50) per cent of the charter capital plus the charter capital supplementary fund of the credit institution, or fifty (50) per cent of the funded capital plus the funded capital supplementary fund of the foreign bank branch.

Article 141 *Reporting*

- 1. Credit institutions and foreign bank branches shall implement the reporting regime in accordance with the law on accounting and statistics and shall prepare periodical professional reports in accordance with State Bank regulations.
- 2. Credit institutions and foreign bank branches are responsible, in addition to reporting as required by clause 1 of this article, to immediately forward the State Bank a written report in the following circumstances:
 - (a) There is an abnormal development in professional activities which may cause a serious adverse effect on the business status of such credit institution or foreign bank branch;
 - (b) There are changes in the organization, management, executive operation or financial status of a major shareholder [or] other changes which may cause a serious adverse effect on the business operation of the credit institution or foreign bank branch;
 - (c)⁵² There is a change of name of a branch of the credit institution; there is temporary cessation of business activities for under five business days; [or] shares are listed on the domestic securities market.
- 3. Subsidiary companies and affiliated companies of credit institutions are responsible to submit their financial statements and operational reports to the State Bank if so requested.
- 4. Credit institutions and foreign bank branches shall, within ninety (90) days of termination of the fiscal year, forward to the State Bank annual reports in accordance with law.
- 5. Joint venture credit institutions, credit institutions with one hundred (100) per cent foreign owned capital, foreign bank branches and representative offices in Vietnam of a foreign credit institution or other foreign institution engaged in a banking operation shall, within one hundred and eighty (180) days of termination of the fiscal year, forward to the State Bank the annual financial statements of such foreign credit institution or other foreign institution engaged in a banking operation.
- 6. Joint venture credit institutions, credit institutions with one hundred (100) per cent foreign owned capital and foreign bank branches shall immediately submit a written report to the State Bank when the foreign credit institution have a change in one of the following cases:

⁵² Allens footnote: As added by Law 17 dated 20 November 2017.

- (a) Division, demerger, merger, consolidation, liquidation, bankruptcy or dissolution;
- (b) Change of the name or address of head office;
- (c) Change of a major shareholder or in the board of management or executive board;
- (d) Any abnormal change seriously affecting the organization or operation.

Article 142 *Reports of controlling company*

1. Controlling companies shall, in addition to the reports and data stipulated by law and within one hundred and twenty (120) days of termination of the fiscal year, prepare and forward to the State Bank consolidated financial statements audited in accordance with the law on accounting.
2. Controlling companies shall, within ninety (90) days of termination of the fiscal year, prepare and forward to the State Bank a general report on transactions of purchase and sale and other transactions between the controlling company and its subsidiary and affiliated companies.

Article 143 *Publication of financial statements*

Credit institutions and foreign bank branches shall, within one hundred and twenty (120) days of termination of the fiscal year, make public their financial statements in accordance with law.

Article 144 *Overseas remittance of profit and assets*

1. Foreign bank branches and credit institutions with one hundred (100) per cent foreign owned capital in Vietnam may remit overseas their retained profit after contributing to funds and fulfilling all financial obligations in accordance with the law of Vietnam.
2. The foreign party to a joint venture credit institution may remit overseas its shared profit after the joint venture credit institution has contributed to funds and fulfilled all financial obligations in accordance with the law of Vietnam.
3. Foreign bank branches and credit institutions with one hundred (100) per cent foreign owned capital and foreign parties to joint venture credit institutions may remit overseas their remaining assets after liquidation and termination of the operation in Vietnam.
4. Overseas remittance of money and other assets as referred to in clauses 1, 2 and 3 of this article shall be carried out in accordance with the [relevant] law of Vietnam.

CHAPTER 8

Special Control, Restructuring, Bankruptcy, Dissolution and Liquidation of Credit Institutions

Section 1⁵³

Special Control

Article 145 *Cases in which a credit institution shall be placed under special control.*

1. Consideration shall be given to placing a credit institution under special control when it falls into any one of the following cases:
 - (a) It is insolvent or in danger of being insolvent or it is unable to meet its payments or in danger of being unable to meet its payments in accordance with State Bank regulations;
 - (b) Accumulated losses of the credit institution exceed 50% of the value of charter capital plus reserve funds as recorded in its most recent audited financial statements;
 - (c) The credit institution failed to maintain the minimum capital adequacy ratio stipulated in article 130.1(b) of this Law for a consecutive period of one year; or its minimum capital adequacy ratio was less than 4% for a consecutive period of six months;
 - (d) The credit institution has been ranked poor for two consecutive years in accordance with State Bank regulations.
2. When a credit institution is in danger of becoming insolvent or is in danger of being unable to meet its payments, it must promptly report to the State Bank on its actual status, on the reasons for same, the measures already taken and the measures proposed to be taken to remedy the situation, and it must make proposals and recommendations to the State Bank.

Article 145a *Decision placing a credit institution under special control*

1. The State Bank shall consider and make a decision placing a credit institution which falls in any of the cases prescribed in article 145.1 above under special control, and shall establish a special controlling board to control its operation.
2. The State Bank shall decide:
 - (a) The form, duration, extension or termination of special control, and announcement of information about special control of the credit institution;
 - (b) The composition, number of members, structure and operational mechanism of the special controlling board for compliance with the form of special control and the actual status of the credit institution placed under special control.
3. As from the date on which the State Bank places a credit institution under special control, the outstanding balance of principal and interest of refinanced loans provided by the State Bank to the credit institution shall be transferred to the outstanding balance of special loans.

⁵³ Allens footnote: All of this Section 1 on Special Control is as amended by Law 17 dated 20 November 2017, namely up until article 152c on page 90 of this translation..

Article 145b *Termination of special control*

The State Bank shall consider and make a decision terminating special control of a credit institution in one of the following cases:

1. The credit institution has remedied the situation which resulted in it being placed under special control and complies with the prudential ratios prescribed in article 130 of this Law.
2. During the period of special control, the credit institution is merged or consolidated with another credit institution, or is dissolved.
3. After a judge appoints an administrator or enterprise to manage or liquidate assets in order to conduct bankruptcy procedures of the credit institution placed under special control.

Article 146 *Authority to make a decision restructuring a credit institution under special control.*

1. The Government has the following authority:
 - (a) To make an in-principle decision on restructuring pursuant to the remedial plan, plan on compulsory transfer or plan on bankruptcy of the credit institution placed under special control;
 - (b) To approve the plan on compulsory transfer or the plan on bankruptcy of the credit institution placed under special control;
 - (c) To make a decision applying special measures aimed at ensuring safety of the credit institution system and social order and safety when dealing with a credit institution placed under special control, and to report same to the National Assembly at its next session.
2. The Prime Minister of the Government has the following authority:
 - (a) To make an in-principle decision on restructuring pursuant to the remedial plan or plan on merger or consolidation or transfer of the entire shareholding and capital contribution portions in the case of a commercial bank, co-operative bank or finance company placed under special control;
 - (b) To approve the remedial plan or plan on merger or consolidation or transfer of the entire shareholding and capital contribution portions in the case of a commercial bank, co-operative bank or finance company placed under special control;
 - (c) To make a decision on special loans provided by the State Bank with preferential interest rates of up to 0% in the case of a credit institution placed under special control.
3. The State Bank has the following authority:
 - (a) To make an in-principle decision on restructuring pursuant to the remedial plan or plan on merger or consolidation or transfer of the entire shareholding and capital contribution portions in the case of a people's credit fund or micro-finance institution;
 - (b) To approve the remedial plan or plan on merger or consolidation or transfer of the entire shareholding and capital contribution portions in the case of a people's credit fund or micro-finance institution, except in the case of a decision to provide special loans as prescribed in clause 2(c) above;

- (c) To make a decision on Vietnam Deposit Insurance purchasing long-term bonds of an assisting credit institution.

Article 146a *Duties and powers of the State Bank with respect to a credit institution placed under special control*

1. To deal with recommendations of the special controlling board regulated in article 146(b) of this Law.
2. To decide to apply one or more of the assisting measures prescribed in clauses 1 and 2 of article 148(b) of this Law prior to approval of the restructuring plan, except where a decision is made to provide special loans as prescribed in article 146.2(c) of this Law.
3. To appoint the chairman and other members of the board of management or the chairman and other members of the members' council, the head and other members of the board of controllers, the general director (director) or deputy general director (deputy director) and other equivalent positions in the credit institution under special control.
4. To decide or to amend the operational contents and scope, and the operational network of the credit institution placed under special control.
5. To make a decision not applying measures to remedy insolvency or to make a decision terminating application of such measures in the case of a credit institution implementing an approved plan on bankruptcy.
6. To make a decision providing a special loan from the State Bank pursuant to article 146d.1(a) of this Law, except in the case of a decision to provide a special loan pursuant to article 146.2(c) of this Law.
7. To require the owner, capital contributing members and shareholders of the credit institution placed under special control:
 - (a) To report the use of their shares or capital contribution portions;
 - (b) Not to transfer their shares or capital contribution portions;
 - (c) Not to use their shares or capital contribution portions as security assets.
8. Other duties and powers as stipulated in this Law.

Article 146b *Duties and powers of the special controlling board*

1. To direct the board of management or members' council and the general director (director) of the credit institution under special control to undertake the following:
 - (a) To review and amend the organizational structure, network and business operation, and to concentrate on recovery of bad debts and realization of security assets;
 - (b) To reduce expenses, and to reduce interest rates on deposits, on bonds with high interest rates, and on rent of high rental asset lease contracts and hire purchase contracts.
2. To instruct the credit institution under special control to formulate and implement a restructuring plan in accordance with this Law.

3. To suspend one or more of the business activities of the credit institution under special control if such activities may increase risks of the credit institution or if they are inconsistent with the approved restructuring plan.
4. To suspend or temporarily suspend the managerial, executive or controlling authority of, and propose that the State Bank appoint persons to replace the chairman or members of the board of management, the chairman or members of the members' council, the head or members of the board of controllers, the general director (director) or deputy general director (deputy director) and other equivalent positions of the credit institution under special control.
5. To require the board of management or members' council and the general director (director) to dismiss or suspend work of any person committing a breach of law or failing to comply with the approved restructuring plan or failing to comply with instructions and directions from the special controlling board.
6. To propose that the State Bank make decisions changing the form of special control, or extending or terminating the duration of special control; or providing a special loan or extending the term of or recovering a special loan; or liquidating assets of or revoking the licence of the credit institution under special control.
7. Other duties and powers stipulated in this Law.

Article 146c *Responsibilities of a credit institution placed under special control, and of the owner, capital contributing members, shareholders, board of management or members' council, board of controllers and general director (director)*

1. The credit institution placed under special control and its owner, capital contributing members and shareholders have the following responsibilities:
 - (a) To formulate a restructuring plan as requested by the special controlling board;
 - (b) To implement the in-principle decision on and the restructuring plan as approved by the authorized level;
 - (c) To implement the decisions and requirements of the State Bank as prescribed in article 146a of this Law;
 - (d) To implement the decisions and requirements of the special controlling board as prescribed in article 146b of this Law.
2. The board of management or members' council, the board of controllers and the general director (director) of the credit institution under special control have the following responsibilities:
 - (a) To undertake the duties prescribed in clause 1 above;
 - (b) To manage, control and executively operate the business activities of the credit institution, ensuring the safety of its assets.

Article 146d *Special loans*

1. A credit institution placed under special control may obtain special loans from the State Bank, Vietnam Deposit Insurance, Vietnam Co-operative Bank and other credit institutions in the following cases:

- (a) To assist with payments when the credit institution is in danger of being unable to make payments or when it is unable to make payments, threatening the stability of the system during the period [duration] for which the credit institution is placed under special control, including when the credit institution is implementing the approved restructuring plan;
 - (b) To assist recovery in accordance with the remedial plan or plan on compulsory transfer as approved.
- 2. Special loans shall be prioritized for repayment over all other debts including secured debts of the credit institution in the following cases:
 - (a) On maturity, except when the duration of the restructuring plan has not yet been approved or when such plan is changed but the change has not yet been approved;
 - (b) On dissolution or bankruptcy of the credit institution.
- 3. The State Bank shall provide detailed regulations on provision of special loans to credit institutions placed under special control.

Article 146dd *Management, executive operation and activities of a credit institution placed under special control*

- 1. The State Bank shall decide the operational contents and scope of a credit institution placed under special control, except in the cases prescribed in article 146b.3 of this Law.
- 2. A credit institution under special control is not required, during the duration of such special control, to comply with the provisions in articles 128, 130, 131 and 140 of this Law but shall implement [such matters] in accordance with the decision of the State Bank applicable to each specific case; if the amount of money required to establish a risk reserve is greater than the difference between revenue and expenses according to the annual business results (excluding the amount of a risk reserve temporarily established [set aside] during the year), then the minimum amount required for establishment of risk reserves shall equal such difference.
- 3. A credit institution placed under special control is not required to implement the compulsory reserve.
- 4. A credit institution placed under special control is exempt from paying monetary deposit insurance premiums, and fees for participation in the Fund for Ensuring Safety of the People's Credit Fund System.
- 5. Holding meetings of the general meeting of shareholders and disclosure of information by the credit institution under special control shall be implemented in accordance with requests from the State Bank, in conformity with the objective of ensuring the safety of the credit institution system.
- 6. The number of members of and the term of office of the board of management or members' council and of the board of controllers of the credit institution under special control shall be as decided by the State Bank, in conformity with the operational status of such credit institution.

If the board of management or members' council, or if the board of controllers reaches the end of its term without the credit institution under special control electing or appointing a new such board of management or members' council or board of controllers, then the current board of management or members' council or board of controllers shall continue to manage and control the credit institution in accordance with law.

Assessment of Actual Status of an In-principle Decision on Restructuring a Credit Institution under Special Control

Article 147 *Overall assessment of actual status of a credit institution under special control*

1. The special controlling board shall require the credit institution under special control to hire an independent auditor to review and assess the actual financial status and to determine the actual value of the charter capital and reserve funds, with specific contents as requested by the special controlling board. Such hiring must be completed within thirty (30) days after the date of the decision establishing the special controlling board.

If the credit institution under special control fails to complete hiring of an independent auditor within this time-limit, then the special controlling board shall appoint an independent auditor.

2. The credit institution under special control must, within four (4) months from the date of the decision establishing the special controlling board, complete and send to the special controlling board a report on the results of its own overall assessment of its actual status and recommendations on restructuring the credit institution under special control.
3. The special controlling board shall, within five (5) months after the date of the decision establishing it, complete its overall assessment of the actual status of the credit institution under special control, including a case when such credit institution fails to make its own assessment as prescribed in clause 2 above.
4. The overall assessments of the actual status of the credit institution under special control prescribed in clauses 2 and 3 above must, except in the case of a people's credit fund, be based on the report of the independent auditor prescribed in clause 1 of this article.
5. The contents of the overall assessments referred to above shall be as decided by the special controlling board, but must include at least the following items:
 - (a) The actual status of finances and the actual value of charter capital and reserve funds;
 - (b) The actual status of organization, management, executive operation, and of the information technology system;
 - (c) The actual status of activities/operation and business.
6. The credit institution under special control shall pay the costs of hiring the independent auditor and other costs relating to the overall assessment of its status, and such costs shall be accounted for as operational expenses of the credit institution.

Article 147a *Proposal on an in-principle decision on restructuring a credit institution under special control*

1. The special controlling board shall, on the basis of the overall assessment of the actual status of the credit institution under special control, make a proposal to the State Bank on the policy for dealing with such credit institution.

2. Within a maximum sixty (60) days after receipt of the proposal from the special controlling board, the State Bank shall make a decision or make a submission to the Government or Prime Minister to make a decision on in-principle approval of restructuring such credit institution in accordance with the authority prescribed in article 146 of this Law.
3. Within thirty (30) days after receipt of a proposal from the State Bank, the Government or Prime Minister shall consider and make a decision on in-principle approval of restructuring such credit institution under special control pursuant to the authority prescribed in article 146 of this Law.

Section 1b

Remedial Plan for a Credit Institution under Special Control

Article 148 *Formulation and approval of a remedial plan*

1. A credit institution under special control must, within sixty (60) days after the date of receipt of the in-principle decision on restructuring in accordance with the remedial plan, complete formulation of the remedial plan and submit same to the special controlling board.
2. The special controlling board shall, within thirty (30) days after receipt of the remedial plan from the credit institution under special control, assess the feasibility of the remedial plan and report same to the State Bank.

In the case of a remedial plan for a people's credit fund, the special controlling board must coordinate with Vietnam Deposit Insurance and Vietnam Co-operative Bank to assess the feasibility of the plan; and in the case of a remedial plan for a micro-finance institution or for a finance company, the special controlling board shall coordinate with Vietnam Deposit Insurance to assess the feasibility of the plan.

3. The State Bank shall, within sixty (60) days after receipt of the report and remedial plan submitted by the special controlling board, consider and approve same or make a submission to the Prime Minister to approve same in accordance with the authority prescribed in article 146 of this Law.
4. If the credit institution under special control fails to complete formulation of the remedial plan pursuant to clause 1 above or if such plan is not approved by the authorized level as prescribed in clause 3 above, then the State Bank shall make its own decision or shall make a submission to the Government or the Prime Minister to make an in-principle decision on merger, or consolidation, or transfer of the entire shareholding and capital contribution portions, or on dissolution, or on compulsory transfer or on bankruptcy of the credit institution under special control pursuant to the authority prescribed in article 146 of this Law.

Article 148a *Contents of a remedial plan*

1. A remedial plan shall contain at least the following contents:
 - (a) A plan on increasing charter capital and the deadline for achieving same in the following cases: the actual value of charter capital is less than the legal capital amount; the minimum prudential ratio is below the level stipulated by the State Bank; or pursuant to a request of the State Bank in order to ensure safe operation of the credit institution;
 - (b) A business operation plan within the remedial period;
 - (c) A plan on restructuring organization, management and executive operation;

- (d) A plan on dealing with current issues, financial weaknesses, bad debts, security assets and measures for remedying breaches of law;
 - (dd) A plan on repayment in accordance with a roadmap of monetary deposits from clients being legal entities, and monetary deposits and loan monies from other credit institutions; and a plan on dealing with special loan monies obtained, including special loans prescribed in article 145a.3 of this Law;
 - (e) Assisting measures prescribed in article 148b of this Law which need to be applied;
 - (g) The roadmap for and duration of implementation of the remedial plan.
2. If the State Bank proposes to appoint an assisting credit institution, then the credit institution under special control shall coordinate with the assisting credit institution to add the following items in addition to those prescribed in clause 1 above:
- (a) A plan on assistance from the assisting credit institution to the credit institution under special control; and a plan on assistance for the assisting credit institution;
 - (b) A plan on payment of salaries, remuneration, bonuses and other regimes for people seconded to participate in providing assistance in management and executive operation of the credit institution under special control;
 - (c) A plan on payment of salaries to employees of the credit institution under special control during the duration of such special control.

Article 148b *Assisting measures [or support] for implementation of a remedial plan*

1. A credit institution under special control being a commercial bank, co-operative bank or finance company may have one or more of the following assisting measures applied to it:
- (a) Sale of bad debts to the organization 100% charter capital of which is owned by the State and which was established by the Government to deal with bad debts of credit institutions [namely Vietnam Asset Management Company or VAMC] being bad debts without security assets or bad debts with security assets which are currently subject to an inventory and/or which do not have valid files and documents;
 - (b) Provision of special loans from the State Bank at preferential interest rates of up to 0%;
 - (c) Gradual cost accounting over a maximum ten (10) years into expenses of the difference between the book value of debts, accounts receivable, investments being capital contributions or purchase of shares currently accounted for in the accounting balance sheet, and their selling price and the monetary reserves established for these items, consistent with the financial condition of the credit institution under special control;
 - (d) Exemption or reduction of interest on refinanced loans or special loans from the State Bank;
 - (dd) A finance company may be permitted to take out special loans at preference interest rates up to 0% from Vietnam Deposit Insurance [sourced] from its professional reserve fund;
 - (e) To receive monetary deposits or loans from the assisting credit institution at a preferential interest rate;

- (g) To purchase debts and enterprise bonds held by the assisting credit institution and currently in the category of [eligible] debts satisfying the criteria prescribed by State Bank regulations;
 - (h) To purchase or invest in the information technology system [of the credit institution under special control] at a ratio exceeding the ratio stipulated in article 140 of this Law;
 - (i) Other measures in accordance with the approved remedial plan.
2. A credit institution under special control being a people's credit fund or micro-finance institution may have one or more of the following assisting measures applied to it:
- (a) The measures prescribed in clause 1(a) above;
 - (b) It may be permitted to take out special loans at preferential interest rates up to 0% from Vietnam Deposit Insurance [sourced] from its professional reserves fund;
 - (c) A micro-finance institution may receive special loans from the State Bank at preferential interest rates up to 0%;
 - (d) A people's credit fund may receive special loans from the Vietnam Co-operative Bank and from the Fund for Ensuring Safety of the People's Credit Fund System at preferential interest rates up to 0%;
 - (dd) Other measures in accordance with the approved remedial plan.
3. Vietnam Deposit Insurance shall deal with losses being irrecoverable special loan monies by accounting for them as a reduction of its professional reserves fund.
4. Vietnam Co-operative Bank shall deal with losses being irrecoverable special loan monies by accounting for them as a reduction of the Fund for Ensuring Safety of the People's Credit Fund System.

Article 148c *Organizing implementation of a remedial plan*

- 1. The special controlling board shall direct, inspect and supervise the credit institution under special control to implement [realize] the contents of the approved remedial plan.
- 2. Based on a proposal from the special controlling board, the State Bank shall make a decision or make a submission to the Prime Minister to make a decision on the following matters:
 - (a) Amending or supplementing the remedial plan, including extension of the term [duration] of its implementation;
 - (b) Termination of implementation of the remedial plan in order to change to a plan on merger, or consolidation, or transfer of the entire shareholding and capital contribution portions, on the basis of a recommendation made by the credit institution under special control to the special controlling board.
- 3. The State Bank shall issue a decision appointing an assisting credit institution in accordance with the approved remedial plan.

4. If the State Bank considers that the credit institution under special control is unable to remedy its situation in accordance with the approved remedial plan, or if on expiry of the term for implementation of such plan the credit institution is unable to remedy the situation which lead to its being placed under special control, then the State Bank shall make its own decision or shall make a submission to the Government or the Prime Minister to make an in-principle decision on merger, on consolidation, on transfer of the entire shareholding and capital contribution portions, on dissolution, on compulsory transfer, or on bankruptcy of the credit institution in accordance with the authority prescribed in article 146 of this Law.

Article 148d *Conditions applicable to an assisting credit institution*

The following conditions must be satisfied in order to be appointed as an assisting credit institution:

1. It's business operation was profitable for the two (2) consecutive years prior to appointment, in accordance with the financial statements audited by an independent auditor.
2. It satisfies the prudential ratios prescribed in article 130 of this Law.
3. The composition and number of members of the members' council or board of management and of the board of controllers complies with the provisions of law.
4. It has an internal audit system and full-time internal audit staff in compliance with the provisions of articles 40 and 41 of this Law.

Article 148dd *Rights and obligations of an assisting credit institution*

1. To coordinate with the credit institution under special control to formulate the remedial plan in accordance with article 148a.2 of this Law.
2. To select, introduce and second senior staff with adequate competence, experience and conditions [qualifications] to participate in management, control and executive operation of the credit institution under special control pursuant to a request from the State Bank.
3. To arrange management and supervision of the organization, and to arrange commencement of operation of the credit institution under special control in accordance with the approved remedial plan; and to make proposals to the special controlling committee on any amendments or additions to the approved remedial plan.
4. To provide loans to, and to lodge monetary deposits at preferential interest rates with the credit institution under special control in accordance with the approved remedial plan.
5. To sell debts and enterprise bonds currently classified in the group of [eligible] debts which satisfy the criteria stipulated in State Bank regulations to the credit institution under special control at the request of the State Bank.
6. To acquire or redeem the debts and enterprise bonds previously sold pursuant to clause 5 above, at the request of the State Bank.
7. To be entitled to refinancing at preferential interest rates up to 0%, and to a 50% reduction of the compulsory reserves ratio in accordance with the approved remedial plan.
8. Not to be subject to restrictions on the ratio of purchase of and investment in Government bonds and Government guaranteed bonds as prescribed in article 130.1(e) of this Law.

9. Loans made to and monies deposited with the credit institution under special control shall be subject to the risk coefficient of 0% on calculation of minimum capital adequacy ratios and shall be classified in the group of [eligible] debts which satisfy the criteria.
10. Payments being salary, remuneration and bonuses paid to staff seconded to participate in management, control and executive operation of the credit institution under special control shall be accounted for as operational expenses.
11. To be entitled to issue long-term bonds to Vietnam Deposit Insurance in accordance with a decision of the State Bank.
12. To be entitled to other assisting measures within the decision-making authority of the State Bank.

Section 1c

Plan on Merger, or Consolidation or Transfer of the Entire Shareholding and Capital Contribution Portions in the Credit Institution under Special Control

Article 149 *Merger or consolidation or transfer of the entire shareholding and capital contribution portions in the credit institution under special control*

1. A plan on merger or consolidation or transfer of the entire shareholding and capital contribution portions in the credit institution under special control shall be formulated and approved on satisfaction of the following conditions:
 - (a) There is an in-principle decision on merger, or consolidation, or transfer of the entire shareholding and capital contribution portions as prescribed in article 147a of this Law or in a case of such merger or consolidation or transfer as prescribed in articles 148.4, or clauses 2 or 4 of article 148c respectively of this Law;
 - (b) There is a credit institution available to receive the merger or to consolidate, or there is an investor to receive a transfer of the entire shareholding and capital contribution portions who satisfies the conditions stipulated by law;
 - (c) The credit institution after the merger or consolidation ensures that the minimum actual value of charter capital equals the level of illegal capital and satisfies the prudential ratios prescribed in article 30 this Law.
2. The sequence and procedures for making an in-principle decision on merger or consolidation or transfer of the entire shareholding and capital contribution portions in a credit institution under special control in the cases prescribed in article 148.4 and in clauses 2 and 4 of article 148c of this Law, shall be implemented in accordance with clauses 2 and 3 of article 147a of this Law.

Article 149a *Formulation and approval of a plan on merger or consolidation or transfer of the entire shareholding and capital contribution portions*

1. The sequence for formulating and approving the plan on merger, on consolidation or on transfer of the entire shareholding and capital contribution portions shall be implemented in accordance with the provisions in clauses 1, 2, and 3 of article 148 of this Law.
2. If a credit institution under special control fails to complete formulation of the plan, or if the plan is not approved by the authorized level within the time-limit prescribed in clauses 1 and 3 of article 148 of

this Law, then the State Bank shall make a submission to the Government to make an in-principle decision on dissolution or on compulsory transfer or on bankruptcy of the credit institution under special control.

Article 149b *Contents of a plan on merger, or consolidation, or on transfer of the entire shareholding and capital contribution portions*

1. A plan on merger, or on consolidation, or on transfer of the entire shareholding and capital contribution portions shall comprise the following minimum contents:
 - (a) Name of the plan and the procedures for its implementation;
 - (b) Information about the credit institution which is merging, about the credit institution accepting the merger or about the consolidating and consolidated credit institutions, or about the investor to receive the entire shareholding and capital contribution portions, including items proving capacity and satisfaction of conditions stipulated by law;
 - (c) A plan on the structure of organization, management and executive operation, including integration and conversion of the information technology system in the case of a merger or consolidation;
 - (d) A plan on business activities in the three (3) year period following the merger, consolidation or transfer, including the proposed prudential ratios prescribed in article 130 of this Law;
 - (dd) A plan on dealing with special loans which were borrowed, including the special loans prescribed in article 145a.3 of this Law;
 - (e) Assisting measures as prescribed in article 149(c) of this Law which need to applied;
 - (g) The roadmap and term for implementing the plan.
2. In the case of transfer of the entire shareholding and capital contribution portions, the plan must also contain a plan on remedying the situation which led to the credit institution being placed under special control.

Article 149c *Assisting measures for implementing [realizing] a plan on merger, or consolidation, or transfer of the entire shareholding and capital contribution portions*

A credit institution after merger, or consolidation, or transfer of its entire shareholding and capital contribution portions, may have one or more of the following assisting measures applied to it:

1. The measures prescribed in sub-clauses (a) and (c) of article 148b.1 of this Law.
2. If the amount of money required to establish a risk reserve is greater than the difference between revenue and expenses according to the annual business results (excluding the amount of a risk reserve temporarily established [set aside] during the year), then the amount of the risk reserve to be established shall be implemented in accordance with the approved plan but the minimum amount shall equal the difference between revenue and expenses.
3. Other measures in accordance with the approved plan.

Article 149d *Organization of implementation of the plan on merger, or consolidation, or transfer of the entire shareholding and capital contribution portions*

1. The State Bank shall direct, inspect and supervise implementation of an approved plan.
2. The State Bank may itself make a decision or make a submission to the Prime Minister to make a decision in accordance with authority amending or supplementing a plan including extending the term or duration for its implementation, on the basis of a proposal made by the special controlling board.
3. The sequence and procedures for implementing a merger, consolidation, or transfer of the entire shareholding and capital contribution portions shall be implemented in accordance with provisions of law.
4. If on expiry of the term for implementation of the plan the credit institution under special control has failed to implement such plan, then the State Bank shall consider and make a submission to the Government to make an in-principle decision on dissolution or compulsory transfer or bankruptcy of the credit institution under special control.

Section 1d

Plan on Dissolution of a Credit Institution under Special Control

Article 150 *Dissolution of a Credit Institution under Special Control*

1. On the proposal of the State Bank, the Government shall make an in-principle decision to dissolve a credit institution under special control in accordance with article 147a or in the cases prescribed in articles 148.4, 148c.4, 149a.2 or 149d.4 of this Law when such credit institution satisfies the conditions for dissolution prescribed in the law on dissolution of enterprises and co-operatives.
2. The sequence and procedures for issuing an in-principle decision to dissolve a credit institution under special control in the cases prescribed in articles 148.4, 148c.4, 149a.2 or 149d.4 of this Law shall be implemented in accordance with the provisions in clauses 2 and 3 of article 147a of this Law.

Article 150a *Organizing implementation of dissolution*

1. After the Government has made an in-principle decision on dissolution, the State Bank shall direct, inspect and supervise implementation of dissolution of the credit institution under special control and shall supervise liquidation of its assets in accordance with article 156.2 of this Law.
2. The credit institution under special control shall implement dissolution in accordance with law.

Section 1dd

Plan on Compulsory Transfer of a Commercial Bank under Special Control

Article 151 *Compulsory transfer of a commercial bank under special control*

1. The State Bank shall make a submission to the Government to make an in-principle decision on compulsory transfer by a credit institution being a commercial bank under special control, to a transferee prescribed in article 147a or in the cases prescribed in articles 148.4, 148c.4, 149a.2 or 149d.4 of this Law when the said commercial bank satisfies the following conditions:
 - (a) The actual value of its charter capital and reserve funds is negative;

- (b) There is a proposal from a prospective transferee.
2. The sequence and procedures for issuing an in-principle decision on compulsory transfer by a commercial bank under special control in the cases prescribed in articles 148.4, 148c.4, 149a.2 or 149d.4 of this Law shall be implemented in accordance with clauses 2 and 3 of article 147a of this Law.

Article 151a *Formulation and approval of a plan on compulsory transfer by a commercial bank under special control*

1. The State Bank shall require the commercial bank under special control to hire an independent auditor to review and assess its actual financial status and to determine the actual value of its charter capital and reserve funds, except where there is already a report from an independent auditor in accordance with article 147 of this Law and such audit report was issued within the six (6) month period prior to the Government making the in-principle decision on compulsory transfer.
2. The State Bank shall, based on the audit results of the independent auditor on the actual value of charter capital and reserve funds, and based on a proposal from the special controlling board, issue a decision on such actual value of the charter capital and reserve funds, recording the reduction in the charter capital of the commercial bank under special control and the amount of additional capital required to ensure that the actual value of charter capital is at least equal to legal capital.
3. The State Bank shall provide a written request to the commercial bank under special control to increase its charter capital within a specified period.

If the commercial bank completes increase of its charter capital, then the State Bank shall request the commercial bank to continue to implement the approved plan or to formulate and implement a remedial plan in accordance with Section 1b of Chapter 8 of this Law, or the State Bank shall consider terminating special control in accordance with article 145b of this Law.

If the commercial bank fails to complete increase of its charter capital, then the special controlling board shall request the proposed transferee to complete a plan on compulsory transfer and submit same to the special controlling board for its review within a maximum sixty (60) days after the date of the request.

4. The special controlling board shall, within thirty (30) days after receipt of the plan on compulsory transfer from the proposed transferee, assess the feasibility of such plan and report same to the State Bank.
5. The State Bank shall, within sixty (60) days after the date of receipt of the report and plan on compulsory transfer from the special controlling board, make a submission to the Government to approve the plan on compulsory transfer of the commercial bank under special control.
6. The Government shall, within thirty (30) days after the date of the submission made by the State Bank, approve the plan on compulsory transfer and assign the State Bank to issue a decision on compulsory transfer.
7. If the plan on compulsory transfer fails to be formulated or if the plan is not approved, then the State Bank shall make a submission to the Government to issue an in-principle decision on bankruptcy of the commercial bank under special control.

Article 151b *Contents of a plan on compulsory transfer*

A plan on compulsory transfer shall contain at least the following items:

1. Information about the transferee.
2. Plan on increasing charter capital and the time-limit for achieving same.
3. Business operational plan consistent with the actual status of the commercial bank under special control in each period.
4. Plan on restructuring organization, management and executive operation.
5. Plan on dealing with current issues including weaknesses, bad debts and security assets.
6. Plan on dealing with monetary deposits from clients being legal entities, and with other monetary deposits and loan monies from other credit institutions; and a plan on dealing with special loans which have been borrowed including the special loans prescribed in article 145a.3 of this Law.
7. Plan on dealing with shares and capital contribution portions of the transferee in the commercial bank under special control after such compulsory transfer and which exceed the stipulated limits [restrictions] applicable to credit institutions not under special control, or plan on dealing with the legal entity in the case of a commercial bank under special control and after such compulsory transfer by increasing charter capital, by transferring shareholding and capital contribution portions to new investors, or by merging or consolidating with another credit institution.
8. Assisting measures as stipulated in article 151c of this Law which need to be applied.
9. The roadmap for and term for implementing the plan on compulsory transfer.

Article 151c *Assisting measures for implementing a plan on compulsory transfer*

A commercial bank required to compulsory transfer may enjoy one or more of the measures prescribed in article 148b.1 of this Law in accordance with the approved plan on compulsory transfer.

Article 151d *Organizing implementation of a plan on compulsory transfer*

1. The State Bank shall issue a decision requiring compulsory transfer after the plan on compulsory transfer has been approved. As from the date on which the State Bank issues such decision, all rights and interests of the owner, capital contributing members and shareholders of the commercial bank required to compulsorily transfer shall be terminated.
2. The decision requiring compulsory transfer shall contain at least the following items:
 - (a) Name of the transferee; and name of the commercial bank transferor prior to and after the transfer; and the legal form and charter capital of the commercial bank after the transfer;
 - (b) Termination of all rights and interests of the owner, capital contributing members and shareholders of the commercial bank to be transferred;
 - (c) Responsibilities of the transferee and of the commercial bank under special control after the transfer.

3. The transferee must carry out the following:
 - (a) Exercise the rights of the owner, capital contributing members and shareholders of the commercial bank making the transfer;
 - (b) Implement the approved plan on compulsory transfer.
4. The commercial bank under special control must, after the transfer, conduct the following:
 - (a) Conduct procedures (if any) to convert legal form of the commercial bank under special control, and the procedures to change the owner, capital contributing members and shareholders;
 - (b) Implement the approved plan on compulsory transfer.
5. In necessary cases the State Bank shall make a submission to the Government to issue a decision amending or supplementing the plan on compulsory transfer, including an extension of the term for implementing such plan.
6. The State Bank shall direct, inspect and supervise implementation of the approved plan on compulsory transfer.
7. If on expiry of the term for implementing the plan on compulsory transfer the commercial bank under special control has failed to remedy the situation which resulted in its being placed under special control, then the State Bank shall consider making a submission to the Government to issue an in-principle decision on bankruptcy of the commercial bank under special control.

Article 151dd *Conditions applicable to a transferee*

1. A transferee being a credit institution must satisfy the following conditions:
 - (a) Its business operation was profitable for at least the two (2) consecutive years prior to the time of the proposal to accept the transfer, in accordance with its independently audited financial statements;
 - (b) It satisfies the prudential ratios prescribed in article 130 of this Law;
 - (c) There is a feasible plan on compulsory transfer, including contents proving that the transferee has sufficient capital sources in order to contribute capital in accordance with the plan.
2. A transferee not being a credit institution must satisfy the following conditions:
 - (a) Be a legal entity;
 - (b) Satisfy the conditions prescribed in sub-clauses (a) and (c) of clause 1 above.

Article 151e *Rights of a transferee*

1. A transferee being a credit institution has the following rights:
 - (a) Ownership of 100% charter capital of the commercial bank being the compulsory transferor in the case of conversion to a single member limited liability company;

- (b) Not required to consolidate the financial statements of the commercial bank being the compulsory transferor;
- (c) Entitled to exclude the commercial bank being the compulsory transferor when calculating its consolidated capital adequacy ratio;
- (d) The capital contribution to the commercial bank being the compulsory transferor shall not be required to be subject to establishment of a provision or reserve for reduction in the value of investments and may be excluded when calculating the restrictions on capital contribution and purchase of shareholding by the credit institution being the transferee.

The amount [level] of capital contribution and shareholding purchase by the credit institution being the transferee in the commercial bank being the compulsory transferor shall be implemented in accordance with the ratio prescribed in the approved plan on compulsory transfer;

- (dd) It shall be permitted to sell or issue shareholding in the credit institution being the transferee to foreign investors in compliance with the approved plan on compulsory transfer;
- (e) Application of one or more assisting measures prescribed in article 148b of this Law in accordance with the approved plan on compulsory transfer.

2. A transferee which is not a credit institution shall have the right of ownership of shares and capital contribution portions in the transferred commercial bank in excess of the ratio limiting ownership of shares and capital contributions prescribed in articles 55 and 70 of this Law.

Article 151g *Dealing with shares and capital contribution portions which exceed the prescribed limits and dealing with a legal entity in the case of a commercial bank under special control after it has been compulsorily transferred*

1. Dealing with the shares and capital contribution portions of the transferee in the commercial bank under special control after the compulsory transfer and where they exceed the limits applicable to a credit institution not under special control, or dealing with a legal entity in the case of a commercial bank under special control after its compulsory transfer shall be implemented in accordance with the approved plan on compulsory transfer.
2. Dealing with shares and capital contribution portions or dealing with the legal entity as prescribed in clause 1 above shall be implemented prior to the deadline determined in the approved plan on compulsory transfer on satisfaction of the following conditions:
 - (a) Increase of charter capital in accordance with the approved plan on compulsory transfer has been completed;
 - (b) One (1) year has expired after the effective date of the decision on compulsory transfer.

Section 1e

Bankruptcy Plan for a Credit Institution under Special Control

Article 152 *Bankruptcy of a credit institution under special control*

1. The State Bank shall consider and make a submission to the Government to issue an in-principle decision on bankruptcy of a credit institution under special control in accordance with article 147a or

in one of the cases prescribed in articles 148.4, 148c.4, 149a.2, 149d.4, 151a.7 or 151d.7 of this Law when the credit institution under special control becomes bankrupt.

2. The sequence and procedures for issuing an in-principle decision on bankruptcy in the cases prescribed in 148.4, 148c.4, 149a.2, 149d.4, 151a.7 or 151d.7 of this Law shall be implemented in accordance with clauses 2 and 3 of article 147a of this Law.

Article 152a *Formulation and approval of a bankruptcy plan*

1. The special controlling board shall, within thirty (30) days after the date on which the Government issues an in-principle decision on bankruptcy of the credit institution under special control, preside over co-ordination with such credit institution and with Vietnam Deposit Insurance to formulate the bankruptcy plan for such credit institution and submit same to the State Bank for its consideration.

In a case where a bankruptcy plan for a people's credit fund is formulated, the special controlling board shall preside over coordination with such people's credit fund under special control, with Vietnam Deposit Insurance and with Vietnam Co-operative Bank to implement the plan.

2. The State Bank shall, within thirty (30) days after the date of receipt of the bankruptcy plan, review and assess the feasibility of the plan and make a submission to the Government to approve the plan on bankrupting of the credit institution under special control.

Article 152b *Contents of a bankruptcy plan*

A bankruptcy plan shall contain at least the following:

1. Assessment of the actual status and the process of dealing with the credit institution under special control which is the subject of the in-principle decision on bankruptcy.
2. Assessment of the impact of implementation of the bankruptcy plan by the credit institution under special control on the safety of the credit institution system.
3. Plan on payment of monetary deposits to clients being individuals.
4. Roadmap and responsibilities for implementing the bankruptcy plan.

Article 152c *Organizing implementation of a bankruptcy plan*

1. The State Bank shall direct, inspect and supervise implementation of the approved bankruptcy plan, including requesting the credit institution under special control to lodge a petition requesting the court to open bankruptcy procedures in accordance with the law on bankruptcy.
2. In necessary cases the State Bank shall make a submission to the Government to issue a decision amending or supplementing the bankruptcy plan.
3. Bankruptcy of a credit institution under special control shall be implemented in accordance with the provisions of the law on bankruptcy of credit institutions.

Article 153 *Restructuring a credit institution*

1. A credit institution may be restructured by way of division, demerger, consolidation, merger, acquisition or conversion of legal form after obtaining written approval from the State Bank.

2. The State Bank shall provide specific regulations on conditions, files, order and procedures for approval of restructuring of a credit institution.

Article 154 *Dissolution of credit institution or foreign bank branch*

A credit institution or foreign bank branch shall be dissolved in the following circumstances:

1. The credit institution voluntarily requests to be dissolved and is capable of settling all outstanding debts, and the State Bank provides written approval to the dissolution.
2. The credit institution does not apply for extension upon expiry of its duration of operation, or applies for an extension but such application is not approved by the State Bank.
3. The licence of the credit institution is revoked.

Article 155 *Bankruptcy of credit institution*

1. Any credit institution which remains insolvent after the State Bank has provided a document terminating special control or terminating or not applying measures to recover solvency shall submit a petition to the court to commence procedures to resolve an application for a declaration of bankruptcy in accordance with the law on bankruptcy.
2. Upon receipt of the application from the credit institution as stipulated in clause 1 of this article, the court shall commence procedures for resolution of the application for declaration of bankruptcy and shall immediately apply measures to liquidate the assets of the credit institution in accordance with the law on bankruptcy.
- 3.⁵⁴ After a judge appoints an administrator or enterprise to manage or liquidate assets, the State Bank shall revoke the licence of the credit institution.

Article 156 *Liquidation of assets of credit institution*

1. The assets of a credit institution which is declared bankrupt shall be liquidated in accordance with the law on bankruptcy.
2. Where a credit institution is dissolved in accordance with the provisions of article 154 of this Law, the credit institution shall carry out liquidation of its assets under supervision of the State Bank and in accordance with the order and procedures for liquidation of assets as regulated by the State Bank.
3. If during supervision of liquidation of assets of the credit institution being dissolved, it is discovered that such credit institution is unable to pay its debts in full, then the State Bank shall issue a decision terminating liquidation and implementing a bankruptcy plan in accordance with Section 1e of Chapter 8 of this Law.
4. A credit institution shall be liable to pay all costs arising from liquidation of its assets.

Article 157 *Freezing capital and assets of foreign bank branch*

1. In necessary cases in order to protect the interests of depositors, the State Bank may freeze part or all of the capital and assets of a foreign bank branch.

⁵⁴ Allens footnote: As added by Law 17 dated 20 November 2017.

2. The State Bank shall provide specific regulations on cases of freezing and termination of freezing of capital and assets of a foreign bank branch.

CHAPTER 9

State Administrative Agencies

Article 158 *State administrative agencies*

1. The Government shall carry out uniform State administration of banking operations nationwide.
2. The State Bank shall be responsible to the Government for State administration of organization and operation of credit institutions and foreign bank branches.
3. Ministries and ministerial equivalent bodies shall, within the scope of their respective duties and powers, be responsible for State administration of credit institutions and foreign bank branches in accordance with law.
4. People's committees at all levels shall carry out State administration of credit institutions and foreign bank branches operating within their localities in accordance with law.

Article 159 *Authority to conduct checks, inspection and supervision*

The State Bank shall conduct checks, inspection and supervision of credit institutions, foreign bank branches, and representative offices in Vietnam of foreign credit institutions and other foreign organizations conducting a banking operation.

Article 160 *Rights and obligations of entities subject to inspection and supervision:*

1. To promptly provide complete and accurate information and data upon request by the State Bank during the process of inspection or supervision and at the same time to be liable for the accuracy and truthfulness of the information and data provided.
2. To [be entitled to submit] a report or explanatory statement in relation to any recommendation on or warning of a risk and/or operational safety from the State Bank.
3. To implement any recommendation on or warning of a risk and/or operational safety made by the State Bank.
4. To comply with inspection conclusions or decisions dealing with the situation as made by the State Bank.
5. To exercise other rights and discharge other obligations stipulated by law.

CHAPTER 10

Implementing Provisions

Article 161 *Transitional provision*

1. Credit institutions, foreign bank branches, and representative offices of foreign credit institutions and other foreign organizations conducting a banking operation which were established and conducted their operation in accordance with a licence issued by the State Bank before the effective date of this Law, shall not be required to carry out procedures to apply for re-issuance of a licence pursuant to this Law.
2. Credit institutions and foreign bank branches which were established and conducted their operation in accordance with a licence issued by the State Bank before the effective date of this Law must, within a maximum period of two years from the effective date of this Law, complete adjustment of their organizational structure in accordance with this Law, except for the cases stipulated in clauses 3, 4 and 5 of this article.
3. As from the effective date of this Law, any election, appointment, addition or replacement of members of the board of management or members' council, of members of the board of controllers, of the general director (director), deputy general director (deputy director), chief accountant, directors of branches or of subsidiary companies or equivalent positions of a credit institution; and of the general director (director) of a foreign bank branch shall be carried out in accordance with the provisions of articles 33, 34, 43, 44, 48, 50, 51, 62, 66, 70 and 89 of this Law.
4. In the case of loan contracts signed before the effective date of this Law, credit institutions, foreign bank branches and clients may continue to perform the signed contracts until expiry of such loan contracts. Any amendment or addition to the aforesaid credit contracts may only be made if such amendment or addition is consistent with the provisions of this Law.
5. The State Bank shall provide specific guidelines on the period, order and procedures for transition applicable to credit institutions and foreign bank branches which were operating before the effective date of this Law but which do not comply with the provisions of articles 55, 103, 110, 115, 129 and 135 of this Law.
6. Micro-finance programs or projects of political organizations, socio-political organizations, non-governmental organizations and credit institutions which were being implemented before the effective date of this Law shall not be required to adjust their organizational structure and operation pursuant to this Law. The Prime Minister of the Government shall provide specific regulations on the operation of the micro-finance programs and projects prescribed in this clause.
7. As of the effective date of this Law, organizations other than credit institutions currently conducting one or more banking activities must immediately terminate such activities, except for the cases stipulated in clause 6 of this article.

Article 162 *Effectiveness*

1. This Law shall be of full force and effect as of 1 January 2011.
2. Law on Credit Institutions 02-1997-QH10 and Law 20-2004-QH11 on Amendment of and Addition to a Number of Articles of the Law on Credit Institutions shall no longer be effective as from the effective date of this Law.

Article 163 *Detailed regulations and guidelines for implementation*

The Government shall provide detailed regulations and guidelines for implementation of the articles and clauses of this Law assigned to it; and guidelines on other necessary items in this Law in order to satisfy requirements of State administration.

This Law was passed by Legislative XII of the National Assembly of the Socialist Republic of Vietnam at its 7th Session on 16 June 2010.

Chairman of the National Assembly
NGUYEN PHU TRONG

Article 2 of Amending Law 17 *Transitional provision*

1. The restructuring of a credit institution which was placed under special control or which was implementing a plan on dealing with it pursuant to a decision of the authorized level or in the case of a commercial bank compulsorily purchased prior [all] to the effective date of this Law, shall continue to be implemented in accordance with the approved plan.

Amendment or change of one or more items of an approved plan or formulation of a new restructuring plan shall be implemented in accordance with the relevant provisions in Sections 1, 1b, 1c, 1d, 1dd and 1e of Chapter 8 of Law 47 as amended by this Law 17.

2. In the case of a commercial bank which while under special control was compulsorily purchased prior to the effective date of this Law, one or more of the assisting measures prescribed in article 148b.1 of Law 47 as amended by this Law 17 may apply pursuant to a decision made by the Prime Minister on the proposal of the State Bank.
3. In the case of a commercial bank compulsorily purchased prior to the effective date of this Law, the transfer of the entire capital contribution portions and charter capital to other credit institutions and/or investors as from the effective date of this Law shall be implemented as follows:
 - (a) The State Bank shall formulate a [transfer] plan and submit it to the Prime Minister for approval prior to implementation;
 - (b) The [transfer] plan shall comprise the following minimum contents: information about the transferee; a plan on dealing with shares and capital contribution portions which exceed the restrictions of the commercial bank which was compulsorily purchased after the transfer in a case where the transferee is a credit institution established and operating in Vietnam; the roadmap and term for implementing the transfer plan; the items prescribed in clauses 2 to 6 inclusive of article 151b of Law 47 as amended by this Law 17; and the contents prescribed in subclauses (d), (dd), (g) below;
 - (c) The transferee must satisfy the conditions prescribed in article 151dd;
 - (d) Transfer or assignment of capital contribution portions pursuant to direct agreement with the purchaser; and the price of any such transfer or assignment must not be less than the actual value of charter capital plus reserve funds as determined by an independent auditor in accordance with the market regime.

- (dd) A compulsory purchased commercial bank is entitled, after the transfer, to one or more of the assisting measures prescribed in article 148b.1, and to sell secured bad debts to VAMC in order to deal with the bad debts of the credit institution.
 - (e) The transferee is entitled to the rights prescribed in article 151e;
 - (g) Article 151g of this Law shall apply to dealing with shares and capital contribution portions which exceed the prescribed limits in the commercial bank which has been compulsorily purchased and after such purchase, if the transferee is a credit institution established and operating in Vietnam.
- 4. Any manager, executive or person in another position in a credit institution or foreign bank branch who was elected or appointed prior to the effective date of this Law 17 but who fails to satisfy the conditions prescribed in Law 47 as amended by this Law 17, shall continue to undertake his or her duties until the end of the term of office or until the end of the term of appointment.
 - 5. In the case of loan contracts signed before the effective date of this Law 17, credit institutions, foreign bank branches and their clients may continue to perform the signed contracts until expiry of such contracts; and as from the effective date of this Law [15 January 2018], any amendment or addition to the above-mentioned loan contracts may only be made if they are consistent with the provisions of Law 47 as amended by this Law 17.
 - 6. The State Bank shall provide specific guidelines on the term, sequence and procedures for transition in the case of the ratio of share ownership of major shareholders in any one credit institution and related persons of such shareholders, for compliance with article 55.3 of Law 47 as amended by this Law 17.

CIRCULAR 39
REGULATING LENDING BY CREDIT INSTITUTIONS AND FOREIGN BANK
BRANCHES TO CLIENTS

Dated 30 December 2016
As amended 14 March 2017

CONTENTS

CHAPTER 1	1
General Provisions	1
Article 1 Governing scope and applicable entities	1
Article 2 Definitions	1
Article 3 Right of credit institutions to autonomy	3
Article 4 Principles of lending and borrowing	3
Article 5 Application of relevant legal instruments	3
Article 6 Language	3
Article 7 Conditions for borrowing	4
Article 8 Objects [purposes] for which loans may not be provided	4
Article 9 Application file for a loan	4
Article 10 Types of loans	4
Article 11 Currency of loans and of loan repayment	5
Article 12 Amount of loan	5
Article 13 Loan interest rate	5
Article 14 Charges relevant to lending activities	6
Article 15 Security for loan monies	6
Article 16 Provision of information	6
Article 17 Evaluation and decision on lending	7
Article 18 Repayment of principal and interest	7
Article 19 Restructuring loan repayment term	7
Article 20 Overdue debts	8
Article 21 Termination of lending, dealing with the debt, and exemption [waiver] or reduction of interest, fees and charges	8
Article 22 Internal rules	8
Article 23 Loan [credit] contracts	9
Article 24 Checks of utilization of loan monies	10
Article 25 Penalties for breach and payment of compensation	10
Article 26 Other provisions	10
CHAPTER 2	11
Specific Provisions	11
SECTION 1	11

Lending to Service Business Operations	11
Article 27 Lending methods	11
Article 28 Loan term.....	12
Article 29 Archiving loan files.....	12
SECTION 2.....	13
Lending for Living Requirements	13
Article 30 Lending methods	13
Article 31 Loan term.....	13
Article 32 Archiving loan files.....	13
CHAPTER 3	13
Organization of Implementation	13
Article 33 Effectiveness	13
Article 34 Transitional provision.....	14
Article 35 Organization of implementation.....	14

Hanoi, 30 December 2016
As amended 14 March 2017¹

CIRCULAR REGULATING LENDING BY CREDIT INSTITUTIONS AND FOREIGN BANK BRANCHES TO CLIENTS

Pursuant to the *Law 46 on the State Bank of Vietnam* dated 16 June 2010;

Pursuant to the *Law 47 on Credit Institutions* dated 16 June 2010;

Pursuant to Decree 156/2013/ND-CP of the Government dated 11 November 2013 stipulating the functions, duties, powers and organizational structure of the State Bank of Vietnam;

On the proposal of the Director of the Monetary Policy Department;

The Governor of the State Bank of Vietnam hereby issues this Circular regulating lending by credit institutions and foreign bank branches to clients.

CHAPTER 1

General Provisions

Article 1 *Governing scope and applicable entities*

- 1 This Circular regulates lending by credit institutions and foreign bank branches (hereinafter abbreviated as *credit institutions or CIs*) to clients.
- 2 This Circular does not regulate lending as between CIs.

Article 2 *Definitions*

In this Circular the following terms are construed as follows:

- 1 *Lending* means the form of extension of credit whereby a CI provides a client with or undertakes to provide a client with an amount of money to be used for a specified purpose within a specified period of time as agreed, on the principle of repayment of both principal and interest.
- 2 *Lending credit institution* means a CI established and operating in accordance with the *Law on Credit Institutions* and includes:
 - (a) Commercial banks;
 - (b) Cooperative banks;
 - (c) Non-banking credit institutions;
 - (d) Micro-finance institutions;

¹ Allens footnote: As amended by Decision 312/QĐ-NHNN dated 14 March 2017 effective 15 March 2017, see footnotes to articles 8.5, 8.6 and 29.1(c).

- (dd) People's credit funds;
 - (e) Foreign bank branches.
- 3 *A client borrowing from a credit institution* (hereinafter abbreviated as *client*) means a legal entity or individual and includes:
- (a) A legal entity established and operating in Vietnam, or a legal entity established overseas and lawfully operating in Vietnam;
 - (b) An individual with Vietnamese nationality or an individual with foreign nationality.
- 4 *Lending for living requirements* means the CI lends to a client being an individual to pay expenses for the consumption and living purposes of such individual and his/her family.
- 5 *Lending for business and other activities* (hereinafter abbreviated to *business purposes*) means the CI lends to a client being a legal entity or individual for capital requirements other than those prescribed in clause 4 above, including the capital requirements of such legal entity or individual or of the family household which the individual owns or of the private enterprise which the individual owns.
- 6 *Capital utilization plan* means a plan collating information about capital utilization by the client, and such plan must contain:
- (a) The total capital sources required for use specifying the various types of sources (including the sources required to be borrowed from the CI); and the objective of such use and the term for use;
 - (b) The sources for debt repayment by the client;
 - (c) The plan or project for implementing the business activity (except in a case of a loan for living requirements).
- 7 *Financial capacity* means capacity regarding capital, assets and other lawful financial sources of the client.
- 8 *Loan term* means the period of time calculated from the day following the date on which the CI disburses loan capital to the client up until the date on which the client fully repays principal and interest on the loan in accordance with the agreement reached between the CI and the client. If the last day of such loan term falls on a public holiday or weekend, then the last day shall be deemed to be the following business day. If a loan term is less than one full day, then the provisions of the *Civil Code* on the time of commencement of the term shall apply.²
- 9 *Repayment periods* means the periods of time within the loan term which are agreed, whereby at the end of each period the client must repay part or the whole of the principal and interest on the loan to the CI.
- 10 *Restructuring the debt repayment term* means the CI agrees to adjust the repayment periods and extend the loan as follows:
- (a) By amending the repayment periods, whereby the CI agrees to extend one of the periods of time for repayment of part or the whole of the principal and/or interest of the agreed repayment periods (including where there is no change to the number of agreed repayment periods) and where the loan term does not change;
 - (b) By extending the loan which means that the CI agrees to extend one of the periods of time for repayment of part or the whole of the principal and/or interest on the loan formerly agreed.

² Allens footnote: See article 147 of the Civil Code [Law 91] which took effect 1 January 2017.

11 *Overdue outstanding principal* means:

- (a) The outstanding balance of principal is transferred to overdue debts in accordance with article 20 of this Circular;
- (b) The outstanding balance of principal which the client has not repaid prior to maturity when the CI terminates lending and makes early recovery of the debt as prescribed in article 21.1 of this Circular.

Article 3 *Right of credit institutions to autonomy*

- 1 Credit institutions have the right to autonomy during lending activities and shall be self-responsible for their lending decisions. No organization or individual is permitted to illegally interfere in the lending activities of credit institutions.
- 2 Credit institutions have the right to refuse requests from clients which do not comply with the provisions of this Circular or with the loan agreement.

Article 4 *Principles of lending and borrowing*

- 1 Lending as between CIs and clients must be conducted in accordance with the agreements reached between them, and consistent with the provisions of this Circular and other relevant laws including the law on environmental protection.
- 2 Clients borrowing from CIs must ensure they use the loan money for the correct purpose, and that they repay on time the loan principal and interest as agreed with the CI.

Article 5 *Application of relevant legal instruments*

- 1 Lending by CIs must be implemented in accordance with the *Law on Credit Institutions*, this Circular and other relevant laws.
- 2 Specific lending activities regulated in separate legal instruments of the Government, Prime Minister or State Bank must be implemented in accordance with such separate regulations; if any such separate regulation stipulates that the application of this Circular is not regulated or that any matters relevant to lending are not regulated in such separate regulation, then the provisions of this Circular shall apply to such relevant matters.³ Specific lending activities comprise:
 - (a) Syndicated lending;
 - (b) Lending to a client for an offshore investment;
 - (c) Lending to a client to perform a business activity belonging to a policy or socio-economic program of the Government or of the Prime Minister;
 - (d) Lending in foreign currency to a client being a resident;
 - (dd) Providing a foreign loan including foreign loan repayment to a client being a non-resident;
 - (e) Lending by a people's credit fund or by a micro-finance institution;
 - (g) Consumer lending by finance companies;
 - (h) Other specific forms of lending stipulated in separate regulations of the Government, Prime Minister or State Bank.

Article 6 *Language*

- 1 Loan agreements shall be prepared in Vietnamese, or both in Vietnamese and a foreign language.

³ Allens footnote: This is the literal translation here.

- 2 Regarding other data in lending activities which is expressed in a foreign language, if the competent agency requires it to be translated into Vietnamese, then the translation must be certified by an authorized person of the CI or it must be notarized or certified.

Article 7 *Conditions for borrowing*

A CI shall consider and decide on making a loan to a client who satisfies all the following conditions:

- 1 The client is a legal entity with civil legal capacity as prescribed by law. Or the client is an individual aged 18 years or more with full capacity for civil acts as stipulated by law, or aged from 15 to below 18 years and his or her capacity for civil acts is not restricted or has not been lost pursuant to law.
- 2 There is a requirement for a loan to use for a lawful purpose.
- 3 There is a feasible capital utilization plan.
- 4 The client has the financial capacity to repay the loan.
- 5 If a client borrows from a CI at the loan interest rate prescribed in article 13.2 below, then the CI must assess the client as having a transparent and healthy financial status.

Article 8 *Objects [purposes] for which loans may not be provided*

A CI is not permitted to lend for the following purposes:

- 1 For business investment activities in an industry or trade in which the law prohibits business.
- 2 In order to pay the expenses of or to satisfy financial requirements of transactions or other conduct prohibited by law.
- 3 In order to purchase or use goods or services in an industry or trade in which the law prohibits business investment.
- 4 In order to purchase gold bars.
- 5 In order to repay a financial credit extension which a CI made, except for a loan to make payment of interest arising during the process of building construction works where such interest costs were included in the total investment amount for construction which the competent level approved in accordance with law.⁴
- 6 In order to repay a financial credit extension made by another CI or to repay a foreign loan, except for a loan to make early repayment of a loan which satisfies all the following conditions:⁵
 - (a) It was a loan to serve business activities;
 - (b) The term of the new loan does not exceed the residual term of the old loan;
 - (c) The term for repayment of the [old] loan has not yet been restructured.

Article 9 *Application file for a loan*

A client wishing to borrow a loan shall submit to the CI data proving that all conditions for borrowing stipulated in article 7 of this Circular have been satisfied, together with other data as guided by the CI.

Article 10 *Types of loans*

A CI may consider and make a decision on lending to a client the following types of loans:

- 1 Short term loans being loans with a maximum lending duration [term] of one (1) year.

⁴ Allens footnote: The underlined is as amended by Decision 312/QĐ-NHNN dated 14 March 2017.

⁵ Allens footnote: The underlined is as amended by Decision 312/QĐ-NHNN dated 14 March 2017.

- 2 Medium term loans being loans with a term of over one (1) year up to a maximum five (5) years.
- 3 Long term loans being loans with a term of over five (5) years.

Article 11 *Currency of loans and of loan repayment*

- 1 A CI and its client may reach agreement on lending in VND or in a foreign currency in compliance with the provisions of this Circular and other relevant laws.
- 2 The currency for repayment of a loan shall be the currency of such loan.

Article 12 *Amount of loan*

A CI shall rely on the capital utilization plan, the financial capacity of the client, limits on extension of credit to clients, and the capital sources of the CI to reach agreement with a client on the amount of the loan.

Article 13 *Loan interest rate*⁶

- 1 The CI and the client shall reach agreement on the loan interest rate depending on market supply and demand of capital, the amount of the loan and the credit rating of the client, except where the State Bank regulates a maximum loan interest rate as prescribed in clause 2 below.
- 2 The CI and the client shall reach agreement on the interest rate for a short term loan in VND which must not exceed the maximum loan interest rate decided by the Governor of the State Bank from time to time when the loan is for any of the following capital requirement purposes:
 - (a) Serving the sector of agricultural and rural development in accordance with Government Regulations on credit policies serving agricultural and rural development;
 - (b) Implementing a plan on trading export goods as stipulated in the *Commercial Law* and its implementing guidelines;
 - (c) Serving trading by a small or medium-sized enterprise in accordance with Government Regulations on assistance for development of small and medium-sized enterprises;
 - (d) Developing a support industry in accordance with Government Regulations on development of support industries;
 - (dd) Serving trading by an enterprise applying high-tech in accordance with the *Law on High-Tech* and its implementing guidelines.
- 3 The items to be agreed on the interest rate for a loan comprise both such interest rate and the method of calculating interest on the loan. If the interest rate is not convertible to an annual percentage and/or does not apply the method of calculating interest on the actual loan balance or term for maintaining such actual loan balance, then the loan contract must contain a provision on the loan interest rate being convertible to an annual percentage (with one year specified as 365 days) calculated in accordance with the actual loan balance and the term for maintaining such actual loan balance.
- 4 If on maturity for payment the client has not repaid or repaid in full the principal and/or loan interest as agreed, then the client must pay loan interest as follows:

⁶ Allens footnote: And see article 468 of the Civil Code [Law 91 of 2015] which took effect 1 January 2017 and provides that the interest rate for a loan shall be as agreed by the parties but must not exceed 20% per annum of the loan, unless otherwise provided by other relevant laws. Where parties agree that interest will be payable but fail to specify an interest rate and there is a dispute as to the interest rate, the interest rate shall equal fifty (50) per cent of the interest rate cap provided above [namely 10%].

- (a) Interest on the principal debt at the loan interest rate agreed, and corresponding to the period of the loan term for which the loan was not repaid when it fell due;
 - (b) A client who fails to pay on time the interest prescribed in sub-clause (a) above must pay interest on late payment at the rate agreed by the CI and the client but not exceeding ten per cent (10%) per annum calculated on the amount of interest for late payment for the period of late payment;
 - (c) If the debt is transferred to overdue debts, then the client must pay interest on the overdue debt for the period for which payment was late, and such interest rate shall not exceed one hundred and fifty per cent (150%) of the interest rate applicable as at the time of transferring the debt to overdue debts.
5. If an [adjustable] interest rate is applicable to a loan as amended, then the CI and the client must reach agreement on the principles and factors for determining the adjustable interest rate and the point of time at which it applies. If application of such factors for determining the adjustable interest rate result in different interest rates for the loan, then the CI shall apply the lowest interest rate on the loan.

Article 14 *Charges relevant to lending activities*

The CI and the client shall reach agreement on collection of charges relevant to lending activities, comprising:

- 1 Fees [prepayment charge] payable when a client makes early repayment of the debt.
- 2 Fees for a standby credit line [facility].
- 3 Arrangement fee for a syndicated loan.
- 4 Fees for an undertaking to withdraw capital [for drawdown] as from the effective date of the loan contract up until the initial date of loan drawdown [the date of first disbursement].
- 5 Other specific fees relevant to lending activities which are specifically regulated in relevant legal instruments.

Article 15 *Security for loan monies*

- 1 The CI and the client shall reach agreement on whether or not to apply security measures for the loan. Such agreement on security measures must comply with the law on security measures and other relevant law.
- 2 A CI shall make its own decision, and be liable for same, on lending without security.
- 3 The client and the securing party must coordinate with the CI to deal with [realize] the security assets for the loan when there are grounds for such realization in accordance with the loan contract, the security contract and provisions of law.

Article 16 *Provision of information*

- 1 A CI is responsible to provide a client with complete information prior to preparing the loan contract, namely: the loan interest rate; the principles and factors for determining and the time of determining the loan interest rate if an interest rate applies to an amendment to the loan; the interest rate applicable to overdue principal loan balance; the interest rate applicable to late repayment of interest; the method of calculating interest rates; charges [or fees] and their level applicable to the loan; and the criteria for determining whether the loan falls within the loan interest rate categories prescribed in article 13.2 above.
- 2 Clients providing information to CIs are legally liable for the truthfulness, accuracy and completeness of such data, namely:

- (a) The data referred to in article 9 above;
- (b) Reports on loan capital utilization proving that the loan capital was used for the correct purpose as set out in the loan agreement;
- (c) Data proving application of security measures.

Article 17 *Evaluation and decision on lending*

- 1 Credit institutions [CIs] shall evaluate the ability of the client to satisfy the conditions for borrowing set out in article 7 above, in order to make a decision on lending. During the evaluation process, a CI is permitted to use its own internal credit rating system, Vietnam's National Credit Information Centre and other information channels.
- 2 CIs must arrange their loan approval process on the principle of separating the responsibility for the evaluation stage from the responsibility for the lending decision stage.
- 3 A CI which decides to refuse to lend must notify the client of its reasons if the client so requests.

Article 18 *Repayment of principal and interest*

- 1 A CI and its client shall reach agreement on the periods for repayment of principal and interest as follows:
 - (a) Separate periods for repayment of principal and for payment of interest;
 - (b) The same periods for repayment of principal and payment of interest.
- 2 A CI and its client may reach agreement on early repayment of the loan debt.
- 3 If the client is unable to repay a part or the entire principal and/or interest on time, then the CI may consider restructuring the debt repayment periods in accordance with article 19 or may transfer the debt to overdue debts in accordance with article 20. The CI and the client shall reach agreement on calculating interest payable in accordance with article 13.4 of this Circular.
- 4 The CI and the client shall reach agreement on the order for recovering principal and interest; and with respect to overdue debts, the CI shall first recover outstanding principal and thereafter recover outstanding interest on the loan.

Article 19 *Restructuring loan repayment term*

A CI shall make a decision on restructuring the loan repayment term based on the proposal of the client, the financial capacity of the CI, and the result of assessing the client's ability to repay the loan as follows:

- 1 If the client does not have the ability to repay principal and/or loan interest [on time] but is assessed by the CI as being able to repay same within an amended period/s, then the CI may amend the period/s for repayment of principal and/or loan interest as appropriate for the client's repayment sources, and in this case the loan term is not changed.
- 2 If the client does not have the ability to fully repay principal and/or loan interest in accordance with the loan term but is assessed by the CI as being able to fully repay same within a specified time after [expiry] of the loan term, then the CI may extend the loan term as appropriate for the client's repayment sources.
- 3 Restructuring of a loan repayment term must be implemented prior to or within ten (10) days after the agreed date of maturity and agreed loan repayment term.

Article 20 *Overdue debts*

A CI shall transfer to overdue debts any outstanding principal which the client is unable to repay at the agreed time, where the CI does not agree to restructuring the loan repayment term; in such case the CI shall notify the client about the transfer to overdue debts, such notice to include at the minimum the amount of the outstanding principal so transferred, the time of making the transfer to overdue debts, and the interest rate applicable to the overdue principal debt.

Article 21 *Termination of lending, dealing with the debt, and exemption [waiver] or reduction of interest, fees and charges*

- 1 A CI has the right to terminate the loan and make early recovery of the debt in accordance with the contents agreed on discovery that the client provided false information, or breached the provisions in the loan agreement and/or the security contract for the loan. Prior to implementing same, the CI must notify the client that it will terminate the loan and make early recovery of the loan debt, with the contents of such notice to comprise at the minimum the time of termination and of early recovery, the outstanding principal balance which will be recovered, the time for repaying the principal, the time of transferring the debt to overdue debts, and the interest rate applicable to the outstanding principal of which early recovery is made.
- 2 If the client fails to repay the debt on maturity, the CI has the right to apply measures to recover the debt in accordance with the loan agreement, the security contract and other relevant laws. If after application of measures to recover the debt there is insufficient to fully discharge the debt obligation owing to the CI, the client is still liable to continue to repay all outstanding principal and interest to the CI.
- 3 If a court commences bankruptcy proceedings against the client or the securing party, or if the court declares the client or security party bankrupt, then recovery of the debt by the CI from the client and/or securing party shall be implemented in accordance with the law on bankruptcy.
- 4 CIs have the right to make decisions exempting [waiving] or reducing loan interest, fees and charges for clients in accordance with the internal rules of the CI.

Article 22 *Internal rules*

- 1 Based on the provisions of the *Law on Credit Institutions*, this Circular and other relevant laws, credit institutions must issue their internal rules on lending and managing loan monies consistent with the special characteristics of their business operation (hereinafter referred to as *internal rules on lending*).
- 2 The provisions of the internal rules on lending must be uniform throughout the entire system [of the CI] and include the following basic contents:
 - (a) Provisions on loan conditions; capital requirements ineligible for a loan; lending methods, loan interest rates and methods of calculating interest; loan application files and data which clients must provide to the CI in conformity with the special characteristics of the loan, the type of loan and class of client; loan debt recovery; conditions, sequence and procedures for restructuring a loan term; and transferring loan balances to overdue debts;
 - (b) Sequence for assessing, approving and making a loan decision, including deadlines for the assessment and decision; delegation of authority to and authority of each section and staff member [of the CI] for assessing, approving and making a loan decision and conducting other work during lending activities, including liability and responsibilities of each such section and staff member;
 - (c) Sequence for checking and supervising the lending process, loan capital utilization and loan repayment by clients; delegation of authority to and authority of each section and staff member for checking and supervising the lending process, loan capital utilization and loan repayment by

clients, including liability and responsibilities of each such section and staff member;

- (d) Security measures for loans; evaluation of security assets; and management, supervision and monitoring of security assets depending on the type and special characteristics of the assets and the client concerned;
 - (dd) Provisions on terminating lending and dealing with the debt; provisions on waiver and reduction of loan interest, fees and charges;
 - (e) Identification of possible risks during lending, and the process for monitoring, assessing and controlling risks, and dealing with risks which eventuate;
 - (g) Provisions on controlling lending so that debts are repaid to the CI including foreign loan debt repayment, aimed at preventing false impressions of credit quality; provisions on controlling lending in the form of revolving loans and rollover loans aimed at managing the client's cash flow to ensure the CI's ability to fully recover principal and interest on time in accordance with the agreement, and to correctly reflect credit quality.
- 3 A micro-finance institution and a people's credit fund must, within ten (10) business days after issuing their new, amended or supplemented internal rules on lending, send a copy of same to the provincial State Bank branch; and credit institutions must send a copy of their internal rules on lending to the State Bank (Banking Supervisory Agency).

Article 23 *Loan [credit] contracts*

- 1 A loan contract must be made in the form of a written contract containing at least the following items:
- (a) Name, address and enterprise code number of the lending CI; and name, address and number of people's identity card or passport, or enterprise code number of the client;
 - (b) Amount of the loan; lending limit in the case of a loan pursuant to a credit facility; lending limit in the case of a loan pursuant to a standby credit facility; and overdraft limit in the case of overdraft lending on a payment account;
 - (c) Capital utilization purpose;
 - (d) Loan currency and repayment currency;
 - (dd) Lending method;
 - (e) Loan term, and term for maintaining the credit facility if relevant; or effective term of the limit in the case of a standby credit facility; or term for maintaining the limit on the overdraft in the case of overdraft lending on a payment account;
 - (g) Interest rate on the loan as agreed and such interest rate converted to an annual percentage of the actual loan balance and the term for maintaining such actual loan balance in accordance with article 13.3 of this Circular; principles and factors for determining the interest rate, and the time for determining the interest rate in the case of application of an adjusted interest rate; interest rate applicable to overdue principal repayment; interest rate applicable to late payment of interest; and the types and levels of fees applicable to the loan;
 - (h) Drawdown of loan capital and use of payment means to drawdown loan capital;
 - (i) Repayment of principal and interest and the priority order for recovery of principal and interest on loan monies; early repayment;

- (k) Restructuring of the loan repayment term; conversion to overdue debts of the principal balance if the client fails to repay on time as agreed and if the CI does not agree to restructure such term; form and contents of notification of transfer to overdue debts in accordance with article 20 of this Circular;
 - (l) Responsibilities of clients to coordinate with the CI to provide relevant data in order for the CI to assess and make loan decisions, and check and supervise capital utilization and debt repayment;
 - (m) Cases in which a loan will be terminated and early recovery made; transfer to overdue debts of the outstanding principal balance if the client fails to make early repayment when the CI terminates the loan and makes early recovery of the debt; and the form and contents of notification of termination of the loan and early recovery of the debt as prescribed in article 21.1 of this Circular;
 - (n) Processing loan debt, fines for breaches, compensation payable for loss and damage; and rights and responsibilities of the parties;
 - (o) Effectiveness of the loan contract.
- 2 In addition to the contents prescribed in clause 1 above, the parties may reach agreement on other contents in conformity with the provisions of this Circular and other relevant laws.
 - 3 The loan contract prescribed in clauses 1 and 2 above shall be formulated as either a specific loan contract, or as a framework [general] contract plus a specific loan contract.
 - 4 A CI which uses a standard form contract or standard general conditions as part of its process of signing loan contracts, must:
 - (a) Publically list at its headquarters and on its website such standard form contract and general conditions for lending;
 - (b) Provide complete information about the standard form contract and general conditions for the information of clients prior to signing loan contracts, and must obtain confirmation from clients that they have been provided by the CI with such complete information.

Article 24 *Checks of utilization of loan monies*

- 1 Clients are liable to use loan monies and repay debt correctly in accordance with the agreements reached, and to provide evidence of loan capital utilization when requested by the CI.
- 2 Credit institutions have the right to check and supervise loan capital utilization and debt repayment by their clients in accordance with the provisions of their internal rules prescribed in article 22.2(c) above.

Article 25 *Penalties for breach and payment of compensation*

- 1 A CI and its client shall reach agreement on penalties for breaches and payment of compensation in accordance with law if the CI or the client fails to correctly implement the provisions in the loan agreement, except in the cases prescribed in article 13.4 above.
- 2 A credit institution and its client may agree that the party in breach shall be subject to a fine without having to pay compensation, or that the party in breach must pay a fine and also pay compensation for loss. If the CI and the client agree on payment of a fine but do not reach agreement on both payment of a fine and payment of compensation for loss, then the party in breach shall only be subject to payment of a fine.

Article 26 *Other provisions*

Credit institutions are responsible during lending:

- 1 To comply with the provisions regulating entities to whom extension of credit is not permitted, regulating restrictions on extension of credit and limits on extension of credit as prescribed in articles 126, 127 and 128 respectively of the *Law on Credit Institutions* and State Bank regulations on limits and prudential ratios during operations of credit institutions.
- 2 To use payment facilities for loan capital drawdown in accordance with State Bank regulations requiring use of payment facilities for loan capital drawdown when credit institutions lend to clients.
- 3 To classify risks and establish and use reserves for dealing with risks during lending in accordance with State Bank regulations on asset classification, establishing reserves and the amount of reserves for dealing with risks and use of such reserves during operations of credit institutions.
- 4 To conduct cost accounting and report loan statistics in accordance with the current provisions of law on the cost accounting and reporting regime applicable to credit institutions.

CHAPTER 2

Specific Provisions

Section 1

Lending to Service Business Operations

Article 27 *Lending methods*

A CI may reach agreement with a client to apply the following lending methods:

- 1 Individual lending: on each occasion that a loan is provided, the CI and the client shall carry out lending procedures and sign a loan contract.
- 2 Syndicated lending: a group of two or more credit institutions jointly provide co-financing for the client to implement a loan capital project or plan.
- 3 Bridging loan: the CI lends to a client for seasonal livestock breeding or crop cultivation in accordance with consecutive production cycles within a year, or for cultivation of perennial or industrial crops harvested annually. The CI and the client shall reach agreement on the principal loan balance of any one production cycle prior to [continued loan use] for the next production cycle, but [the term] shall not exceed the duration of two consecutive production cycles.
- 4 Lending pursuant to a credit facility: the CI determines and reaches agreement with the client on a maximum credit facility to be maintained for a fixed [certain] period, and the CI then provides individual loans within such credit facility. At least once each year, the CI shall re-determine the maximum credit facility and the period for which it is to be maintained.
- 5 Lending pursuant to a reserve [standby] credit facility: the CI undertakes to be prepared to provide loans to the client within an agreed standby credit facility, and the CI and the client reach agreement on the period of validity of the reserve [standby] credit facility which must not exceed one year.
- 6 Lending pursuant to an overdraft facility: the CI agrees with the client to make payments in excess of the balance in the payment account of the client with a maximum limit on such overdraft facility in order to provide payment services on the payment account. The limit of the overdraft facility shall be maintained for a fixed period not to exceed one year.

- 7 Revolving loans⁷: the CI and the client reach agreement on a loan for capital requirements for a business operational cycle not exceeding one month, entitling the client to use the principal balance of the previous cycle for the next such business cycle but with the loan term not to exceed three (3) months.
- 8 Rollover loans: the CI and the client reach agreement on provision of a short-term loan to the client on the following conditions:
- (a) On maturity for debt repayment, the client has the right to repay the debt or to extend the term for repayment by a further fixed [certain] period with respect to a part or the entire outstanding principal balance of the loan;
 - (b) The aggregate loan term must not exceed twelve (12) months from the date of initial drawdown [disbursement] and must not exceed [the duration of] one business operational cycle;
 - (c) As at the time of loan assessment, the client must not have any bad debts at CIs;
 - (d) If during the period of rollover the client in fact has bad debts at CIs, then there shall be no extension of the agreed time for repayment.
- 9 Lending may be provided in accordance with other methods by a combination of the methods prescribed in clauses 1 to 8 inclusive above, consistent with the business operational conditions of the CI and the special characteristics of the particular loan.

Article 28 *Loan term*

- 1 The CI and its client shall, based on the business cycle, the time taken to recover capital, the repayment capacity of the client, and the capital lending sources and residual operational term of the CI, reach agreement on the loan term.
- 2 In the case of clients being legal entities established and operating in Vietnam or legal entities established overseas and legally operating in Vietnam, the loan term shall not exceed the remaining lawful operational duration of the client; and in the case of foreign individuals residing in Vietnam, the loan term shall not exceed the residual permitted period of residence of the foreigner in Vietnam.

Article 29 *Archiving loan files*

- 1 A credit institution must prepare a loan file to include:
- (a) The file on the loan request;
 - (b) The loan contract;
 - (c) Reports on financial status of the client which the client sends to the CI during the loan term: Financial statements lodged with the competent State agency and/or audited financial statements where the client is required by law to prepare financial statements; and reports on financial status of the client in accordance with guidelines from the CI;⁸
 - (d) File on security for the loan;
 - (dd) Loan decision signed by the authorized person; and in the case of a collective decision, minutes explaining how the decision was passed;

⁷ Allens footnote: Revolving loans and rollover loans were previously prohibited, see for example Letter 6960-NHNN-TTHSNH dated 16 September 2016.

⁸ Allens footnote: The underlined is as added by Decision 312/QĐ-NHNN dated 14 March 2017.

- (e) Documents arising during the process of utilization of loan monies and relevant to the loan agreement as guided by the CI.
- 2 Credit institutions must archive the above files for the period stipulated in the relevant law.

Section 2

Lending for Living Requirements

Article 30 *Lending methods*

A CI may reach agreement with its client to apply the following lending methods:

- 1 The lending methods prescribed in clauses 1, 4 and 6 of article 27 above.
- 2 Other lending methods being a combination of the methods prescribed in clause 1 above, consistent with the business operational conditions of the CI and the special characteristics of the particular loan.

Article 31 *Loan term*

- 1 A CI and its client shall reach agreement on the loan term based on the repayment capacity of the client, and the lending capital sources and residual operational duration of the CI.
- 2 In the case of a foreigner residing in Vietnam, the loan term shall not exceed the residual permitted period of residence of the foreigner in Vietnam.

Article 32 *Archiving loan files*

- 1 A credit institution shall prepare a loan file to include:
 - (a) The file on the loan request;
 - (b) The loan contract;
 - (c) Report on income status of the client during the loan term in accordance with guidelines from the CI;
 - (d) File on security for the loan;
 - (dd) Loan decision signed by the authorized person; and in the case of a collective decision, there must be minutes explaining how the decision was passed;
 - (e) Documents arising during the process of utilization of loan monies and relevant to the loan agreement as guided by the CI.
- 2 Credit institutions must archive the above files for the period stipulated in the relevant law.

CHAPTER 3

Organization of Implementation

Article 33 *Effectiveness*

- 1 This Circular is of full force and effect as from 15 March 2017.
- 2 As from the effective date of this Circular, the following legal instruments shall no longer be effective:
 - (a) Decision 1627/2001/QĐ-NHNN of the State Bank dated 31 December 2001 issuing Regulations on lending by credit institutions to clients;

- (b) Decision 28/2002/QĐ-NHNN of the State Bank dated 11 January 2002 amending article 2 of Decision 1627 referred to above;
- (c) Decision 127/2005/QĐ-NHNN of the State Bank dated 3 February 2005 amending the Regulations issued with Decision 1627 referred to above;
- (d) Decision 783/2005/QĐ-NHNN of the State Bank dated 31 May 2005 amending article 1.6 of Decision 127 referred to above;
- (dd) Circular 12/2010/TT-NHNN of the State Bank dated 14 April 2010 guiding VND lending by credit institutions at interest rates negotiated with clients;
- (e) Circular 05/2011/TT-NHNN of the State Bank dated 10 March 2011 regulating collection of loan fees by credit institutions from clients;
- (g) Circular 33/2011/TT-NHNN of the State Bank dated 8 October 2011 amending Circular 13/2011/TT-NHNN of the State Bank dated 20 May 2011 guiding prudential ratios during banking operations;
- (h) Circular 08/2014/TT-NHNN of the State Bank dated 17 March 2014 regulating the maximum VND short term lending interest rate chargeable by credit institutions to borrowers for capital requirements in certain economic sectors.

Article 34 *Transitional provision*

In the case of any loan contract signed before the effective date of this Circular:

- 1 The credit institution and the client shall continue to implement the provisions in the signed loan contract consistent with the law applicable at the time of signing, or they may reach agreement on amending the loan contract for compliance with the provisions of this Circular.
- 2 In the case of lending pursuant to a credit facility, lending pursuant to a reserve credit facility and lending pursuant to an overdraft facility, if there is no provision in the loan contract regarding the term for maintaining such facility then the credit institution and the client shall continue to implement the provisions in the signed loan contract consistent with the law applicable at the time of signing, but the term for maintaining such facility must not exceed one (1) year as from the effective date of this Circular.

Article 35 *Organization of implementation*

- 1 Credit institutions shall rely on the provisions in this Circular to formulate their internal rules on lending to clients.
- 2 The Head of the Office, the Head of the Monetary Policy Department and heads of other entities under the State Bank, directors of provincial State Bank branches, and chairmen of boards of management or members' councils and general directors (directors) of credit institutions are responsible to implement this Circular.

Governor of the State Bank
Deputy Governor
NGUYEN THI HONG

**National Assembly of the
Socialist Republic of Vietnam
Legislature XII, 7th Session
(16 June 2010)**

CHAPTER I		1
General Provisions.....		1
Article 1	<i>Governing scope</i>	1
Article 2	<i>Role and functions of the State Bank of Vietnam.....</i>	1
Article 3	<i>National monetary policies and authority to make decisions on national monetary policies</i>	1
Article 5	<i>Responsibilities of ministries, ministerial equivalent bodies, and people's committees at levels</i>	4
Article 6	<i>Interpretation of terms.....</i>	4
CHAPTER II		5
Organization of the State Bank		5
Article 7	<i>Organization of the State Bank</i>	5
Article 8	<i>Leadership and administration of the State Bank.....</i>	5
Article 9	<i>State employees and officials of the State Bank</i>	6
CHAPTER III		6
Operations of the State Bank		6
Section 1		6
<i>Implementation of National Monetary Policy.....</i>		6
Article 10	<i>Tools for implementation of national monetary policy.....</i>	6
Article 11	<i>Re-financing</i>	6
Article 12	<i>Interest rates</i>	6
Article 13	<i>Exchange rates.....</i>	7
Article 14	<i>Compulsory reserves.....</i>	7
Article 15	<i>Open-market transactions.....</i>	7
Section 2		7
<i>Issuance of Paper Money and Coins.....</i>		7
Article 16	<i>Currency unit.....</i>	7
Article 17	<i>Issuance of paper money and coin.....</i>	7
Article 18	<i>Design, printing, casting, maintenance, transportation, issuance of currency for circulation and destruction of currency.....</i>	8
Article 19	<i>Dealing with defaced or damaged money</i>	8
Article 20	<i>Recovery and replacement of money.....</i>	8
Article 21	<i>Sample money and money used as souvenirs</i>	8
Article 22	<i>Promulgation of and checking regulations on money-issuing activities</i>	8

Article 23	<i>Prohibited acts:</i>	8
Section 3		9
<i>Lending, Guarantees, and Money Advanced to State Budget</i>		9
Article 24	<i>Lending</i>	9
Article 25	<i>Guarantees</i>	9
Article 26	<i>Money advanced to State Budget</i>	9
Section 4		9
<i>Payments and Budgetary Operations</i>		9
Article 27	<i>Opening of accounts and conducting transaction in accounts</i>	9
Article 28	<i>Organization, management, operation and supervision of national payment system</i>	9
Article 29	<i>Budgetary services</i>	10
Article 30	<i>Acting as an agent of State Treasury</i>	10
Section 5		10
<i>Foreign Exchange Control and Foreign Exchange Activities</i>		10
Article 31	<i>Duties and powers of State Bank in relation to foreign exchange control and foreign exchange activities:</i>	10
Article 32	<i>Management of foreign exchange reserves of the State</i>	10
Article 33	<i>Foreign exchange activities conducted by State Bank</i>	11
Article 34	<i>Sale and purchase of foreign currency between foreign exchange reserves and State Budget</i>	11
Section 6		11
<i>Information Activities and Reports</i>		11
Article 35	<i>Responsibility to provide information to State Bank</i>	11
Article 36	<i>Principles of provision of information</i>	11
Article 37	<i>Duties of State Bank in relation to information activities</i>	11
Article 38	<i>Protection of confidentiality of information</i>	12
Article 39	<i>Monetary statistics, analysis and forecast</i>	12
Article 40	<i>Reports on operation</i>	12
Article 41	<i>Publishing operation</i>	13
CHAPTER IV		13
Financial and Accounting Operations of State Bank		13
Article 42	<i>Prescribed capital</i>	13
Article 43	<i>Financial collection and payments</i>	13
Article 44	<i>Financial result</i>	13
Article 45	<i>Funds</i>	13
Article 46	<i>Accounting operations</i>	14
Article 47	<i>Auditing</i>	14
Article 48	<i>Fiscal year</i>	14
CHAPTER V		14
Banking Inspection and Supervision		14
Article 49	<i>Banking inspection and supervisory body</i>	14
Article 50	<i>Purposes of banking inspection and supervision</i>	14
Article 51	<i>Principles of banking inspection and supervision</i>	14

Article 52	<i>Entities subject to banking inspection</i>	15
Article 54	<i>Bases for inspection decision.....</i>	15
Article 56	<i>Entities subject to banking supervision</i>	16
Article 59	<i>Dealing with entities subject to banking inspection or supervision</i>	16
Article 60	<i>Coordination between State Bank and ministries and ministerial equivalent bodies in conducting banking inspection or supervision</i>	17
Article 61	<i>Coordination in banking inspection and supervision between State Bank and foreign competent bodies for banking inspection or supervision.....</i>	17
CHAPTER VI.....		17
Internal Audit		17
Article 62	<i>Internal auditor</i>	17
Article 63	<i>Objects, purposes and principles of internal auditing activities</i>	18
CHAPTER VII.....		18
Implementing Provisions.....		18
Article 65	<i>Effectiveness.....</i>	18
Article 66	<i>Detailed provisions and guidelines for implementation</i>	18

**LAW
ON
STATE BANK OF VIETNAM**

**National Assembly of the
Socialist Republic of Vietnam
Legislature XII, 7th Session
(16 June 2010)**

Pursuant to the 1992 *Constitution* of the Socialist Republic of Viet Nam as amended by Resolution 51-2001-QH10;

The National Assembly hereby promulgates the *Law on State Bank of Vietnam*.

CHAPTER I

General Provisions

Article 1 *Governing scope*

This Law regulates the organization and operation of the State Bank of Vietnam.

Article 2 *Role and functions of the State Bank of Vietnam*

1. The State Bank of Vietnam (hereinafter referred to as the *State Bank*) is a ministerial equivalent body of the Government and is also the central bank of the Socialist Republic of Vietnam.
2. The State Bank is a legal entity, having prescribed capital owned by the State, with its principal office located in Hanoi.
3. The State Bank shall perform the function of State management of currency, banking operations and foreign exchange (hereinafter referred to as *banking and currency*); and the functions of a central bank which issues money, acts as the banker for credit organizations, and is the bank providing the Government with monetary services.

Article 3 *National monetary policies and authority to make decisions on national monetary policies*

1. National monetary policies are the national monetary decisions of the competent State body, including decisions on objectives for stabilizing the value of money manifested by an inflation target and decisions using instruments and measures to realize the objectives put forward.
2. The National Assembly shall make the decision on an annual inflation target which is manifested by way of determining a consumer price index and supervising implementation of national monetary policies.

3. The President of the State shall perform the duties and exercise the powers stipulated by the Constitution and law in relation to negotiation and signing of, and accession to international treaties in the name of the State of the Socialist Republic of Vietnam in the monetary and banking sector.
4. The Government shall submit an annual inflation target to the National Assembly for decision. The Prime Minister of the Government or the Governor of the State Bank shall make decisions using instruments and managerial measures to realize objectives of national monetary policies in accordance with Government regulations.

Article 4 *Duties and powers of the State Bank:*

1. The operation of the State Bank is for the purposes of stabilizing the value of money; ensuring the safety of banking operations and of the system of credit institutions; ensuring the safety and effectiveness of the national payment system; and facilitating socialist-oriented socio-economic development.
2. To participate in formulation of strategies and plans for socio-economic development of the nation.
3. To formulate strategies on development of the banking industry and submit them to the competent State body for approval, and to organize their implementation.
4. To formulate legal instruments on currency and banking or submit them to the competent State bodies for promulgation; to disseminate, publish and check legal instruments on currency and banking within its authority.
5. To formulate an annual inflation target for submission by the Government to the National Assembly for decision, and to organize implementation.
6. To organize, manage and develop monetary markets.
7. To organize a statistics system, to make monetary and banking forecasts; and to publish information on currency and banking in accordance with law.
8. To organize the printing, casting, maintenance and transportation of paper money and coins; and to carry out the issuance, recall, replacement and destruction of banknotes and coins.
9. To issue, amend or withdraw establishment and operating licences for credit institutions, or establishment licences for foreign bank branches, representative offices of foreign credit institutions and other foreign institutions conducting banking operations; to issue or withdraw operating licences for provision of payment intermediary services for organizations other than banks; to issue or withdraw operating licences for provision of credit information services for organizations; and to approve purchase, sale, division, demerger, consolidation, merger and dissolution of credit institutions in accordance with law.
10. To act as a representative of the owner of the share of State owned capital in enterprises performing the functions and duties of the State Bank or credit institutions with State owned capital in accordance with law; to use the prescribed capital for capital contribution for establishment of specialized enterprises in order to perform the functions and duties of the State Bank in accordance with a decision of the Prime Minister of the Government.
11. To carry out examination, inspection and banking supervision; and to deal with breaches of the law on currency and banking in accordance with law.

12. To make decisions applying special measures to deal with credit institutions which commit a serious breach of the law on currency and banking, or which suffer financial difficulties, or which are likely to place the safety of the banking system in danger, including purchasing their shares; suspending, temporarily suspending or removing their managers or executives; making decisions on merger, consolidation or dissolution of such credit institutions; placing them under special control; and performing the State Bank's duties and exercising its powers in accordance with the law on bankruptcy of credit institutions.
13. To preside over and co-ordinate with relevant bodies in formulating policies and plans and organizing prevention of and combating money laundering.
14. To undertake State management of deposit insurance in accordance with the law on deposit insurance.
15. To preside over formulation and to supervise, forecast and analyse the results of implementation of the international balance of payments.
16. To organize, manage and supervise the national payment system, to provide payment services to banks; to participate in organization of and to supervise operations of payment systems of the economy.
17. To undertake State management of foreign exchange, foreign exchange operations and gold trading operations.
18. To manage foreign exchange reserves of the State.
19. To manage the obtaining, repayment, lending and recovery of foreign loans in accordance with law.
20. To preside over or co-ordinate with relevant bodies to prepare items, enter into negotiations, and sign international treaties with international monetary and financial institutions at which the State Bank acts as representative and official representative of the borrower stipulated in international treaties when so assigned or authorized by the President of the State or the Government.
21. To organize and carry out international co-operation in currency and banking.
22. To represent the State of the Socialist Republic of Vietnam at international monetary and banking institutions.
23. To establish a credit information system and provide credit information services; and to undertake the function of State management of organizations conducting credit information operations.
24. To act as an agency for, and to provide banking services to the State Treasury;
25. To participate together with the Ministry of Finance in issuing Government bonds and bonds guaranteed by the Government.
26. To organize training and development of skills in currency and banking; and to study and apply scientific achievements and banking technology.
27. Other duties and powers as stipulated by law.

Article 5 *Responsibilities of ministries, ministerial equivalent bodies, and people's committees at levels*

Ministries, ministerial equivalent bodies, and people's committees at levels shall, within the scope of their respective duties and powers, co-ordinate with the State Bank in carrying out State management of currency and banking.

Article 6 *Interpretation of terms*

In this Law, the following terms shall be construed as follows:

1. *Banking operation* means regular business and provision of one or several of the following services:
 - (a) Receipt of deposits;
 - (b) Extension of credit;
 - (c) Provision of payment services via accounts.
2. *Foreign exchange* comprises:
 - (a) Currencies of other countries, or the common currency of Europe and other common currencies used for international or regional payments (hereinafter referred to as *foreign currency*);
 - (b) Payment instruments in foreign currency including cheques, payment cards, promissory notes, bills of exchange and other types of payment instruments;
 - (c) Various types of valuable papers in foreign currency comprising Government bonds, corporate bonds, promissory notes, shares and other types of valuable papers;
 - (d) Gold belonging to the foreign exchange reserves of the State, or in overseas accounts of residents; and gold in bullion, ingots, grains or pieces when imported into or exported from Vietnam;
 - (e) Currency of the Socialist Republic of Vietnam in the case of inward transfers into and outward transfers from Vietnam or which is used for international payment.
3. *Foreign exchange operation* means the operation of a resident or non-resident in current transactions, capital transactions, and use of foreign exchange in the territory of Vietnam, and provision of foreign exchange services and other transactions relating to foreign exchange.
4. *Foreign exchange reserve of the State* means assets in foreign exchange as shown in the monetary balance sheet of the State Bank.
5. *Exchange rate of Vietnamese Dong* means the price of a foreign currency unit calculated in the currency unit of Vietnam.
6. *Monetary market* means a place where short term currency trading takes place.
7. *Short term transaction* means a transaction of valuable papers with a term of less than twelve months.

8. *Valuable paper* means evidence acknowledging the obligation to pay a debt between the valuable paper issuer and the valuable paper holder within a certain period, on conditions for payment of interest and other conditions.
9. *National payment system* means the interbank payment system organized, managed and operated by the State Bank.
10. *Payment intermediate services* means intermediary operations aimed at connecting, transmitting and processing electronic data on payment transactions between payment service providers and payment service users.
11. *Banking inspection* means inspection by the State Bank of observance of the law on currency and banking by entities subject to banking inspection.
12. *Banking supervision* means the operation of the State Bank in relation to collection, compilation and analysis of information about entities subject to banking supervision via the system of information and reports in order to prevent, discover and promptly deal with risks affecting the safety of banking operations, and breaches of regulations on safety of banking operations and other relevant laws.

CHAPTER II

Organization of the State Bank

Article 7 *Organization of the State Bank*

1. The State Bank is organized to form a centralized and uniform system, comprising an administrative body and units conducting technical operations located in the principal office, branches, representative offices and other subsidiary units.
2. The organizational structure of the State Bank shall be stipulated by the Government.
3. The organizational structure, duties and powers of units under the State Bank shall be stipulated by the Governor of the State Bank, except for the cases set out in article 49.2 of this Law .
4. The Governor of the State Bank shall make decisions establishing or terminating the operation of branches, representative offices, committees and consultancy councils on issues relating to the functions and duties of the State Bank; decisions establishing or terminating, in accordance with [the Governor's] authority, subsidiary units under the State Bank conducting operations in the following sectors: training and development of banking skills, research, information, banking scientific theory; provision of services relating to treasury operations, banking information technology and payment services, and credit information services.

Article 8 *Leadership and administration of the State Bank*

1. The Governor of the State Bank, being a member of the Government, shall head and lead the State Bank; and shall be responsible to the Prime Minister of the Government and the National Assembly for State management of the monetary and banking sector.
2. The Governor of the State Bank shall have the following duties and powers:
 - (a) To direct and organize implementation of national monetary policies in accordance with [the Governor's] authority.



- (b) To direct and organize performance of duties and exercise of powers of the State Bank in accordance with this Law and other relevant laws.
- (c) To act as legal representative of the State Bank.

Article 9 *State employees and officials of the State Bank*

Recruitment, employment and management of State employees and officials of the State Bank in principle shall be conducted in accordance with the law on State employees and officials. The Prime Minister of the Government shall regulate the mechanism of recruitment and the regime on treatment of State employees and officials in accordance with specific professional operations of the State Bank.

CHAPTER III

Operations of the State Bank

Section 1

Implementation of National Monetary Policy

Article 10 *Tools for implementation of national monetary policy*

The State Bank shall make decisions on using tools to implement national monetary policies, including re-financing, interest rates, exchange rates, compulsory reserves, open-market transactions and other tools or measures in accordance with Government regulations.

Article 11 *Re-financing*

1. *Re-financing* means the form of extension of credit by the State Bank aimed at providing short-term capital and means of payment to credit institutions.
2. The State Bank shall stipulate and carry out re-financing to credit institutions in the following forms:
 - (a) Making loans guaranteed by pledges of valuable papers;
 - (b) Discounting valuable papers;
 - (c) Other forms of re-financing.

Article 12 *Interest rates*

1. The State Bank shall announce re-financing interest rates, the basic interest rate and other types of interest rates aimed at administering the national monetary policy and combating lending at excessive rates of interest.
2. Where there is any abnormal change in the monetary market, the State Bank shall provide for a mechanism managing interest rates applicable to relations between credit institutions with their clients and with other credit relations.

Article 13 *Exchange rates*

1. Exchange rates of Vietnamese dong shall be formulated on the basis of supply and demand of foreign currency in the market as regulated by the State.
2. The State Bank shall publish exchange rates, and determine the regime of exchange rates and the mechanism of control of exchange rates.

Article 14 *Compulsory reserves*

1. *Compulsory reserve* means the amount of money which a credit institution must deposit with the State Bank in order to implement the national monetary policy.
2. The State Bank shall provide for the rates of compulsory reserves for each form of credit organization and each form of deposit in credit institutions, in order to implement the national monetary policy.
3. The payment of interest on compulsory reserves and deposits in excess of the compulsory reserves of each form of credit organization for each form of deposit shall be stipulated by the State Bank.

Article 15 *Open-market transactions*

1. The State Bank shall conduct open-market transactions via the purchase and sale of valuable papers with credit institutions.
2. The State Bank shall stipulate types of valuable papers permitted to be traded in open-market transactions.

Section 2**Issuance of Paper Money and Coins****Article 16** *Currency unit*

The currency unit of the Socialist Republic of Vietnam is "dong", its national sign is "d" and its international sign is "VND"; one dong is equivalent to ten (10) "hao" and one hao is equivalent to ten (10) "xu".

Article 17 *Issuance of paper money and coin*

1. The State Bank is the sole agency which issues paper money and coin of the Socialist Republic of Vietnam.
2. Paper money and coin issued and circulated by the State Bank shall be used as lawful means of payment throughout the territory of the Socialist Republic of Vietnam.
3. The State Bank shall ensure the provision to the economy of adequate paper money and coin with proper quantities of each type of note and coin.
4. Paper money and coin put in circulation shall be "debit" assets of the economy and shall be balanced by "credit" assets of the State Bank.



Article 18 *Design, printing, casting, maintenance, transportation, issuance of currency for circulation and destruction of currency*

1. The State Bank shall design the face value, size, weight, images, artwork and other features of money for submission to the Prime Minister for his approval.
2. The State Bank shall organize the printing, casting, maintenance, transportation, issuance of currency for circulation and destruction of currency

Article 19 *Dealing with defaced or damaged money*

The State Bank shall stipulate the criteria by which money shall be classified as defaced or damaged; shall exchange and recover money defaced or damaged resulting from the process of circulation; and shall not agree to exchange notes which were defaced or damaged as a result of a deliberate act.

Article 20 *Recovery and replacement of money*

The State Bank shall recover and withdraw from circulation types of money no longer suitable and shall issue new money in its place. The types of money recovered shall be exchanged with other types of money of equivalent value within the duration stipulated by the State Bank. After the duration for recalling and changing money, money in the category of money recalled shall no longer be valid for circulation.

Article 21 *Sample money and money used as souvenirs*

The State Bank shall organize the design, printing, casting and sale within and outside the country of various forms of sample money and money used as souvenirs, for collection or for other purposes as stipulated by the Prime Minister.

Article 22 *Promulgation of and checking regulations on money-issuing activities*

1. The Government shall promulgate regulations on money-issuing activities including the printing, casting, maintenance, transportation, issuance, recalling, replacement and destruction of money, and costs for money-issuing activities.
2. The Ministry of Finance shall inspect implementation of the regulations on printing, casting and destruction of money.

Article 23 *Prohibited acts:*

1. Forging money; transporting, storing and circulating forged money.
2. Illegally destroying money.
3. Refusing to receive or circulate money eligible for circulation issued by the State Bank.
4. Other prohibited acts stipulated by law.

Section 3

Lending, Guarantees, and Money Advanced to State Budget

Article 24 *Lending*

1. The State Bank shall make short term loans to credit institutions in accordance with article 11.2(a) of this Law.
2. The State Bank shall consider and make decisions providing special loans to credit organizations in the following circumstances:
 - (a) Credit institutions which insolvent thereby threatening to cause instability to the system of credit institutions;
 - (b) Credit institutions which are in danger of insolvency due to other serious events.
3. The State Bank shall not make loans to any individual or organization not being a credit institution as specified in clauses 1 and 2 of this article.

Article 25 *Guarantees*

The State Bank shall not provide guarantees for organizations and individuals to obtain loans, except for guarantees for credit institutions to obtain foreign loans pursuant to a decision of the Prime Minister of the Government.

Article 26 *Money advanced to State Budget*

The State Bank shall, subject to a decision by the Prime Minister, make advances to the central budget in order to balance temporary deficits of the State budget. Any such amount of advanced money shall be repaid within the budget year, unless otherwise stipulated in special circumstances by the Standing Committee of the National Assembly.

Section 4

Payments and Budgetary Operations

Article 27 *Opening of accounts and conducting transaction in accounts*

1. The State Bank may open accounts and conduct transactions in accounts at foreign banks, international monetary institutions and [international] banks.
2. The State Bank shall open accounts and conduct transactions for credit institutions.
3. The State Treasury shall open accounts with the State Bank. In provinces and cities under central authority and in districts, towns and provincial cities in which no State Bank branch is located, transactions for the State Treasury shall be conducted in accordance with State Bank regulations.

Article 28 *Organization, management, operation and supervision of national payment system*

1. The State Bank shall organize, manage, operate and supervise a national payment system.
2. The State Bank shall carry out management of means of payment in the economy.

Article 29 *Budgetary services*

The State Bank shall provide budgetary services by way of collecting and paying money for accountholders and by transporting, counting, classifying and dealing with money in circulation.

Article 30 *Acting as an agent of State Treasury*

The State Bank shall act as an agent of the State Treasury in the organization of tenders [for], issuance, depository and payment of Treasury bonds and bills.

Section 5

Foreign Exchange Control and Foreign Exchange Activities

Article 31 *Duties and powers of State Bank in relation to foreign exchange control and foreign exchange activities:*

1. To control foreign exchange and use of foreign exchange in the territory of Vietnam in accordance with law.
2. To organize and develop the foreign currency market.
3. To issue and withdraw licences for conduct of foreign exchange activities from credit institutions and other organizations conducting foreign exchange activities.
4. To submit measures to restrict foreign exchange transactions to the Prime Minister of the Government for his decision in order to ensure national financial and monetary security.
5. To organize, manage and participate in the inter-bank foreign currency market.
6. Other duties and powers in relation to foreign exchange control and foreign exchange activities in accordance with law.

Article 32 *Management of foreign exchange reserves of the State*

1. The foreign exchange reserves of the State shall comprise:
 - (a) Foreign currency in cash, and foreign currency deposits overseas;
 - (b) Securities and other valuable papers in foreign currency issued by foreign governments, foreign organizations and international organizations;
 - (c) Special drawing rights and reserves at the International Monetary Fund;
 - (d) Gold managed by the State Bank;
 - (dd) Other types of foreign exchange of the State.
2. The State Bank shall manage the foreign exchange reserves of the State in accordance with the law on foreign exchange in order to implement the national monetary policy, ensure international solvency and maintain the foreign exchange reserves of the State.

3. The Prime Minister of the Government shall make decisions using the foreign exchange reserves of the State for contingencies or imperative demands of the State; where the use of foreign exchange reserves of the State results in a change in the estimated budget, the *Law on State Budget* shall apply.
4. The State Bank shall submit periodical and individual reports on management of the foreign exchange reserves of the State to the Prime Minister of the Government.
5. The Ministry of Finance shall inspect management of the foreign exchange reserves of the State by the State Bank in accordance with Government regulations.

Article 33 *Foreign exchange activities conducted by State Bank*

The State Bank shall carry out the purchase and sale of foreign exchange in the domestic market for the purposes of the national monetary policy; and shall carry out the purchase and sale of foreign exchange on the international market and conduct other foreign exchange transactions in accordance with regulations of the Prime Minister of the Government.

Article 34 *Sale and purchase of foreign currency between foreign exchange reserves and State Budget*

The Prime Minister shall stipulate a level of foreign currency retained by the Ministry of Finance from income of the budget for payment for regular expenditure in foreign currency of the State Budget. The remaining amount of foreign currency shall be sold by the Ministry of Finance to the foreign exchange reserves of the State placed at the State Bank.

Section 6

Information Activities and Reports

Article 35 *Responsibility to provide information to State Bank*

1. Organizations and individuals shall be responsible to provide information to the State Bank for preparation of monetary balance sheets, the payment balance of Vietnam and evaluation or forecasts of the developmental tendency of the monetary market for the purposes of formulating and implementing the national monetary policy and foreign exchange control.
2. Credit institutions shall be responsible to provide the State Bank with information and statistical data upon request by the State Bank for the purposes of evaluating, inspecting and supervising operation of the system of credit institutions and of each credit institution.
3. The Governor of the State Bank shall stipulate categories of providers, procedures, scope and types of information, and periods and methods of providing information stipulated in clauses 1 and 2 of this article.

Article 36 *Principles of provision of information*

Information which organizations and individuals provide to the State Bank must be accurate, truthful, complete and prompt.

Article 37 *Duties of State Bank in relation to information activities*

1. The State Bank shall have the following duties in relation to information activities:

- (a) To organize collection, use, storage, provision and publication of information in compliance with law;
 - (b) To organize and supervise provision of credit information by clients having relations with credit institutions to such credit institutions;
 - (c) To provide guidelines on provision of information, and to activate and check provision of information by organizations and individuals in accordance with law.
2. The State Bank shall be responsible to publish the following information in accordance with its authority:
- (a) Guidance, policies and laws on currency and banking;
 - (b) Decisions of the Governor of the State Bank managing currency and banking;
 - (c) Status of changes in currency and banking;
 - (d) Notices relating to establishment, acquisition, sale, division, demerger, consolidation, merger, bankruptcy or dissolution of credit institutions;
 - (dd) Financial results and operations of the State Bank in accordance with law.

Article 38 *Protection of confidentiality of information*

- 1. The State Bank shall be responsible to formulate a list [of secrets], to change the grade of confidentiality and release State secrets in the monetary and banking sector and submit them to the competent State body for decision; and shall protect secrets of the State Bank, and of organizations and individuals in accordance with law.
- 2. The State Bank shall be entitled to refuse the request of any organization or individual for provision of confidential information on currency and banking, except for requests of competent State bodies in accordance with law.
- 3. State employees and officials of the State Bank must maintain confidentiality of information on professional operations of the State Bank or of credit institutions, and confidentiality of deposits of organizations and individuals in accordance with law.

Article 39 *Monetary statistics, analysis and forecast*

The State Bank shall organize statistics and collection of economic, monetary and banking information within and outside the country for the purposes of research, analysis and forecast of monetary changes in order to formulate and manage the national monetary policy.

Article 40 *Reports on operation*

- 1. The Prime Minister of the Government shall submit, or delegate the Governor of the State Bank to submit to the National Assembly annual reports on results of implementation of the national monetary policies, and reports and explanatory statements on issues raised to the National Assembly, the Standing Committee of the National Assembly and bodies of the National Assembly; and shall promptly provide information and documents to bodies of the National Assembly when so requested for supervision of implementation of the national assembly policy.

2. The State Bank shall report the following items to the Government:
 - (a) Semi-annual and annual periodical [reports] on monetary and banking changes;
 - (b) Audited annual financial statements.
3. The State Bank shall provide ministries and ministerial equivalent bodies with reports in accordance with law.

Article 41 *Publishing operation*

The State Bank shall organize issuance of publications on currency and banking in accordance with law.

CHAPTER IV

Financial and Accounting Operations of State Bank

Article 42 *Prescribed capital*

The prescribed capital of the State Bank shall be provided by the State Budget. The level of prescribed capital of the State Bank shall be determined by the Prime Minister of the Government.

Article 43 *Financial collection and payments*

In principle, financial collection and payments by the State Bank shall be carried out in accordance with the *Law on State Budget*. The Prime Minister shall provide for items of financial collection and payments appropriate to the specific professional operations of the State Bank.

Article 44 *Financial result*

The annual financial result of the State Bank shall be equivalent to the income gained from banking operations and other income, after deducting operating costs and risk contingency funds.

Article 45 *Funds*

1. The State Bank shall be permitted to contribute part of the annual financial result for establishment of the following funds:
 - (a) Fund for implementation of the national monetary policy;
 - (b) Financial reserve fund;
 - (c) Other funds as decided by the Prime Minister of the Government.
2. The rate of contribution and use of the funds referred to in clause 1 of this article shall be carried out in accordance with regulations of the Prime Minister of the Government.
3. The residual amount of the financial result of the State Bank after contributing to the funds referred to in clause 1 of this article shall be paid into the State Budget.

Article 46 *Accounting operations*

The State Bank shall carry out accounting operations in accordance with the Vietnamese accounting standards and the special accounting system for the central bank as stipulated by the Prime Minister of the Government.

Article 47 *Auditing*

Annual financial statements prepared by the State Bank shall be audited and certified by the State Auditor.

Article 48 *Fiscal year*

The fiscal year of the State Bank shall commence on the first day of January and finish on the thirty-first day of December of the calendar year.

CHAPTER V

Banking Inspection and Supervision

Article 49 *Banking inspection and supervisory body*

1. The banking inspection and supervisory body shall be a body in the organizational structure of the State Bank and shall perform the duty of banking inspection and supervision, and prevention of and combating money laundering.
2. The organizational structure, duties and powers of the banking inspection and supervisory body shall be specified by the Prime Minister of the Government.

Article 50 *Purposes of banking inspection and supervision*

Banking inspection and supervision shall be conducted for the purposes of ensuring the safe and healthy development of the system of credit institutions and the financial system; protecting the legitimate rights and interests of depositors and clients of credit institutions; maintaining and increasing public trust in the system of credit institutions; ensuring observance of policies and law on currency and banking; and facilitating improvement of efficiency and effectiveness of State management of the monetary and banking sector.

Article 51 *Principles of banking inspection and supervision*

1. Banking inspection and supervision must comply with law; ensure that it is conducted in an accurate, objective, truthful, public, democratic and prompt manner; and not interfere with normal operations of bodies, organization and individuals subject to banking inspection and supervision.
2. Inspection and supervision of observance of policies and law on currency and banking shall be combined with inspection and supervision of risks of operations of entities subject to banking inspection and supervision.
3. Banking inspection and supervision shall be conducted on the principle of inspection and supervision of all operations of credit institutions.

4. Banking inspection and supervision shall be conducted in accordance with this Law and other relevant laws; where there is a discrepancy between this Law and other provisions of the law on banking inspection and supervision, the provisions of this Law shall prevail.
5. The Governor of the State Bank shall regulate the order and procedures for banking inspection and supervision.

Article 52 *Entities subject to banking inspection*

The State Bank shall inspect the following entities:

1. Credit institutions, foreign bank branches, representative offices of foreign credit institutions and other foreign organizations conducting banking operations. Where necessary, the State Bank shall request the competent State body to inspect, or coordinate in inspecting, subsidiary companies or affiliated companies of credit institutions.
2. Organizations conducting foreign exchange operations or gold trading operations; organizations conducting credit information activities; and organizations providing payment intermediary services other than banks.
3. Vietnamese and foreign bodies, organizations and individuals in Vietnam in observance of the law on currency and banking falling within the scope of State management by the State Bank.

Article 53 *Rights and obligations of entities subject to banking inspection:*

1. To abide by inspection conclusions.
2. To exercise rights and perform obligations in accordance with law.

Article 54 *Bases for inspection decision*

An inspection decision shall be made on one of the following bases:

1. Inspection program or plan.
2. Upon request of the Governor of the State Bank.
3. Upon discovery of any sign of a breach of law.
4. When there is a sign of risks threatening the safety of the operation of a credit institution.

Article 55 *Items of banking inspection:*

1. To inspect observance of the law on currency and banking and implementation of provisions of the licences issued by the State Bank.
2. To consider and evaluate the level of risks, ability to control risks and financial condition of entities subject to the banking inspection.
3. To make proposals for competent State bodies to make amendments and additions to, to revoke or issue legal instruments to satisfy requirements of State management of currency and banking.

4. To propose or request entities subject to the banking inspection to take measures to limit, minimize or deal with risks in order to ensure the safety of banking operations and prevent any acts resulting in a breach of the law.
5. To discover, prevent and deal with in accordance with its authority, or make proposals for relevant competent bodies to deal with breaches of the law on currency and banking.

Article 56 *Entities subject to banking supervision*

The State Bank shall conduct banking supervision of all operations of credit institutions and foreign bank branches. Where necessary, the State Bank shall request the competent State body to supervise, or coordinate in supervising, subsidiary companies or affiliated companies of credit institutions.

Article 57 *Rights and obligations of entities subject to banking supervision:*

1. To provide promptly, exactly and fully information and documents upon request by the banking inspection and supervisory body; to be responsible before the law for the accuracy and truthfulness of information and documents provided.
2. To make reports or explanatory statements in respect of proposals or warnings made by the banking inspection and supervisory body regarding risks and safety of operations.
3. To implement proposals or warnings made by the banking inspection and supervisory body regarding risks and safety of operations.

Article 58 *Items of banking supervision:*

1. To collect, compile and process documents, information and data in accordance with the requirements of banking supervision.
2. To consider and monitor observance of regulations on safety of banking operations and other laws on currency and banking, and the implementation of conclusions, proposals and penalty decisions in relation to inspection and the proposals or warnings of banking supervision.
3. To analyse and evaluate the financial condition, operation, management, administration and the degree of risk of credit institutions; and to conduct annual ratings of credit institutions.
4. To discover risks and provide warnings of risks causing a lack of safety for banking operations and threatening to result in a breach of the law on currency and banking.
5. To propose or make recommendations on measures to prevent and deal with risks and breaches of law.

Article 59 *Dealing with entities subject to banking inspection or supervision*

1. Any entity subject to banking inspection and supervision which commits a breach of the law on currency and banking shall, depending on the nature and seriousness of the breach, be subject to disciplinary action, a penalty for an administrative offence or prosecution for criminal liability, and if it causes loss and damage, must pay compensation in accordance with law.
2. The State Bank shall, depending on the nature and degree of risks, be entitled to take the following measures to deal with entities subject to banking inspection or supervision:

- (a) To restrict payment for dividends, or transfer of shares or assets;
- (b) To restrict expansion of the scope, scale and locality of operations;
- (c) To restrict, temporarily suspend or suspend one or several banking operations;
- (d) To request the credit institution to increase its charter capital to satisfy requirements for prudential limits in its banking operations;
- (dd) To request the credit institution to transfer its charter capital or share capital; and a major shareholder or shareholder holding the right to control or dominate [the credit institution] to transfer its shares;
- (e) To make decisions on a limit on credit growth rate applicable to the credit institution where necessary to ensure the safety of the credit institution and the system of credit institutions;
- (g) To apply one or several prudential limits higher than the stipulated limits.

Article 60 *Coordination between State Bank and ministries and ministerial equivalent bodies in conducting banking inspection or supervision*

1. The State Bank shall co-ordinate with relevant ministries and ministerial equivalent bodies in exchanging information on inspection and supervision in the financial and banking sector within its managerial authority.
2. The State Bank shall preside over and co-ordinate with the competent State body to conduct inspection and supervision of credit institutions; and shall co-ordinate with the competent State body to inspect or supervise subsidiary companies or affiliated companies of credit institutions in accordance with articles 52 and 56 of this Law.

Article 61 *Coordination in banking inspection and supervision between State Bank and foreign competent bodies for banking inspection or supervision*

1. The State Bank shall exchange information and coordinate with foreign competent bodies for banking inspection and supervision in inspecting and supervising foreign entities subject to banking inspection and supervision operating in Vietnam, and Vietnamese entities subject to banking inspection and supervision operating abroad.
2. The State Bank shall agree with foreign competent bodies for banking inspection and supervision on forms, items and the mechanism for exchange of information and coordination in conducting inspection and supervision in accordance with the law of Vietnam.

CHAPTER VI

Internal Audit

Article 62 *Internal auditor*

1. The internal auditor shall be an entity in the organizational structure of the State Bank conducting internal audit and internal control of the State Bank.
2. Regulations on internal audit and control shall be issued by the Governor of the State Bank.

Article 63 *Objects, purposes and principles of internal auditing activities*

1. Objects of the internal audit shall be entities in the system of the State Bank.
2. Purposes of the internal audit shall be to assess efficiency of internal control in order to ensure the reliability of financial statements; effectiveness of operations; observance of laws, regulations and procedures of the State Bank; and to ensure the safety of assets.
3. Operations of the internal audit shall be conducted on the following principles:
 - (a) To comply with the law, regulations, procedures and plans approved by the Governor of the State Bank;
 - (b) To ensure independence, truthfulness and objectiveness and to maintain confidentiality of State secrets and secrets of audited entities;
 - (c) Not to obstruct normal operations of audited entities;
 - (d) The internal auditor shall be permitted to access documents, files, transactions and other necessary documents of audited objects in order to realize the auditing purposes.

Article 64 *Duties and powers of internal auditor:*

1. To audit all entities in the system of the State Bank in compliance with the approved auditing plan or upon request of the Governor of the State Bank.
2. To conduct financial audits and audits of operations and other duties of the State Bank.

CHAPTER VII

Implementing Provisions

Article 65 *Effectiveness*

1. This Law shall be of full force and effect as of 1 January 2011.
2. The *Law on State Bank of Vietnam* 01-1997-QH10 and the *Law on Amendment of and Addition to a Number of Articles of the Law on State Bank* 10-2003-QH11 shall no longer have effect as from the effective date of this Law.

Article 66 *Detailed provisions and guidelines for implementation*

The Government shall provide detailed provisions and guidelines for implementation of articles and clauses assigned to them in this Law; and shall provide guidelines on other necessary items of this Law in order to satisfy requirements of State management.

This Law was passed by Legislative XII of the National Assembly of the Socialist Republic of Vietnam at its 7th Session on 16 June 2010.

Chairman of the National Assembly
NGUYEN PHU TRONG

LAW

ON STATE BUDGET

Pursuant to Constitution of Socialist Republic of Vietnam;

The National Assembly promulgates the Law on State budget.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Law deals with the planning, implementation, audit, statement, and supervision of state budget; responsibilities and entitlements of agencies, organizations, units, and individuals relevant to state budget.

Article 2. Regulated entities

1. Regulatory agencies, political organizations, and socio-political organizations.
2. Socio-political-professional organizations, social organizations, socio-professional organizations supported by state budget under the tasks given by the State.
3. Public service agencies.
4. Other organizations and individuals relevant to state budget.

Article 3. Application of law

1. The planning, implementation, audit, statement, and supervision of state budget must comply with this Law and relevant regulations of law.
2. In case regulations of an international agreement to which the Socialist Republic of Vietnam is a signatory is contrary to this Law, regulations of such international agreement shall apply.

Article 4. Interpretation of terms

In this Law, the terms below are construed as follows:

1. *The State budget deficit* includes deficit of the central government budget and deficit of provincial budgets. Central government budget deficit is the positive difference between total central government budget expenditure (not including principal repayment) and total central government budget revenue. Provincial budget deficit is total deficit of budget of each central-affiliated city or province, which is the positive difference

between total budget expenditure (not including principal repayment) and total budget revenue of every province.

2. *Commitment to give state budget estimate* means the acceptance by a competent authority to give budget estimate of particular program, project, or task in the next year(s).
3. *Expenditure on national reserve* means an obligatory expenditure of state budget on purchase of goods for reserve as prescribed by regulations of law on national reserve.
4. *Expenditure on development investment* means an obligatory expenditure of state budget which includes expenditure on investment in fundamental construction and other investments as prescribed by law.
5. *Expenditure on investment in fundamental construction* means an obligatory expenditure of state budget on execution of socio-economic infrastructure programs/projects and programs/projects serving socio-economic development.
6. *Recurrent expenditures* are obligatory expenditures of the state budget on maintenance of operation of the State apparatus, political organizations, socio-political organizations, support for operation of other organizations, and performance of regular tasks of the State in terms of socio-economic development and assurance of national defense and security.
7. *Expenditure on debt repayment* means an obligatory expenditure on repayment of due debts including principal, interest, fees and other costs of the loaning process.
8. *State budget reserve* means an entry of the unallocated budget expenditure estimate which is decided by corresponding agencies in charge of the budget.
9. *Budget estimate unit level I* means a unit that is given budget estimate by the Prime Minister or the People's Committee according to budget estimates.
10. *Budget estimate unit* means an organization or unit that is given budget estimate by a competent authority according to budget estimates.
11. *Budget-using unit* means a budget estimate unit that is assigned to directly manage and use the budget.
12. *Budget surplus* means the positive difference between the total budget revenue and total budget expenditure at the end of the budget year.
13. *Local government budget* means state budget revenues that a local government may use, additional funding from central government budget to the local government budget, and state budget expenditures within the liabilities of the local government.
14. *State budget* means all the expenditures and revenues of foreign that are estimated and realized over a certain period of time decided by competent authorities in order to perform the functions and tasks of the State.
15. *Central government budget* means state budget revenues that are given to the central regulatory agencies and state budget expenditures within the liabilities of central regulatory agencies.
16. *Budget management decentralization* means determination of scope, responsibility, and entitlements of various levels of authorities and budget estimate units to state budget management that suit socio-economic management decentralization.

17. *Financial reserve fund* means a fund of the State derived from state budget and other financial sources prescribed by Law.
18. *State budget fund* means the entire amount of money of the State, including loans on the account of various levels of state budget at a particular point of time.
19. *Off-budget financial fund* means a fund established by a competent authority and independent from state budget; its revenues and obligatory expenditures are meant to fulfill certain tasks prescribed by law.
20. *Additional funding for balancing budget* means the additional funding provided by the budget of a superior agency to budget of an inferior agency in order for it to balance its budget and fulfill its tasks.
21. *Dedicated additional funding* means the additional funding provided for budget of an inferior agency to support execution of a particular program/project, or fulfillment of certain tasks.
22. *Checked estimate of state budget revenue and expenditure* means the amount of state budget expenditure and revenue notified by competent authorities to various levels of state budget, agencies, organizations and units as the basis for making annual state budget estimates and 3-year state budget – finance plans.
23. *Local government budget stability period* means the period over which the ratio (%) of revenues between various levels of state budget to additional funding for budget balance from superior budgets to inferior budgets is stable for 05 years, which coincide with the 5-year socio-economic development plan, or under a decision of the National Assembly.
24. *Ratio (%) of revenue distribution between various levels of state budget* means the ratio (%) of state budget revenue given to a budget may retain to the total revenues distributed among various levels of state budget.

Article 5. Scope of state budget

1. State budget revenues include:

- a) All revenues from taxes and fees;
- b) All revenues from fees for services provided by regulatory agencies; fees for service provided by public service agencies and state-owned enterprises that are transferred to state budget as prescribed by law;
- c) Grant aid provided by governments of other countries, overseas organizations and individuals for Vietnam's government and local governments of Vietnam;
- dd) Other revenues prescribed by law.

2. State budget expenditures include:

- a) Expenditure on development investment;
- b) Expenditure on national reserve;
- c) Recurrent expenditures;
- d) Payment of loan interest;

dd) Provision of aid;

e) Other expenditures prescribed by law.

3. The State budget deficit.

4. Total loan of state budget, including loans to cover deficit and repayment of debt principal of state budget.

Article 6. State budget system

1. State budget consists of central government budget and local government budgets.

2. A local government budget consists of budgets of local authorities at various levels.

Article 7. Rules for state budget balancing

1. Revenues from taxes, fees, charges, and other revenues must be transferred to state budget balance without association with any particular obligatory expenditure. If revenue must be associated with a particular obligatory expenditure, such expenditure shall be covered by the corresponding revenue in the budget estimate. The establishment of policies on collection of budget revenues must ensure midterm and long-term balance of budget as well as adherence to international integration agreements.

2. State budget is considered balanced if total revenue from taxes, fees, and charges is higher than total recurrent expenditure and the saving for development investment is increasing; If budget deficit still exist, the amount of deficit must be smaller than the expenditure on development investment in order to aim for balanced budget. The government shall propose special cases to the National Assembly for consideration. Budget surplus, if any, shall be used to repay principal and interest of loans taken by the state.

3. Loans for covering the State budget deficit may only be used for development investment, not recurrent expenditures.

4. Central government budget deficit shall be covered by the following sources:

a) Domestic loans from issuance of Government bonds and other domestic loans prescribed by law;

b) Foreign loans granted by governments of other countries, international organizations, issuance of Government bonds to international market, not including on-lend loans.

5. Local government budget deficit:

a) Deficit of provincial budgets is permitted; only local government budget deficit because of investment in projects under midterm public investment plans decided by the People's Council of the province is permitted;

b) Local government budget deficit shall be covered by domestic loans from issuance of Government bonds, on-lending loans from the government, and other domestic loans prescribed by law;

c) Local government budget deficit shall be aggregated with the State budget deficit and decided by the National Assembly. The government shall set out conditions for local government budget deficit in order to ensure solvency of local governments and suit the total state budget deficit.

6. Loan balance of local government budgets

- a) Loan balance of budgets of Hanoi and Ho Chi Minh City must not exceed 60% of the local government budget revenue they may retain;
- b) In the administrative divisions permitted to retain an amount of revenue higher than recurrent expenditure of the local government budgets, loan balance must not exceed 30% of the amount retained;
- c) In the administrative divisions permitted to retain an amount of revenue not exceeding recurrent expenditure of the local government budgets, loan balance must not exceed 20% of the amount retained.

Article 8. Rules for state budget management

1. State budget shall be managed in a uniform, democratic, efficient, prudent, transparent, and fair manner with decentralization of management, associated with entitlements and responsibilities of regulatory agencies at various levels.
2. All budget expenditures and revenues must be estimated and aggregated with state budget.
3. Budget revenues must comply with regulations of law on taxes and tax collection.
4. Budget expenditures may only be realized after the budget estimate is approved by a competent authority; the standard, and expenditure limits imposed by competent authorities must be complied with. State budgets at various levels, budget estimate units, budget-using units must not execute obligatory expenditures before having financial sources and budget estimate, which will lead to debts on fundamental construction and funding for recurrent expenditures.
5. Priority shall be given to expenditures on implementation of policies of Communist Party and the State to serve economic development, poverty reduction; ethnic policies; gender equality objectives; development of agriculture and rural areas, education, healthcare, science and technology, and other important policies.
6. State budget shall be allocated to fulfill socio-economic development tasks; assurance of national defense and security, international relation, and cover operating cost of the state apparatus.
7. State budget shall cover operating costs of political organizations and socio-political organizations.
8. Socio-political-professional organizations, social organizations, socio-professional organizations shall cover their own operating costs. State budget only support performance of tasks given by the State as prescribed by the government.
9. Payment of due loan interest being obligatory expenditures of state budget.
10. The decision on investment and expenditures on investment in programs/projects funded by state budget must conform to the Law on Public investment and relevant regulations of law.
11. State budget does not cover operating costs of off-budget financial funds. An organization only has its charter capital supported by state budget within the capacity of state budget and only when the conditions are satisfied: the organization is established and operating in accordance with law, financially independent, and sources of revenue and obligatory expenditures do not coincide with those of state budget.

Article 9. Rules for management of sources of revenue, obligatory expenditures, and relation between various levels of state budget

1. Central government budget and local government budget at each level has their own sources of revenue and obligatory expenditures.
2. Central government budget plays a pivotal role in ensuring execution obligatory expenditures of the country, support local governments in balancing their budgets in accordance with Clause 3 Article 40 of this Law.
3. Local government budgets having sources of revenue shall initiatively make obligatory expenditures as assigned. The People's Councils of provinces shall decide distribution of sources of revenue and obligatory expenditures between various levels of local government budget in a way that is conformable with decentralization of socio-economic management, national defense and security, and managerial capacity of each level.
4. Each local government budget shall ensure the execution of their own obligatory expenditures; the promulgation and implementation of new policies that increase budget revenue must ensure the financial sources and suit the ability to balance budget at each level; the decision on investment in programs/projects funded by state budget must not exceed the scope of budget at that level.
5. The superior regulatory agency that authorizes an inferior regulatory agency to make obligatory expenditures on its behalf must give a budget estimate to such inferior agency. The agency that receives the funding must submit a statement of the use of such funding to the authorizing agency.
6. Budget revenues and additional funding provided by superior budgets to inferior ones shall be distributed by ratio (%) in a way that ensure equality and balanced development among geographical areas.
7. During budget stability period:
 - a) The ratio of budget revenue distribution between various levels of state budget remains unchanged;
 - b) Every year, in consideration of the capacity of the superior budget, the competent authority may decide increase in additional funding for balancing budget from the superior budget to inferior budgets compared to the first year of the stability period;
 - c) The dedicated additional funding provided by the superior budget to inferior budgets is determined according to the rules, criteria, and limits of funding provision, standards, limits on budget expenditures; capacity of the superior budget, and ability to balance budget of each inferior local government;
 - d) Local governments may use the annual increase in revenue which they may retain to increase expenditure on performance of socio-economic development tasks and assurance of national defense and security. Revenue increase compared to budget estimate shall comply with Clause 2 Article 59 of this Law.

In case there is a new source of revenue from a new project which is put into operation during the budget stability period, which results in a considerable increase in the local government budget revenue, the revenue increase must be transferred to the superior budget. The government shall request the National Assembly; the People's Committee of the province shall request the People's Council of the same provide to decide the collection of the aforementioned revenue increase and provide dedicated additional funding for inferior budgets as prescribed in Point d Clause 3 Article 40 of this Law in order to support investment in local infrastructure under projects approved by competent authorities;

dd) If the local government budget revenue is smaller than the budget estimate because of some objective reason, Clause 3 Article 59 of this Law shall apply.

8. After each budget stability period, local governments must improve their ability to balance and develop their budgets themselves, reduce the ratio of funding from the superior budget to total local government budget expenditure, or increase the ratio of amount transferred to the superior budget with regard to the revenues distributed among various level of state budget in order to support the superior budget in making national obligatory expenditures and facilitate comprehensive development among geographical areas.

9. Do not use state budget at one level to pay for performance of tasks of another, and do not use the budget of one local government to pay for performance of tasks of another, except for the following cases:

a) The inferior budget has to support superior units in the same area to mobilize of emergency forces upon in the event of a disaster, epidemic, and other emergency situations in order to maintain socio-economic stability, security, and social order in the area;

b) While performing their tasks, superior units shall cooperate with inferior units in performance of some tasks of the inferior units;

c) Local government budget reserve shall be used to support other areas in disaster recovery.

10. In case implementation of an international agreement results in a decrease in central government budget revenue, the government shall request the National Assembly to consider adjusting distribution of revenue between central government budget and local government budgets in order to maintain the leading role of central government budget.

Article 10. State budget reserve

1. The reserve is 2% - 4% of total budget expenditure at each level.

2. State budget reserve is used for:

a) Unplanned expenditures on prevention and recovery of natural disasters, response to epidemics, and famine relief; performance of crucial national defense and security objectives, and other objectives that are their liabilities;

b) Provision of support for inferior budgets to perform the tasks mentioned in Point a of this Clause if the inferior budgets are still not able to complete such tasks after their reserve is used up;

c) Provision of support for other local governments as prescribed in Point c Clause 9 Article 9 of this Law.

3. The power to decide the use of state budget reserve:

a) The government shall provide for the power to decide the use of central government budget reserve, submit periodic reports on the use of central government budget reserve to Standing Committee of the National Assembly and to the National Assembly at the nearest meeting;

b) The People's Committees shall decide the use of their budget reserve; submit periodic reports to Standing Committee of the People's Council and to the People's Council at the nearest meeting.

Article 11. Financial reserve funds

1. The government, the People's Committees of provinces shall establish financial reserve funds from sources of revenue, budget surplus; include them in annual budget expenditure estimate and other financial sources. The

balance of the financial reserve fund at each level must not exceed 25% the annual budget expenditure estimate that the same level.

2. Financial reserve funds are used in the following cases:

- a) Advance funding to cover necessary expenditures according to the budget expenditure estimate before aggregating enough revenue. Such amount must be returned within the budget year;
- b) In case state budget revenues or loans taken to cover budget deficit fail to reach the estimate decided by the National Assembly or the People's Council, budget reserve is used up but still not sufficient for disaster recovery, response to widespread and serious epidemics, performance of tasks related to national defense and security, and other urgent tasks that are unplanned, the financial reserve fund may be used. However, the amount used in the year must not exceed 70% of the opening balance of the fund.

3. The government shall decide the power to use financial reserve funds.

Article 12. Conditions for the State budget revenues and expenditures

1. State budget revenues must comply with this Law, tax laws, and regulations of law on collection of state budget revenues.

2. State budget expenditures are only permitted if they are included in a given budget estimate except for the case in Article 51 of this Law, have been decided by the head of the budget-using unit, investor, or an authorized person, and satisfy all conditions in each of the following cases:

- a) Expenditure on investment in fundamental construction must satisfy conditions prescribed by regulations of law on public investment and construction;
- b) Recurrent expenditures must comply with the standards, limits on budget expenditures imposed by competent authorities; in case an organization or unit is permitted by a competent authority to exercise financial autonomy, it shall comply with its regulations on spending which conform to its budget estimate.
- c) Expenditure on national reserve must satisfy conditions prescribed by regulations of national reserve;
- d) With regard to procurements of consulting services, goods, construction works under programs/projects that need bidding to select contractors providing, bidding must be organized in accordance with regulations of law on bidding;
- dd) Expenditures on tasks given or ordered by the State must comply with regulations of law on prices or fees and charges promulgated by competent authorities.

Article 13. Accounting and statement of state budget revenue and expenditure

1. State budget revenues and expenditures shall be expressed as Vietnam dong (VND). State budget revenues and expenditures in foreign currencies must be converted into VND at the rate prescribed by a competent authority at that time.

2. State budget revenues and expenditures must be sufficiently, promptly, and properly accounted for.

3. Accounting and statements of state budget must be uniform under state accounting regulations, list of state budget entries, and this Law.

4. Documents about state budget revenues and expenditures must be issued, used, and managed in accordance with law.

Article 14. Budget year

A budget year begins on January 01 and ends on December 31 of the solar calendar year.

Article 15. Publishing of state budget

1. State budget estimates that have been submitted to the National Assembly and the People's Councils; State budget estimates that have been approved by competent authorities; reports on state budget enactment; state budget statements approved by the National Assembly and the People's Councils; estimates, enactment reports, statements of budgets of budget estimate units, organizations funded by state budget, fundamental construction programs/projects funded by state budget must be published in accordance with regulations below:

a) Contents to be published include: data and description of state budget estimates been submitted to the National Assembly and the People's Councils; state budget estimates made by competent authorities; use of state budget, and state budget statements; implementation of proposals of State Audit Office of Vietnam; except for detailed data and description related to national defense, security, and national reserve;

b) State budget shall be published in one or some of the following manners: announcement at meetings; posting at offices; issued in publications; written notifications to relevant organizations and individuals; posting on websites; announcement through the media;

c) Every state budget estimate must be published within 05 working days from the day on which it is sent by the government to members of the National Assembly or by the People's Committee to the People's Council.

Reports on state budget estimates approved by competent authorities, state budget statements approved by competent authorities, result of state budget audit, result of implementation proposals of State Audit Office of Vietnam must be published within 30 days from the day on which they are issued.

Quarterly and biannual reports on state budget enactment must be published within 15 days from the ending day of the quarter or half-year period.

The annual report on state budget enactment must be published when it is submitted by the government to the National Assembly at the mid-year meeting of the next year.

2. Publishing of state budget procedures:

a) Collecting authorities, financial authorities, and State Treasuries shall publish state budget procedures;

b) Contents to be published: regulations on procedures for declaration, collection, payment, exemption, reduction, deferral, refund of payments; advanced payment, amounts allocated and paid to state budget;

c) The publishing may be carried out by posting at transaction places and on websites of the aforementioned agencies.

3. The contents published must have sufficient criteria and forms prescribed by the Ministry of Finance.

4. Responsible agencies mentioned in Clause 1 and Clause 2 of this Article shall be dealt with as prescribed by law if failing to publish the aforementioned contents.

5. The government shall provide specific regulations on publishing of state budget.

Article 16. Supervision of state budget by the public

1. State budget shall be supervised by the public. Vietnamese Fatherland Front and other agencies at various levels shall organize supervision of state budget by the public. Contents of supervision of state budget by the public:

- a) Adherence to regulations of law on management and use of state budget;
- b) Enactment of annual state budget estimates;
- c) Publishing of state budget as prescribed in Article 15 of this Law.

2. The government shall provide specific regulations on supervision of state budget by the public.

Article 17. 5-year financial plan

1. A 5-year financial plan is a financial plan for 05 years made together with a 5-year socio-economic development plan. The 5-year financial plan must have overall and specific targets of state budget and state finance, major orientations for state budget and state finance; amount and structure of domestic revenues, revenue from crude oil, revenue from export and import; amount and structure of expenditure on development investment, debt repayment; orientation of budget deficit; limit of national foreign debts, public debts, government debts; solutions for implementation of the plan.

2. 5-year financial plan is meant to:

- a) Achieve socio-economic development targets of the country, each sector, field, and area; balance and efficiently use public financial resources and state budget in the midterm; encourage publishing and transparency of state budget;
- b) Form a basis for competent authorities to consider deciding midterm investment plan from state budget;
- c) Orient the making of annual state budget estimates and 3-year state budget-finance plans.

3. 5-year financial plans include national 5-year financial plan and provincial 5-year financial plans.

4. The Ministry of Finance shall formulate the national 5-year financial plan and submit it to the Prime Minister for reporting to the National Assembly; Every provincial Department of Finance shall formulate provincial 5-year financial plans and submit them to the People's Committee of the province and the People's Council for consideration together with the budget estimate of the first year of the plan.

5. The government shall provide specific regulations on making of 5-year financial plans.

Article 18. Prohibited acts

- 1. Misusing position or power to appropriate state budget; irresponsibility that causes losses to state budget.
- 2. Collecting revenues against regulations of tax laws and other regulations of law on collection of revenues; incorrectly distributing sources of revenue between various levels of state budget; improperly retaining state budget revenues; collecting revenues against the law.

3. Spending without budget estimates except for the case in Article 51 of this Law; Spending against given budget estimates; spending against regulations, standards, and limits on expenditure, or on improper purposes; making expenditures against the law.
4. Deciding investment in programs/projects funded by state budget ultra vires or without determined capital sources.
5. Taking loans against the law; taking loans beyond the state budget capacity.
6. Using state budget to grant loans, make advanced payment, or contribute capital against the law.
7. Delaying enactment of budget expenditures while all conditions prescribed by law have been satisfied.
8. Doing accounting against accounting regulations and list of state budget entries.
9. Making, submitting state budget estimates or statements behind schedule.
10. Approving state budget statements against the law.
11. Using the state budget fund at a State Treasury beyond the budget estimate approved by a competent authority, except for the case of temporary funding or advance funding from next year's budget prescribed in Article 51 and Article 57 of this Law.
12. Other prohibited acts related to state budget in relevant laws.

Chapter II

DUTIES, ENTITLEMENTS OF REGULATORY AGENCIES; RESPONSIBILITY AND OBLIGATIONS OF ORGANIZATIONS AND INDIVIDUALS TO STATE BUDGET

Article 19. Duties and entitlements of the National Assembly

1. Make laws and amend laws on state budget – finance.
2. Decide basic policies on state budget – finance; impose, change, or abolish taxes; decide safety limits on national debts, public debts and government debts.
3. Decide 5-year financial plans.
4. Decide state budget estimates:
 - a) Total state budget revenue, including domestic revenue, revenue from crude oil, revenue from export and import, and receipt of grant aid;
 - b) Total state budget expenditure, including central government budget expenditure, local government budget expenditure, expenditure on development investment, national reserve, recurrent expenditures, payment of loan interest, provision of aid, provision of additional funding for financial reserve fund, budget reserve. Expenditure on development investment and recurrent expenditure include specific expenditures on education, vocational training, science and technology;

c) The State budget deficit includes deficit of central government budget and deficit of each local government budget; sources for covering state budget deficit;

dd) Total loan of state budget, including loans for covering state budget deficit and loans for repayment of principal of state budget.

5. Decide allocation of central government budget:

a) Total amount of central government budget allocated; expenditure on development investment by each field; recurrent expenditure by each field; expenditure on national reserve; payment of loan interest, provision of additional funding for financial reserve fund; budget reserve;

b) Estimate of expenditure on development investment, recurrent expenditure, expenditure on national reserve, provision of aid by each Ministry, ministerial agency, Governmental agency, and other central regulatory agencies by each field;

c) Amount of additional funding from central government budget for each local government budget, including funding for budget balancing and dedicated additional funding.

6. Decide the ratio (%) of distribution between central government budget and each local government budget with regard to the revenues prescribed in Clause 2 Article 35 of this Law.

7. Decide policies on investment in National target programs and projects of national importance funded by state budget.

8. Decide adjustments to state budget estimates where necessary.

9. Approve state budget statements.

10. Supervise the enactment of state budget, basic policies of state budget – finance, and the National Assembly's Resolutions on state budget.

11. Annul documents issued by the President, Standing Committee of the National Assembly, the government, the Prime Minister, the People's Supreme Court, the People's Supreme Procuracy on state budget – finance that contravene the Constitution, Laws, and the National Assembly's Resolutions.

Article 20. Duties and entitlements of Standing Committee of the National Assembly

1. Promulgate Ordinances and Resolutions on state budget – finance as prescribed by law.

2. Offer opinions on law projects, reports, and other projects pertaining to organizations and individuals submitted to the National Assembly by the government.

3. Promulgate a Regulation on making, inspecting, and deciding state budget estimate, plan for allocation of central government budget and approving state budget statements.

4. Offer opinions on regulations on important and extensive policies on budget expenditures related to achievement of socio-economic objectives of Vietnam proposed by the government.

5. Decide:

- a) Rules, criteria, and norms for allocation of state budget;
 - b) Inclusion of increase in state budget revenue in the estimate; allocation and use of revenue increase, expenditure decrease of central government budget, reports submitted to the National Assembly at the nearest meeting.
6. Supervise the implementation of Laws and the National Assembly's Resolution; Ordinances and Resolutions of Standing Committee of the National Assembly on state budget – finance.
7. Suspend the implementation of legislative documents promulgated by the government, the Prime Minister on state budget – finance that contravene the Constitution, Laws, and the National Assembly's Resolutions; propose the annulment of such documents at the nearest meeting of the National Assembly.
8. Annul legislative documents promulgated by the government and the Prime Minister on state budget – finance that contravene Resolutions of Standing Committee of the National Assembly.
9. Annul Resolutions on state budget – finance promulgated by the People's Councils of provinces that contravene the Constitution, Laws, Resolutions of the National, Ordinances and Resolutions of Standing Committee of the National Assembly.

Article 21. Duties and entitlements of Budget – Finance Committee of the National Assembly

1. Assess law projects, ordinance projects, other projects and reports on state budget – finance assigned by the National Assembly and Standing Committee of the National Assembly.
2. Take charge of assessment of state budget estimate, plan for allocation of central government budget, plan for adjusting state budget estimate, reports on enactment of state budget, and state budget statement; rules, criteria, and norm for budget allocation and plan for use of revenue increase, expenditure decrease of central government budget proposed by the government to the National Assembly and Standing Committee of the National Assembly.
3. Assess important and extensive policies on budget expenditures related to achievement of socio-economic objectives of Vietnam proposed by the government to Standing Committee of the National Assembly.
4. Supervise the implementation of Laws, Resolutions of the National Assembly, Resolutions of Standing Committee of the National Assembly on state budget – finance; supervise the enactment of state budget and state budget – finance policies.
5. Supervise the implementation of legislative documents promulgated by the government, the Prime Minister, Ministers, Heads of ministerial agencies, and joint documents on state budget – finance issued by central regulatory agencies.
6. Put forward issues pertaining to state budget – finance.

Article 22. Duties and entitlements of Nationalities Council and other Committees of the National Assembly

1. Cooperate with Budget – Finance Committee of the National Assembly and relevant agencies of the government in assessment of law projects, ordinance projects, state budget estimate, plan for allocation of central government budget, reports on enactment of state budget, state budget statement, other projects and

reports on state budget – finance submitted by the government to the National Assembly or Standing Committee of the National Assembly within the area of its competence.

2. Supervise the implementation of Laws, Resolutions of the National Assembly, Resolutions of Standing Committee of the National Assembly on state budget – finance; supervise the enactment of state budget and state budget – finance policies within its competence.

3. Put forward issues pertaining to state budget – finance within its competence.

Article 23. Duties and entitlements of State Audit Office of Vietnam

1. Carry out state budget audit and report the audit result to the National Assembly and Standing Committee of the National Assembly; send the audit result to the President, the government, the Prime Minister, Nationalities Council, Committees of the National Assembly, and relevant agencies prescribed by the Law on State Audit Office of Vietnam.

2. Submit reports on state budget statement audit to the National Assembly for consideration and approval.

3. Cooperate with Budget – Finance Committee and other agencies of the National Assembly and the government in examining reports on state budget estimate, plans for allocation of central government budget, and plans for adjusting state budget estimate.

Article 24. Duties and entitlements of the President

1. Announce Laws and Ordinances on state budget – finance.

2. Perform the duties and entitlements prescribed by the Constitution and law pertaining to negotiation, conclusion, approval of international agreements of state budget – finance, or propose them to the National Assembly for approval.

3. Request the government to hold meetings on state budget – finance activities where necessary.

Article 25. Duties and entitlements of the government

1. Submit law projects, ordinance projects, other projects and reports on state budget – finance to the National Assembly and Standing Committee of the National Assembly; promulgate legislative documents on state budget – finance within its competence.

2. Make and submit 5-year financial plans and 3-year state budget-finance plans to the National Assembly.

3. Make and submit annual state budget estimates, plans allocation of central government budget, and adjustments to state budget estimate (where necessary) to the National Assembly.

4. Pursuant to the National Assembly's Resolution on state budget estimate and allocation of central government budget, assign state budget revenue and obligatory expenditures to each Ministry, ministerial agency, Governmental agency, other central regulatory agencies in accordance with Point b Clause 5 Article 19 of this Law; revenue, expenditure, deficit targets, and ratio (%) of distribution between central government budget and each local government budget with regard to the distributable revenues and additional funding from central government budget for each province according to Points a, b, c, and d Clause 4, Point c Clause 5, and Clause 6 Article 19 of this Law.

5. Unify management of state budget; ensure tight cooperation between sector management agencies and local governments in enactment of state budget.
6. Decide solutions and organize the enactment of state budget as decided by the National Assembly; inspect the enactment of state budget; submit reports to the National Assembly and Standing Committee of the National Assembly on enactment of state budget, National target programs, projects of national importance decided by the National Assembly.
7. Submit state budget – finance reports to the National Assembly and Standing Committee of the National Assembly on request.
8. Establish procedures for making estimates, collecting revenues, controlling budget expenditures, and making budget statements; advance funding of next year's budget; use of budget reserve; use of financial reserve fund and other financial funds of the State prescribed in this Law and relevant regulations of law.
9. Decide important and extensive policies on budget expenditures related to achievement of socio-economic objectives of Vietnam after receiving opinions from Standing Committee of the National Assembly.
10. Decide uniform policies, standards, and limits on expenditures that apply nationwide; impose brackets of some policies, standards, and limits on expenditures to suit local conditions for the People's Councils of provinces to decide specifically.
11. Establish principles, criteria, and limits on budget allocation; submit them to Standing Committee of the National Assembly as the basis for making estimates and allocating budget among Ministries, ministerial agencies, Governmental agencies, other central and local agencies.
12. Provide instructions and supervise the People's Council implementing documents of superior agencies; inspect the legitimacy of Resolutions of the People's Councils.
13. Make and submit state budget statements, financial statements of programs/projects of national importance decided by the National Assembly.
14. Issue a Regulation on consideration and decision of estimate and allocation of local government budgets; consider approving local government budgets.
15. Issue regulations on budget management according to task performance result.

Article 26. Duties and entitlements of the Ministry of Finance

1. Prepare for law projects, ordinance projects, 5-year financial plans, 3-year state budget – finance plans, other state budget – finance projects and submit them to the government; promulgate legislative documents on state budget – finance within its competence.
2. Establish principles, criteria, and limits on allocation of recurrent expenditures of state budget; policies, standards, and limits on budget expenditures, mechanism for state budget – finance management, accounting, payment, statement of state budget, and list of state budget entries; regulations on reporting and financial transparency; submit them to the government for promulgation in order to be uniformly applied nationwide.
3. Decide the policies, standards, limits on budget expenditures on various fields and sectors after reaching a consensus with corresponding Ministries; if a consensus is not achieved, the Ministry of Finance shall request the Prime Minister to consider and offer opinions.

4. Make state budget estimates, plans for allocation of central government budget, adjustments to state budget estimate where necessary and submit them to the government. Organize the enactment of state budget; unify the management and collection of taxes, fees, charges, loans, and other receivables, international aid; organize enactment of state budget expenditure in accordance with given budget estimates. Make and submit state budget statements to the government.

5. Decide the targets, orientation for raising, using loans, and management of public debt in each 5-year period; midterm debt management program; system of criteria for monitoring government debt, public debt, national foreign debts; annual plans for loans and repayment of the government; then submit them to competent authorities for approval.

6. Examine state budget – finance regulations promulgated by Ministries, ministerial agencies, the People's Councils, the People's Committees of provinces and President of the People's Committees of provinces. If any of them contravenes the Constitution, Laws, Resolutions of the National, Ordinances and Resolutions of Standing Committee of the National Assembly, and other documents issued by superior agencies, the Ministry of Finance is entitled to:

a) Request the Minister or Heads of ministerial agency to suspend or annul the illegitimate documents they issued;

b) Request the Prime Minister to suspend illegitimate Resolutions promulgated by the People's Councils of provinces;

c) request the Prime Minister to annul illegitimate regulations promulgated by the People's Committees and the Presidents of the People's Committees of provinces.

7. Carry out state budget – finance inspections; take actions (or request competent authorities to take actions) against violations against the laws on state budget – finance management of Ministries, ministerial agencies, Governmental agencies, other central regulatory agencies, local governments, business organizations, administrative units, and other entities obliged to make contributions to state budget and use state budget;

8. Manage state budget funds, state reserve funds, and other funds of the State as prescribed by law.

9. Assess efficiency of state budget expenditures.

10. Publish state budget in accordance with Article 15 of this Law.

Article 27. Duties and entitlements of the Ministry of Planning and Investment

1. Establish and propose principles, criteria, and limits on allocation of capital for investment in development of state budget to the government; plan the allocation of expenditures on development investment of central government budget.

2. Cooperate with the Ministry of Finance, relevant Ministries and agencies in making 5-year financial plans, annual state budget estimates, and 3-year state budget – finance plans.

Article 28. Duties and entitlements of the State bank of Vietnam

1. Cooperate with the Ministry of Finance in formulating and implementing loaning plans for covering state budget deficit.

2. Give advances to state budget to cover temporary deficit of state budget funds under decisions of the Prime Minister.

Article 29. Duties and entitlements of other Ministries, ministerial agencies, Governmental agencies, and other central regulatory agencies

1. Make their own annual budget estimates and 3-year state budget – finance plans.
2. Cooperate with the Ministry of Finance, other Ministries and relevant agencies in aggregating the annual state budget estimate, plan allocation of central government, 5-year financial plans, 3-year state budget – finance plans, and annual budget statements of their fields or sectors.
3. Inspect and monitor the enactment of budget of their fields or sectors.
4. Report the result and efficiency of budget of their fields or sectors.
5. Impose technical – economic limits as the basis for budget management according to achievement of objectives of their fields or sectors.
6. Cooperate with the Ministry of Finance in establishing policies, standards, and limits on budget expenditures of their fields or sectors
7. Manage, organize enactment of budget; make and publish budget statements; ensure efficient use of state budget.
8. Ministers, Heads of ministerial agencies, Governmental agencies, and other central regulatory agencies shall adhere to their duties and entitlements to state budget – finance and take responsibility for misconducts within their competence.

Article 30. Duties and entitlements of the People's Councils

1. According to the budget revenue and obligatory expenditures set by superior agencies and practical conditions, decide:
 - a) Estimate of the local revenues of state budget, including domestic revenue, revenue from crude oil, revenue from export and import, and receipt of grant aid, ensuring the actual revenue is not lower than the revenue estimated by superior agencies;
 - b) Estimate of revenues of local government budget, including the revenues wholly and partly retained in the local government budget, and additional funding provided by the superior budget;
 - c) Estimate of expenditures of local government budget, including expenditures of their own budget and those of inferior budgets, sorted by expenditure on development investment, recurrent expenditures, payment of loan interest, provision of additional funding for financial reserve fund, and budget reserve. Expenditure on development investment and recurrent expenditures include specific expenditures on education, vocational training, science and technology;
 - d) Total loan of local government budget, including loans for covering deficit of local government budget and loans for repayment of principal of local government budget.
2. Decide allocation of their own budget estimates:

a) Total amount; expenditure on development investment and recurrent expenditures by each field; provision of additional funding for local financial reserve funds; budget reserve;

b) Estimate of expenditure on development investment and recurrent expenditures of each affiliated agency and unit by field;

c) Additional funding for each inferior budget, including additional funding for budget balancing and dedicated additional funding.

3. Approve statements of local government budgets.

4. Decide policies and measures for enactment of local government budgets.

5. Decide adjustments to local government budget estimates where necessary.

6. Supervise the enactment of budget decided by the People's Council.

7. Annul legislative documents on state budget – finance promulgated by the People's Committee or the President of the People's Committee of the same province and the People's Councils at inferior level if they contravene the Constitution, Laws, Resolutions of the National, Ordinances and Resolutions of Standing Committee of the National Assembly, and other documents issued by superior agencies.

8. Compile the list of programs/projects to be invested by their budgets of the People's Councils in the midterm; decide local important programs/projects to be invested by state budget.

9. Apart from the duties and entitlements prescribed in Clauses 1, 2, 3, 4, 5, 6, 7, 8 of this Article, the People's Councils of provinces also have the following duties and entitlements:

a) Decide 5-year financial plans with the following contents: overall targets, specific targets, estimated revenue of local government budgets; revenues and expenditures of local government budgets, deficit of local government budget, and limits on loans of local government budgets; solutions for implementation of the plans;

b) Decide deficit of local government budgets and sources for covering such deficit every year;

c) Decide the distribution of sources of revenues and obligatory expenditures of each level of local government budgets according to Clause 3 Article 9 of this Article;

d) Decide the ratio of distribution between various levels of local government budgets with regard to the revenues to be retained by local government budgets prescribed in Clause 2 Article 37 of this Law and revenues distributed between various levels of local government budgets;

dd) Decide collection of fees, charges, and the people's contribution as prescribed by law;

e) Decide the principles, criteria, and limits on local budget allocation;

g) Decide policies, standards, and limits on budget expenditures according to framework regulations of the government;

h) Decide policies on special obligatory expenditures of their areas apart from the policies, standards, and limits imposed by the government and the Minister of Finance in order to achieve socio-economic development objectives, ensure social safety and order locally in a way that suits capacity of local government budgets.

The government shall elaborate this regulation.

Article 31. Duties and entitlements of the People's Committees

1. Make estimates of local government budgets and plans for budget allocation according to Clause 1 and Clause 2 Article 30 of this Law; make adjust estimates of local government budgets where necessary, submit them to the People's Council at the same level for decision and reporting to superior administrative agencies and finance authorities.
2. Make and submit local government budget statements to the People's Council at the same level for approval and reporting to superior administrative agencies and finance authorities.
3. Inspect Resolutions on state budget – finance issued by the People's Councils at inferior levels.
4. Decide budget revenue and obligatory expenditures of each affiliated agency and unit, additional revenue and obligatory expenditures of inferior budgets, and ratio of distribution between various levels of local government budgets with regard to distributable revenues.
5. Decide solutions and organize enactment of local government budget estimates decided by the People's Councils; carry out inspection and make reports on enactment of local government budgets.
6. Cooperate with superior regulatory agency in management of local government budgets.
7. Report and publish state budget as prescribed by law.
8. Manage the budget according to achievement of objectives as prescribed by the government.
9. Apart from the duties and entitlements prescribed in Clauses 1, 2, 3, 4, 5, 6, 7, 8 of this Article, the People's Committees of provinces also have the following duties and entitlements:
 - a) Make and submit the documents mentioned in Clause 9 Article 30 of this Law to the People's Council of the same province for approval;
 - b) Make 3-year state budget – finance plans as prescribed in Article 43 of this Law;
 - c) Decide the use of financial reserve fund and other financial funds of the State in accordance with this Law and relevant regulations of law.
10. Direct local finance authorities to take charge and cooperate with relevant agencies in assisting the People's Committees in performing their duties prescribed in Clauses 1, 2, 3, 4, 5, 6, 7, 8 and 9 of this Article.
11. Presidents of the People's Committees shall adhere to their duties and entitlements to state budget – finance and take responsibility for misconducts within their competence.

Article 32. Duties and entitlements of budget estimate units

1. Make annual estimates of budget expenditure and revenue; allocate budget estimates given by competent authorities for affiliated units; adjust budget estimate allocation ratio within their competence; make 3-year state budget – finance plans within their competence as prescribed in Article 43 of this Law.

2. Organize enactment of budget revenue and expenditure estimates; transfers revenues to state budget in full and on schedule; spend properly in terms of policies, purposes, subjects, thriftiness, and efficiency.
3. Provide instructions and inspect the enactment of budget revenue and expenditure by affiliated units.
4. Adhere to regulations of law on accounting and statistics; make reports, budget statements, and publish budget in accordance with law; consider approving budget statements of inferior budget estimate units.
5. Apart from the duties and entitlements prescribed in Clauses 1, 2, 3, 4 of this Article, public service agencies may initiatively use the collected fees and other legitimate revenues to develop themselves and improve the quality, efficiency of their operation as prescribed by the government.
6. Public service agencies and regulatory agencies that exercise financial autonomy must issue their own spending regulations appropriate for their budgets.
7. Heads of budget estimate units shall adhere to their duties and entitlements to state budget – finance and take responsibility for misconducts within their competence.

Article 33. Duties and entitlements of investors

1. Execute projects of investment through the phases: investment preparation, project preparation, project execution, acceptance, transfer in accordance with regulations of law on state budget management, public investment, construction, and relevant regulations of law.
2. Adhere to regulations of law on contracting, accounting, statistics, reporting, financial statements, publishing and retention of project documents.

Article 34. Rights and obligations of agencies, organizations, units, and individuals related to state budget

1. Sufficiently and punctually pay the taxes, fees, charges, and other payables to state budget as prescribed by law.
2. In case aid, capital, or funding is provided by the State according to given budget estimates, such amounts must be used properly in terms of purposes, regulations, thriftiness, efficiency, and financial statements must be submitted to finance authorities.
3. Adhere to regulations of law on accounting, statistics, and publishing of government budget.
4. Be provided with information, participate in supervision of state budget – finance by the public as prescribed by law.

Chapter III

SOURCES OF REVENUE AND OBLIGATORY EXPENDITURES

Article 35. Sources of revenue of central government budget

1. The following revenues are wholly retained by central government budget:
 - a) VAT on imported goods;

- b) Export and import duties;
- c) Special excise tax on imported goods;
- d) Environmental protection tax on imported goods;
- dd) Severance tax, corporate income tax, profits distributed to home country and other revenues from petroleum exploration and extraction;
- e) Grant aid provided by the government of other countries, international organizations, other overseas organizations and individuals for Vietnam's government;
- g) Collected charges for services provided by central regulatory agencies. Collected charges for services provided by central public service agencies and state-owned enterprises under management of central regulatory agencies may be partly or wholly retained; the remaining amount shall be transferred to state budget as prescribed by regulations of law on fees, charges, and relevant regulations of law.
- h) Fees collected by regulatory agencies, except for registration fee prescribed in Point h Clause 1 Article 37 of this Law;
- i) Fines for administrative violations and other fines, confiscations collected by central regulatory agencies;
- k) Revenues from selling state-owned property, including collected levies on land associated to property under the management of central organizations and units;
- l) Revenues from property under the State ownership under the management of central organizations and units;
- m) Recovery of investment by central government budget in business organizations; revenues from distributed dividends and profits of joint-stock companies, multi-member limited liability companies that have state capital and ownership of which is represented by a Ministry, ministerial agency, Governmental agency, or another central regulatory agency; revenues from post-tax profit that remains after making contributions to various funds of state-owned enterprises whose ownership is represented by a Ministry, ministerial agency, Governmental agency, or another central regulatory agency; positive difference between revenue and expenditure of the State bank of Vietnam;
- n) revenues from central financial reserve fund;
- o) Revenues from surplus of central government budget;
- p) Revenues carried over from last year's budget of central government budget;
- q) Other revenues prescribed by law.

2. Revenues distributed between central government budget and local government budgets:

- a) VAT, except for that mentioned in Point a Clause 1 of this Article;
- b) Corporate income tax, except for that mentioned in Point dd Clause 1 of this Article;
- c) Personal income tax;

- d) Special excise tax, except for that mentioned in Point c Clause 1 of this Article;
 - dd) Environmental protection tax, except for that mentioned in Point d Clause 1 of this Article.
3. The government shall elaborate this regulation.

Article 36. Obligatory expenditures of central government budget

1. Expenditure on development investment:

- a) Investment in various projects, including inter-regional projects of other Ministries, ministerial agencies, Governmental agencies, and other central regulatory agencies of the fields prescribed in Clause 3 of this Article;
- b) Investment in and support of capital for enterprises providing public services and products ordered by the State; business organizations and financial institutions under management of central regulatory agencies; investment of state capital in enterprises prescribed by law;
- c) Other expenditures on development investment prescribed by law.

2. Expenditure on national reserve.

3. Recurrent expenditures of Ministries, ministerial agencies, Governmental agencies, and other central regulatory agencies are classified into the following fields:

- a) Defense;
- b) Social safety, security, and order;
- c) Education and vocational training;
- d) Science and technology;
- dd) Healthcare, population, and families;
- e) Culture and information;
- g) Radio, television, and the press;
- h) Sports;
- i) Environmental protection;
- k) Economic activities;
- l) Operation of regulatory agencies, political organizations, and socio-political organizations; support for operation of socio-political-professional organizations, social organizations, socio-professional organizations as prescribed by law;
- m) Expenditures on social security, including expenditures on support for implementation of social policies as prescribed by law;

n) Other expenditures prescribed by law.

4. Payment of interests on the loans taken by the government.

5. Provision of aid.

6. Grant of loans prescribed by law.

7. Provision of additional funding for central financial reserve fund.

8. Expenditures of central government budget carried over to next year's budget.

9. Provision of additional funding for budget balancing, provision of dedicated additional funding for local government budgets.

Article 37. Sources of revenue of local government budgets

1. The following revenues are wholly retained by local government budgets:

a) Severance tax, except for that on petroleum exploration and extraction;

b) License tax;

c) Levies on agricultural land;

d) Levies on non-agricultural land;

dd) Land levies, except for land levies mentioned in Point k Clause 1 Article 35 of this Law;

e) Rent for lease of land, water surface;

g) Revenue from lease and sale of state-owned housing;

h) Registration fee;

i) Revenues from lottery;

k) Recovery of investment by local government budgets in business organizations; revenues from distributed dividends and profits of joint-stock companies, multi-member limited liability companies that have state capital and ownership of which is represented by the People's Committee of the province; revenues from post-tax profit that remains after making contributions to various funds of state-owned enterprises whose ownership is represented by the People's Committee of the province;

l) Revenues from local financial reserve funds;

m) Revenues from selling state-owned property, including collected levies on land associated to property under the management of local organizations and units;

n) Grant aid provided by international organizations, other organizations, overseas individuals to local governments;

o) Collected charges for services provided by local regulatory agencies. Collected charges for services provided by central public service agencies and state-owned enterprises whose ownership is represented by the People's Committee of the province may be partly or wholly retained; the remaining amount shall be transferred to state budget as prescribed by regulations of law on fees, charges, and relevant regulations of law;

p) Fees collected by local regulatory agencies;

q) Fines for administrative violations and other fines, confiscations collected by local regulatory agencies;

r) Revenues from property under the State ownership under the management of local regulatory agencies;

s) Revenue from public land and other public benefits;

t) Contributions by other organizations and individuals as prescribed by law;

u) Surplus of local government budgets;

v) Other revenues prescribed by law.

2. Revenues distributed between central government budget and local government budgets are specified in Clause 2 Article 35 of this Law.

3. Provision of additional funding for budget balancing, provision of dedicated additional funding by central government budget.

4. Revenues carried over from last year's budgets local governments.

Article 38. Obligatory expenditures of local government budget

1. Expenditure on development investment:

a) Investment in projects under the management of local governments of the fields mentioned in Clause 2 of this Article;

b) Investment in and support of capital for enterprises providing public services and products ordered by the State; local business organizations and financial institutions prescribed by law;

c) Other expenditures prescribed by law.

2. Recurrent expenditures of local organizations and units are classified into the following fields:

a) Education and vocational training;

b) Science and technology;

c) Social safety, security, and order under the management of local governments;

d) Healthcare, population, and families;

dd) Culture and information;

- e) Radio, television, and the press;
 - g) Sports;
 - h) Environmental protection;
 - i) Economic activities;
 - k) Operation of regulatory agencies, political organizations, and socio-political organizations; support for operation of socio-political-professional organizations, social organizations, socio-professional organizations as prescribed by law;
 - l) Expenditures on social security, including expenditures on support for implementation of social policies as prescribed by law;
 - m) Other expenditures prescribed by law.
3. Payment of interests on the loans taken by local governments.
 4. Provision of additional funding for local financial reserve funds.
 5. Amounts carried over to next year's budget of the local government.
 6. Provision of additional funding for budget balancing, provision of dedicated additional funding for inferior budgets.
 7. Provision of support for performance of some tasks prescribed in Points a, b, c Clause 9 Article 9 of this Law.

Article 39. Rules for classifying sources of revenues and obligatory expenditures between various levels of local government budgets

1. In consideration of the sources of revenue and obligatory expenditures of local government budget prescribed in Article 37 and Article 38 of this Law, the People's Council of the province shall decide specific distribution of sources of revenue and obligatory expenditures between various levels of local government budgets as follows:
 - a) The distribution must suit the socio-economic and national defense of objectives with regard to each field, economic, geographical characteristics, population, and managerial capacity of each area;
 - b) Budgets of communes are funded from levies on non-agricultural land; license tax paid by business households and individuals; levies on agriculture land paid by households; registration fees on land and housing;
 - c) Expenditures on science research and technology are not obligations of budgets of districts and communes;
 - d) Obligatory expenditures of budgets of towns and cities of province must include investment in public schools, lighting electricity, water supply and drainage, urban transport, urban hygiene, and other public facilities.

2. Depending on the ratio of revenues distributed by the government and revenues wholly retained by local government budgets, the People's Council of the province shall decide the ratio of revenues distributed between various levels of local government budgets.

Article 40. Determination of additional funding for balancing budget, dedicated additional funding, and ratio of distribution of revenues between various levels of government budgets.

1. Local governments may use the revenues wholly retained, distributed revenues, and additional funding from superior budget to balance their budgets, assure achievement of socio-economic, national defense and security objectives.

2. Ratio of distribution of revenues and additional funding are determined according to:

a) Calculation of revenue sources and obligatory expenditures prescribed in Articles 35, 37, and 38 of this Law according to regulations on collection of budget revenues, principles, criteria, norms of budget allocation, policies, standards, limits on budget expenditures, population, natural conditions, socio-economic conditions of each areas, especially remote areas, areas having military bases, areas of ethnic minorities, disadvantaged areas and extremely disadvantaged areas; areas with large-scale paddy production; areas of protection forests, specialized forests; key economic areas;

b) The revenues retained by local government budgets mentioned in Point dd and Point i Clause 1 Article 37 of this Law are not be used for determination of ratio of revenue distribution between central government budget and local government budgets or determination of additional funding from central government budget for local government budgets.

3. Dedicated additional funding from a superior budget to an inferior budget is determined according to the principles, criteria, norm of budget allocation, and policies, standards, limits of budget expenditure; capacity of the superior budget and ability to balance budget of each inferior local government and will be provided for inferior budgets in the following cases:

a) Implementation of new policies established by superior agencies that is included in the budget estimate of the beginning year of the budget stability period;

b) Execution of National target programs and parts of programs/projects assigned to the superior government;

c) Provision of support for recovery from expansive epidemics and disasters beyond the capacity of the inferior budget;

d) Provision of support for execution of some major and particularly important programs/projects that have tremendous impact of local socio-economic development. The level of support varies according to each program/project. The total level of supportive capital for annual investment in development from central government budget to local government budgets mentioned in this must not exceed 30% of total expenditure on investment in fundamental construction of the central government budget.

Chapter IV

MAKING OF STATE BUDGET ESTIMATES

Article 41. Basis for making annual state budget estimates

1. Socio-economic development, national defense, security, diplomatic objectives, and gender equality.

2. Specific objectives of Ministries, ministerial agencies, Governmental agencies, other central regulatory agencies, local agencies, organizations and units.
3. Regulations of law on taxes, fees, charges, and regulations on collection of state budget revenues; norms of budget allocation; policies, standards, limits on state budget expenditure.
4. Distribution of revenue sources and obligatory expenditures; ratio of revenue distribution and level of additional funding for budget balancing from superior budget to inferior budget.
5. Legislative documents promulgated by competent authorities on guidelines for formulation of socio-economic development plans and making of next year's state budget estimate.
6. 5-year financial plans, -year state budget – finance plans, and plans for midterm investment of state budget.
7. Last year's enactment of state budget.
8. Checked estimate of budget revenue and expenditure notified to relevant agencies, organizations, and individuals.

Article 42. Requirements applied to annual state budget estimates

1. State budget estimate must be sorted by revenue, expenditure, ratio of expenditure on development investment, recurrent expenditure, expenditure on national reserve, repayment of loans and aid, additional contribution to financial reserve funds, and budget reserve.
2. Budget estimates of budget estimate units at various levels must contain all revenues and expenditures in accordance with the form and schedule prescribed by competent authorities. The budget estimate contains:
 - a) Budget revenue estimate based on forecast about macroeconomic indicators and relevant criteria, regulations of law on taxes, fees, charges, and collection of budget revenues;
 - b) Estimate of expenditure on development investment based on planning, plans, programs/projects approved by competent authorities; 5-year financial plans, plans for midterm investment of state budget, ability to balance resources in the budget year, regulations of law on public investment, construction, and relevant regulations of law;
 - c) Estimate of recurrent expenditures based on given tasks and objectives approved by competent authorities, policies, standards, and limits on expenditures imposed by competent authorities. Regulations of the government shall apply to budget estimates made by regulatory agencies exercising financial autonomy; public service agencies exercising autonomy in terms of task performance, organizational structure, personnel, and finance;
 - d) Estimate of budget expenditure on education, vocational training, science and technology at the ratio prescribed by relevant regulations of law.
 - dd) Estimate of expenditures on execution of National target programs based on the list of programs and total expenditure in each period decided by the National Assembly; targets, contents, objectives, and details of component projects of each National target program;
 - e) Estimate of expenditure on repayment of debts that are due in the budget year;

g) Estimate of loans for covering state budget deficit based on state budget balance, capacity of each source, solvency, and safety limits under the National Assembly's Resolution.

Article 43. 3-year state budget – finance plans

1. 3-year state budget – finance plan is a state budget – finance plan that is formulated annually for a period of 03 years (including the year in which the budget estimate is made and the next 02 years) based on the 5-year financial plan. This plan is made at the same time as the annual state budget estimate in order to orient the making of the annual state budget estimate, order of priority for distribution of resources for each field and objective, activity, policy in the midterm.

2. 3-year state budget – finance plans include national 3-year state budget – finance plans and 3-year state budget – finance plans of provinces. The plan contents: forecast about macroeconomic indicators, important budget polices; forecast about revenue, expenditure and their ratios; forecast about budget deficit; rules for balancing state budget and order of priority for distribution of budget resources; maximum expenditure on each field; expenditure on investment in development, debt repayment, recurrent expenditures; forecast about contingent debt liability and solutions for implementing the plan over the 3-year period.

3. Ministries, ministerial agencies, Governmental agencies, other central regulatory agencies, provincial agencies and unit shall make 3-year state budget – finance plans which contain: their primary policies, targets, objectives; forecast about financial resources including forecast about the revenue under their management, required expenditures; rules and method for determination of order of priority of objectives, activities, policies, and intended budget allocation within the maximum limit on expenditure imposed by competent authorities; primary solutions for balancing the demand for expenditure and maximum expenditure over the 3-year period.

4. The Ministry of Finance shall take charge and cooperate with the Ministry of Planning and Investment in aggregating national 3-year state budget – finance plans and submit a report to the government and the National Assembly; Provincial Departments of Finance shall take charge and cooperate with Provincial Departments of Planning and Investment in aggregating 3-year state budget – finance plans of provinces and submit reports to the People's Committees and the People's Councils of provinces for discussion in order to consider ratifying budget estimates and annual plans for state budget allocation.

5. The government shall provide specific regulations on making 3-year state budget – finance plans.

Article 44. Time for providing instructions on making, aggregating, deciding, and giving state budget estimates

1. Before May 15, the Prime Minister shall promulgate regulations on making socio-economic development plans and state budget estimates of the next year.

2. Before September 20, the government shall submit the reports mentioned in Clause 1 Article 47 of this Law to Standing Committee of the National Assembly for opinions.

3. The government's reports shall be sent to members of the National Assembly at least 20 days before the beginning date of the National Assembly Meeting at the end of the year.

4. Before November 15, the National Assembly shall decide state budget estimate and plan for allocation of central government budget of the next year.

5. Before November 20, the Prime Minister shall give estimates of budget revenue and expenditure to each of the Ministries, ministerial agencies, Governmental agencies, other central regulatory agencies, and provincial governments.

6. Before December 10, the People's Councils of provinces shall decide their budget estimates and allocation of provincial budget of the next year. The People's Councils at inferior levels shall decide their local government budget estimates and budget allocation of the next year within 10 days from the day on which the People's Council at the superior level decides the estimate and budget allocation.

7. Within 05 working days from the day on which the People's Council decides budget estimate, the People's Committee at the same level shall give the budget estimate of the next year to each of its affiliated agencies and units; send a report to the People's Committee and finance authority that the superior level. The People's Committees of provinces shall send reports on budget estimates decided by the People's Councils of provinces to the Ministry of Finance.

8. Before December 31, Ministries, ministerial agencies, Governmental agencies, other central regulatory agencies, and the People's Committees must finish giving budget estimates to their affiliated agencies, units and the People's Committees at inferior levels.

Article 45. Responsibilities of agencies, organizations and units for making annual budget estimates

1. Local collecting authorities shall make estimates of local state budget revenues and send them to the superior collecting authority and the finance authority at the same level. Central collecting authorities shall make estimates of state budget revenues of their fields and send them to the Ministry of Finance for aggregation and making of the state budget estimate.

2. Agencies, organizations, units, and investors shall make estimates of their budget revenue and expenditure within the area of their obligations, and send reports to superior regulatory agencies for aggregation and reporting to the finance authority at the same level.

3. Local finance authorities shall examine budget estimates of agencies, organizations and units at the same level; take charge and cooperate with relevant agencies in aggregating, estimating, and allocating their budgets in accordance with Clause 1 and Clause 2 Article 30 of this Law, then submit a report to the People's Committee at the same level.

4. The People's Committees shall consolidate, make local government budget estimates, and submit a report to Standing Committee of the People's Council at the same level for opinions. The People's Committees of provinces shall send the Ministry of Finance, the Ministry of Planning and Investment, and relevant agencies their budget estimates in order to make the state budget estimate to be submitted to the government and Members of the National Assembly for monitoring.

5. Central and local specialized regulatory agencies shall cooperate with finance authorities, planning and investment authorities at the same level in making state budget estimates of their fields.

6. The Ministry of Finance shall examine budget estimates of Ministries, ministerial agencies, Governmental agencies, other central and local regulatory agencies; take charge and cooperate with the Ministry of Planning and Investment, relevant Ministries and agencies in aggregating, estimating state budget and planning allocation of central government budget, then submit a report to the government in accordance with Clause 1 Article 47 of this Law.

Article 46. Discussing, deciding state budget estimates and annual budget allocation plans

1. Ministries, ministerial agencies, Governmental agencies, other central agencies, local agencies, organizations and units shall hold discussions with their affiliated agencies and units.

2. Finance authorities at various levels are in charge of organizing:

- a) Discussion about annual budget estimates with other agencies and units at the same level;
 - b) Discussion about budget estimates in the first year of the budget stability period with People's Committees at inferior levels to determine the ratio of revenue distribution between superior budgets and inferior ones, amount of additional funding from superior budgets to inferior ones as the basis for making next years' budget estimates;
 - c) In the next years of the budget stability period, finance authorities shall discuss with the People's Committees at inferior levels at their request.
3. During the discussion about budget estimates and budget allocation plans, if there are revenues and/or expenditures that are not conformable with law or suitable for the budget capacity and socio-economic development orientation, finance authorities shall request adjustment. If there are contrary opinions between finance authorities, other agencies and units at the same level, and the People's Committees at inferior levels, each local finance authority shall submit a report to the People's Committee at the same level for decision; the Ministry of Finance shall submit a report to the Prime Minister for decision.
4. Assessment and proposal of state budget estimate and central government budget allocation plan to the National Assembly for decision:
- a) The government shall discuss and offer opinions in the draft reports of the government, which are submitted by the Ministry of Finance, before submitting them to Standing Committee of the National Assembly;
 - b) Budget – Finance Committee of the National Assembly is in charge of assessment of reports submitted by the government to Standing Committee of the National Assembly and the National Assembly;
 - c) According to opinions of Budget – Finance Committee, the National Assembly, and Standing Committee of the National Assembly, the government shall complete the reports and submit them to the National Assembly;
 - d) The National Assembly shall discuss and decide the next year's state budget estimate and plan for allocation of central government budget. During the process of discussing and deciding the state budget estimate and plan for allocation of central government budget, if changes are made to budget revenue and expenditure, the National Assembly shall decide solutions to ensure balanced budget.
5. Procedures for agencies of the National Assembly to assess state budget estimate and plan for allocation of central government budget are provided for by Standing Committee of the National Assembly.
6. Estimates and plans for allocation of local government budgets shall be considered and decided in accordance with regulations of the government.

Article 47. Documents about state budget estimate and budget allocation plan

1. Documents about state budget estimate and budget allocation plan submitted by the government to the National Assembly include:
- a) Assessment of enactment of current year's state budget; the basis for making state budget and allocation of central government budget; basic contents and solutions for enactment of state budget estimate;
 - b) Estimate of state budget revenues and solutions for raising sources of revenues for state budget;

- c) Estimate of state budget expenditure, important targets and programs of the economy, major policies of Communist Party and the State related to state budget;
 - d) State budget deficit and covering sources; Ratio of deficit to GDP;
 - dd) 5-year financial plan for the first year of the period;
 - e) 3-year state budget – finance plan;
 - g) Report on public debt according to the Law on Public debt management, specifying the due debt, overdue debt, interest payable in the year, additional debt derived from loans taken to cover state budget deficit; solvency of the year and total debt by year's end;
 - h) Report on implementation the financial plan, formulate next year's financial plans of off-budget financial fund under the management of central agencies;
 - i) Specific policies and solutions for stabilizing state budget and finance;
 - k) List, progress, and investment estimate of programs/projects of national importance funded by state budget in the planned year as decided by the National Assembly;
 - l) Expenditure estimate of each of the Ministries, ministerial agencies, Governmental agencies, other central regulatory agencies sorted by field; revenue and obligatory expenditure, level of deficit, ratio of revenue distribution and amount of additional funding for budget of each province;
 - m) Other documents explaining estimates of state budget revenues and expenditures and central government budget allocation plan; tax exemption or reduction in the state budget estimate report submitted to the National Assembly.
2. The government shall specify the documents about estimates and allocation plans of local government budgets to be submitted by the People's Committees to the People's Councils at the same level.

Article 48. Remaking state budget estimate

1. Before the state budget estimate and plan for allocation of central government budget are decided by the National Assembly, the government may remake and submit them to the National Assembly at the time decided by the National Assembly.
2. Before the estimate or allocation plan of a local government budget is decided by the People's Council, the People's Committee may remake and submit them to the People's Council at the time decided by the People's Council, which must not be later than the deadline prescribed by the government.

Chapter V

ENACTMENT OF STATE BUDGET

Article 49. Allocating and giving state budget estimates

1. After being given budget estimates by the government or the People's Committee, budget estimate units level I shall allocate and give budget estimates to affiliated budget-using units and units of inferior budgets. The allocation of budget estimates must comply with the deadlines and requirements in Article 50 of this Law.

2. Finance authorities of the same level shall inspect the budget estimates given by budget estimate units level I to their budget-using units. If the allocation is found incorrect in terms of total amount, fields, tasks, or policies, the budget estimate unit level I shall be requested to make correction within 10 working days from the day on which budget allocation report made by the budget estimate unit is received.

3. Apart from the agencies competent to give budget estimates, no other organization or individual may change the given budget tasks.

Article 50. Requirements and time limits for allocating and giving state budget estimates

1. Allocation of budget estimates to budget-using units must ensure:

- a) Given budget estimates are complied with in terms of total amount and specific amounts by field and task;
- b) Policies, standards, and limits on expenditure are complied with;
- c) Capital and funding provided are sufficient to recover advances to be collected in the year, counterpart fund for projects funded by ODA of foreign sponsors under agreements;
- d) Capital for investment in development provided compiles with regulations of law on public investment, construction, and relevant regulations of law;
- dd) Dedicated additional funding provided by superior budgets to inferior budgets is legitimate in terms of targets, recipients; commitment or regulations on allocation of local government budget to achievement of targets are complied with.

2. Time limits for allocating and giving state budget estimates:

- a) With regard to budget estimates given according to Clause 5 and Clause 7 Article 44 of this Law, budget estimate units level I must finish allocating and giving budget estimates to affiliated budget-using units before December 31 of the last year according to Clause 8 Article 44 of this Law;
- b) In case of additional budget estimates, the superior budget estimate unit and inferior People's Committee must finish allocating and giving the budget estimates within 10 working days.

Article 51. Temporary funding

1. At the beginning of the budget year, before the budget estimate and budget allocation plan is decided by the National Assembly or the People's Council, the finance authority and State Treasury may provide temporary funding for making obligatory expenditures that cannot be delayed until the budget estimate is decided by the competent authorities, including:

- a) Wages and wage equivalents;
- b) Operating costs and working costs;
- c) Provision of additional funding for inferior budgets;
- d) Other expenditures necessary for maintenance of the state apparatus operation, except for equipment purchases and repairs;

dd) Expenditures on transitional projects of National target programs, projects of national importance; important and urgent transitional projects for recovery of disasters or epidemics.

2. The maximum temporary funding for the expenditures mentioned in Points a, b, c, d Clause 1 of this Article must not exceed the average monthly expenditure of the last year.

3. Government shall report expenditures on programs/projects funded by ODA and concessional loans that do not have budget estimates or exceed the budget estimates to Standing Committee of the National Assembly before enactment and submit a report to the National Assembly at the nearest meeting.

Article 52. Adjustments to state budget estimate

1. Overall adjustments to state budget in case of budget fluctuation compared to allocated budget estimates:

a) The government shall estimate overall adjustments to state budget and submit them to the National Assembly for decision;

b) According to the National Assembly's Resolution on overall adjustments to state budget and budget revenue and obligatory expenditures given by superior agencies, People's Committees shall estimate overall adjustments to local government budgets and submit them to the People's Councils at the same level for decision.

2. The government shall request Standing Committee of the National Assembly to decide adjustments to revenue and obligatory expenditures of some Ministries, ministerial agencies, Governmental agencies, other central regulatory agencies, and some provinces, then submit a report to the National Assembly at the nearest meeting in the following cases:

a) The revenue is expected to be lower than the estimated revenue decided by the National Assembly and some expenditures must be reduced;

b) There are urgent requirements in terms of national defense and security, or adjustments are necessary because of some objective reasons.

3. The People's Committee shall request Standing Committee of the People's Council at the same level to decide adjustments to local government budget estimate and submit a report to the People's Council at the nearest meeting in the following cases:

a) The revenue is expected to be lower than the estimated revenue decided by the People's Council and some expenditures must be reduced;

b) Standing Committee of the National Assembly decides adjustments to budget estimates of some provinces as prescribed in Clause 2 of this Article;

c) Adjustments to budget estimates of some budget estimate unit or local governments are necessary.

4. The government shall request the People's Councils of provinces to adjust their budget estimates if they are not allocated in accordance with the National Assembly's Resolution.

5. The People's Committees shall request the People's Councils at inferior levels to adjust their budget estimates if they are not allocated in accordance with Resolution of the People's Councils at superior levels.

Article 53. Adjustments to budget estimates given to budget-using units

1. Budget estimates given to budget-using units shall be adjusted when:

a) The budget estimate is adjusted as prescribed in Article 52 of this Law;

b) The finance authority request the budget estimate unit level I to adjust its budget estimate as prescribed in Clause 2 Article 49 of this Law;

c) The budget estimate unit level I adjusts the budget estimates among its affiliated units within the total amount and specific amounts sorted b fields.

2. The budget estimate adjustment must ensure allocation and giving of estimate comply with the deadlines and requirements in Article 50 of this Law. After adjusting the estimate, the budget estimate unit level I shall send it to the local finance authority for inspection and the State Treasury for enactment.

3. Budget estimates given to budget-using units must be adjusted before November 15 of the current year.

Article 54. Organizing state budget management

1. Agencies, organizations, units, and individuals have the responsibility to, within their competence, work out solutions for achieving budget revenue and obligatory expenditures, fight against wastefulness and corruption; comply with financial rules and regulations.

2. All agencies, organizations, units, and individuals must fulfill their obligation to contribute to state budget in accordance with law and use state budget properly, frugally, and efficiently.

3. Finance authorities have the responsibility to maintain sources for making expenditures according to budget estimates.

Article 55. Organizing collection of state budget revenues

1. Collecting authorities include finance authorities, tax authorities, customs authorities, and other agencies assigned or authorized to collect state budget revenues.

2. Only collecting authorities may collect state budget revenues.

3. Collecting authorities have the following duties and entitlements:

a) Cooperate with other relevant regulatory agencies in collecting revenues properly, adequately, and timely as prescribed by law; comply with guidance and inspection by the Ministry of Finance, superior regulatory agencies, the People's Committees, and supervision by the People's Councils; cooperate with Vietnamese Fatherland Front and member organizations in encouraging other organizations and individuals to fulfill their obligation to contribute to state budget in accordance with this Law and relevant regulations of law;

b) Organize management and collection of taxes, fees, charges, and other receivables paid to State Treasuries. The amounts collected via a third party must be transferred in full and on schedule to State Treasuries as prescribed by the Ministry of Finance;

c) Collecting authorities must supervise other agencies, organizations, units, and individuals paying sufficiently and punctually the amounts payable to state budget;

d) Inspect, control sources of budget revenues; inspect the compliance of budget statement, collection, payment; take actions against violations as prescribed by law.

4. State Treasuries may open accounts at the State bank of Vietnam and commercial banks to concentrate state budget revenues; transfer them to the state budget, regulate and distribute the revenues among various levels of state budget as prescribed.

Article 56. Organizing state budget expenditure

1. Funding for the obligatory expenditures in the budget estimate must be adequately and punctually provided within the given budget estimate.

2. Capital and funding may be advanced for performance of contractual tasks of projects of investment and other urgent obligatory expenditures. The amount of advanced capital depends on the contract value, must not exceed the given budget estimate, and must comply with relevant regulations of law. Advanced capital and funding shall be returned when the completed tasks or works are paid for.

3. Inferior budgets may receive advance funding from the superior budget to make obligatory expenditures according to given budget estimates where necessary.

4. According to given budget estimates and requirements for task performance:

a) Heads of budget-using units shall decide the expenditures and send them to State Treasuries for enactment;

b) Inferior finance authorities shall draw additional funding from the superior budget at State Treasuries.

5. State Treasuries shall inspect the legitimacy of documents and make budget expenditures as soon as all conditions in Clause 2 Article 12 of this Law are satisfied. Expenditures may be in the form of direct payments or advances as prescribed in Clause 2 and Clause 3 of this Article.

6. Heads of State Treasuries are entitled to reject the payments and reimbursement for the expenditures that fail to satisfy all conditions in Clause 2 Article 12 of this Law and shall take responsibility for their decisions.

Article 57. Advancing next year's funding

1. Central government budgets, budgets of provinces and districts may receive advance funding from next year's budget to execute projects of national importance, urgent projects of central and local governments on the plan for midterm investment of state budget decided by competent authorities. The advance funding must not exceed 20% of the estimated expenditure on investment in fundamental construction of the plan for midterm investment of state budget that is approved. When allocating the next year's budget estimate, the advance funding must be recovered in full. Otherwise, next year's advance funding is not permitted.

2. The government shall specify the principles, criteria, and conditions for advancing next year's funding.

Article 58. Organizing state budget management

1. If the central government budget is facing temporary deficit, advance funding provided by the central financial reserve fund and other legitimate financial sources may be provided and must be returned within the budget year; If the financial reserve fund and other sources cannot cover the deficit, the State bank of Vietnam shall provide advance funding to central government budget under a decision of the Prime Minister. Advance

funding from the State bank of Vietnam must be returned within the budget year, except for special cases decided by Standing Committee of the National Assembly.

2. If the provincial government budget is facing temporary deficit, advance funding may be provided by local financial reserve fund, central financial reserve fund, and other legitimate financial sources and must be returned within the budget year.

3. If the provincial government budget is facing temporary deficit, advance funding may be provided by local financial reserve fund, central financial reserve fund, and other legitimate financial sources and must be returned within the budget year.

Article 59. Settlement of increases, decreases in revenue and expenditure during enactment of state budget

1. In case the actual revenue is lower than that in the estimate decided by the National Assembly or the People's Council, some expenditures shall be decreased as prescribed in Point a Clause 2 and Point a Clause 3 Article 52 of this Law.

2. The increase in revenue, except for that of local government budget derived from new projects put into operation during the budget stability period, must be transferred to the superior budget. The decrease in expenditure shall be used as follows:

a) Reduce deficit, increase debt repayment, including principal and interest;

b) Build up financial reserve fund;

c) Supplement sources for implementation of wage policies;

d) Implementation of some social security policies;

dd) Increase expenditure on investment in some important projects;

e) Perform the tasks prescribed in Clause 3 and Clause 4 of this Article.

The government shall make a plan for using the revenue increase and expenditure decrease of central government budget, submit a report to Standing Committee of the National Assembly for decision and to the National Assembly at the nearest meeting. The People's Committees shall plan the use of revenue increase and expenditure decrease of their budgets; submit a report to Standing Committee of the People's Council for decision and to the People's Council at the nearest meeting. The increase in revenue of local government budget derived from new sources of revenue during budget stability period shall be dealt with in accordance with Point d Clause 7 Article 9 of this Law.

3. At the end of the budget year, if the revenue of local government budget is lower than estimated because of some objective reason and is not able to balance local government budget after decreasing some expenditures as prescribed in Clause 1 of this Article and using other local legitimate financial sources, the superior budget shall provide funding within its capacity.

4. Bonus for excess revenues distributed between various levels of budgets:

a) If the revenue of central government budget increases due to the increases in revenues distributed between central government budget and local government budgets, not more than 30% of central government budget

may be extracted to give bonuses for the local government budgets that have revenue increases. Nevertheless, the bonus must not exceed the last year's revenue increase.

According to the level of bonus decided by Standing Committee of the National Assembly, the People's Committee of the province shall request the People's Council at the same level to use the bonus to make investment in infrastructure projects, performance of important tasks, and giving bonus to inferior budgets;

b) The People's Committee of the province shall submit regulations on bonus for increases in revenues divided between various levels of local government budgets to the People's Council at the same level.

Article 60. Report on enactment of state budget

1. Tax authorities and customs authorities shall submit periodic reports to finance authorities at the same level and relevant agencies on collection of state budget revenues as prescribed by law.

2. State Treasuries shall submit periodic reports to finance authorities at the same level and relevant agencies on enactment of state budget revenues and expenditures as prescribed by law.

3. Budget estimate units level I shall submit periodic reports to finance authorities at the same level and relevant agencies on enactment of state budget revenues and expenditures as prescribed by law.

4. Local finance authorities shall submit periodic reports to the People's Committees at the same level and relevant agencies on enactment of state budget revenues and expenditures; submit periodic reports on use of dedicated additional funding provided by superior budgets to superior finance authorities.

5. The People's Committees shall submit reports on the issues mentioned in Clause 3 Article 52 and Clause 2 Article 59 of this Law, reports on enactment of local government budget at the year end's meeting, and additional assessment report at the midyear's meeting to Standing Committee of the People's Councils at the same level.

6. The People's Committees at inferior levels shall submit periodic reports on revenue and expenditures of local government budgets to superior finance authority; the People's Committees of provinces shall submit periodic reports on local state budget revenues and enactment of local government budgets to the Ministry of Finance.

7. The Ministry of Finance shall submit periodic reports on state budget revenues and expenditures to the government and relevant agencies as prescribed by law.

8. The government shall submit reports on the issues mentioned in Clause 2 Article 52 and Clause 2 Article 59 of this Law to Standing Committee of the National Assembly; the government shall submit reports on enactment of state budget at the year end's meeting and additional assessment report at the midyear's meeting to the National Assembly.

Article 61. Management and use of budget by budget-using units

1. Heads of budget-using units are responsible for management and use of their budgets according to given estimates, assess the performance of tasks, ensure efficiency, frugality, adherence to policies, standards, and limits on budget expenditure.

2. The person in charge of finance – accounting of the budget-using unit has the responsibility to adhere to regulations on budget – finance management, state accounting, internal inspection, prevent, discover violations and request the head of the unit or a finance authority at the same level to take punitive actions.

Article 62. Management of state fund

1. State fund is the entire money of the state in accounts of State Treasuries opened at the State bank of Vietnam and commercial banks, and cash in State Treasuries. State fund is derived from various levels of fund and deposits of financial of the state, units, and business organizations at State Treasuries.
2. State Treasury has the responsibility to manage state fund to ensure adequate, timely payment of expenditures of state budget and units making transactions at State Treasury; ensure safety and efficiency of state fund.
3. The government shall issue regulations on state fund management.

Chapter VI

ACCOUNTING, AUDIT, AND STATEMENT OF STATE BUDGET

Article 63. Accounting and statement of state budget

1. Agencies, organizations, units, and individuals related to state budget revenues and expenditures must do accounting and make statement of state budget in accordance with state accounting regulations and this Law.
2. Finance authorities are entitled to suspend budgets of agencies, organizations and units at the same level that fail to adhere to regulations on accounting, statement, or other financial statement, and take responsibility for their decision.
3. State Treasuries shall do accounting of state budget; consolidate state budget revenues and expenditures; submit reports to finance authorities at the same level and relevant agencies according to applicable regulations.

Article 64. Settlement of state budget revenues and expenditures at year's end

1. At the end of the budget year, agencies, organizations, units, and individuals related to budget revenue and expenditure shall close accounting books and make state budget statements.
2. The deadline for adjusting state budget statements is January 31 of the next year.
3. The estimated expenditures, including additional expenditures in the year that are not enacted or completely enacted at the end of the budget year, including the time for adjusting state budget statement prescribed in Clause 2 of this Article, must be cancelled, except for the following expenditures which are permitted to be carried over to the next year and recorded in the next year's budget:
 - a) Expenditure on development investment carried over to the next year's budget according to the Law on Public Investment;
 - b) Expenditures on equipment purchase that have adequate documents and purchase contracts signed before December 31 of the enactment year;
 - c) Sources for implementation of wage policies;
 - d) Autonomous budgets of public service agencies and regulatory agencies;
 - dd) Estimates added by competent authorities after September 30 of the enactment year;

e) Funding for scientific research.

4. The usable revenue increases and expenditure decreases prescribed in Clause 2 Article 59 of this Law; Such amounts may be carried over to next year's budget if permitted by a competent authority.

5. The government shall provide specific regulations on carrying over budget.

Article 65. Requirements applied to state budget statement

1. Information on the state budget statement must be accurate, truthful, and adequate.

2. The state budget revenue stated is the amount collected and accounted for as prescribed. Revenues of the last year's budget submitted to next year's state budget shall be recorded in the next year's budget. The state budget expenditure stated is the amount paid and accounted for as prescribed.

3. Information on state budget statements of budget-using units, investors, and various levels of state budgets must be compared and confirmed by State Treasuries where the transactions are made.

4. Contents of the state budget statement must be conformable with the state budget estimate given and list of state budget entries.

5. On budget statements of districts and communes, expenditure must not be higher than revenue.

6. Budget statements of budget-using units, superior budget estimate units, and various levels of state budget must be enclosed with the explanation and assessment of result, efficiency of budget expenditure associated with performance of tasks of units, local governments, fields, and target programs they are responsible for.

7. Budget statements of off-budget financial funds must be enclosed with explanation and assessment of result, efficiency of performance of their tasks.

8. Illegitimate state budget revenues must be returned to the payers; pending state budget revenues must be collected; illegitimate state budget expenditures must be recovered in full.

Article 66. Approving state budget statements

1. Annual statements shall be examined as follows:

a) Each revenue and expenditure shall be examined;

b) The revenues must be conformable with regulations of law on taxes, fees, charges, and other regulations of the State;

c) The expenditures must satisfy the conditions in Clause 2 Article 12 of this Law;

d) All revenues and expenditures must be accounted for in accordance with regulations on accounting of the State, list of state budget entries, and on schedule;

dd) Documents about revenues and expenditures must be legitimate; figures in accounting books and budget statements must match the documents and figures of State Treasury.

2. Annual budget statements are examined by the following agencies:

a) The superior budget estimate unit shall examine budget statements made by affiliated budget estimate units as prescribed;

b) In case the budget estimate unit level 1 is also a budget-using unit, the finance authority at the same level shall examine its budget statement.

3. The examining agency is entitled to:

a) Request State Audit Office of Vietnam or hire a independent audit organization to audit budget statements of large-scale target programs/projects to have more basis for examination;

b) Request provision of explanation or additional information necessary for examining the statement;

c) Request payment of amounts payable to state budget and remove expenditures that are illegitimate or not conformable with the approved estimate; take punitive actions or request a competent authorities to take punitive actions against the violations that cause losses to state budget.

d) Correct errors or request the remake of the budget statement if necessary.

4. When the examination of the annual budget statement is finished, the superior budget estimate unit shall send a notification of approval for budget statement to the inferior budget estimate unit; budget estimate units level I shall send the notification to the inferior budget estimate units and the finance authorities at the same level for verification.

The finance authority shall send notification of approval for budget statement budget estimate units level I that are also budget-using units.

5. The head of the examining agency is responsible for result of budget statement results, and incur penalties for undiscovered and overlooked violations.

Article 67. Verification of state budget statement

1. Verifying authorities:

a) Finance authorities shall verify annual budget statements of budget estimate units level I under their management, except for the case in Point b Clause 2 Article 66 of this Law;

b) Finance authorities of provinces and districts shall verify annual budget statements of inferior budgets;

c) The Ministry of Finance shall not verify annual budget statements of provinces.

2. Finance authorities shall verify annual budget statements of budget estimate units level I under their management as follows:

a) Examine the adequacy and consistency of figures; ensure consistency between figures on the statement and notification on approval for budget statement of the affiliated unit and confirmation by State Treasury;

b) Inspect the accuracy and legitimacy of the increases and decreases compared to the given budget estimate;

c) Make remarks about the annual budget statement.

3. Finance authorities of provinces and districts shall verify annual budget statements of inferior budgets as follows:

- a) Inspect the adequacy and consistency of figures;
- b) Inspect the accuracy and legitimacy of the increases and decreases compared to the given budget estimate;
- c) Make remarks about the annual budget statement.

4. Verifying authorities are entitled to:

- a) Request the budget estimate units level I and inferior finance authorities to provide additional information necessary for verification of the budget statements;
- b) Request responsible authorities to remove, recover illegitimate expenditures and pay the amounts payable to state budget as prescribed;
- c) Request the statement-examining authority to adjust the budget statements of budget estimate units if incorrect;
- d) Request refund of the illegitimate revenues or request a competent authorities to request such refund.

5. When the annual budget statement is verified, the finance authority shall issue a notification which contains remarks and recommendations, and send it to the budget estimate unit level I or the People's Committee at the lower level.

If there are errors, the finance authority shall request the budget estimate unit level I to adjust the statement; the superior finance authority shall request the People's Committee at lower level to request the People's Council at the same level to adjust the statement.

Finance authorities shall deal with violations within its competence or request a competent authority to do so.

6. If discovering errors in a budget statement of a province during aggregation of state budget statements, the Ministry of Finance shall request the People's Committee of such province to request the People's Council of the same province to adjust the statement. The Ministry of Finance shall deal with violations within its competence or request a competent authority to do so.

Article 68. Making of state budget statements of budget estimate units and investors

1. Budget-using units shall make state budget statements and submit them to the superior budget estimate unit.

2. Every investor in fundamental construction programs/projects, National target programs, and projects of national importance shall:

- a) At the end of the budget year: Make a statement of the capital sources, state budget capital, use of capital, amount of works completed and paid for in the year; send it to the provider of capital for fundamental construction, supervisory agency of the investor, and the finance authority at the same level;
- b) When the fundamental construction program/project, National target program, or project of national importance is finished: Make a statement of capital sources and state capital enclosed with explanation of use of

capital; send it to the provider of capital for fundamental construction and the agency competent to examine the budget statement of the fundamental construction or program/project as prescribed;

c) With regard to National target programs and projects of national importance the investment contents of which are decided by the National Assembly, the budget statement must be submitted to the National Assembly for consideration and submission to the National Assembly apart from the regulations in Point a and Point b of this Clause.

3. According to the approved budget statement of a budget-using unit, the superior budget estimate unit shall make a report on state budget statement within its competence and send it to the superior budget estimate unit; budget estimate units level I shall send it to finance authorities at the same level.

Budget estimate units level I shall impose deadline for submission of budget statements by affiliated budget estimate units in order to ensure the report on budget statement is submitted to the finance authority at the same level on schedule.

Article 69. Deadline and procedures for making statements of local government budgets

1. Based on the reports submitted by State Treasuries, result of examination and verification of budget statements of inferior budget estimate units level I, and statements of inferior budgets approved by the People's Council, the local finance authority shall consolidate and make a statement of local government budget, then submit it to the People's Committee at the same level.

2. The People's Committee shall send the statement of local government budget to the People's Council at the same level for verification and to the superior finance authority.

3. The People's Committee shall submit a report on statement of local government budget to the Standing Committee of the People's Council at the same level for opinions before submitting it to the People's Council.

4. The report on budget statement of the People's Committee and verification report of the People's Council shall be sent to Members of the People's Council the same level at least 05 working days before the opening date of the next midyear meeting of the People's Council.

5. The People's Council of each commune shall consider approving its budget statement, send it to the People's Committee of the district within 05 working days from the day on which the statements is approved. The People's Councils of the district shall consolidate and make a budget statement of the district, submit it to the People's Council of the same district for approval, and send it to the People's Committee of the province within 05 working days from the day on which the statement is approved. The People's Council each province shall consolidate and make a budget statement of the province, submit it to the People's Council of the same province for approval before December 31 of this next year.

The People's Council of each province shall specify time limits for approval budget statements of communes and districts; time limits for the People's Committees to send budget statements to the agencies mentioned in Clause 2 and Clause 3 of this Article.

6. In case the budget statements are yet to be approved by the People's Council, the People's Committee at the same level and the State Audit Office of Vietnam that audited such budgets must keep clarifying the contents requested by the People's Council and submit a report to the People's Council within 30 days from the deadline mentioned in Clause 5 of this Article.

Article 70. Deadline and procedures for making statements of central government budgets

1. Budget estimate units level I of central government budget shall make budget statements within their competence and send them to the Ministry of Finance and State Audit Office of Vietnam before October 01 of the next year.
2. The People's Committee of each province shall submit its provincial budget statement to the Ministry of Finance and State Audit Office of Vietnam before October 01 of the next year.
3. Within 05 working days from the day on which the People's Council of the province approves the provincial budget statement, the People's Council the province must send it to the Ministry of Finance and State Audit Office of Vietnam.
4. Based on the report made by State Treasury, result of verification of budget statements of budget estimate units level I of central government budget, and provincial budget statements approved by the People's Councils of provinces, the Ministry of Finance shall make a statement of central government budget, submit it to government and State Audit Office of Vietnam within 14 months after the end of the budget year.
5. The government shall submit a the central government budget statement to Standing Committee of the National Assembly within 16 months from the end of the budget year.
6. The statement of central government budget made by the government must be sent to Members of the National Assembly within 20 days before the opening date of the midyear meeting of the National Assembly.
7. The National Assembly shall consider approving the statement of central government budget within 18 months form the end of the budget year.
8. Procedures for agencies of the National Assembly to verify the statement of central government budget shall be decided by Standing Committee of the National Assembly.
9. If the statement of central government budget is yet to be approved by the National Assembly, the government, within its competence, advertisement State Audit Office of Vietnam must keep clarifying the contents requested by the National Assembly by the deadline imposed by the National Assembly.

Article 71. Auditing statements of central and provincial government budgets

1. State Audit Office of Vietnam shall audit the statement of central government budget before submitting it to the National Assembly for consideration and approval.
2. State Audit Office of Vietnam shall audit statements of provincial government budget before submitting them to the People's Councils of provinces for consideration and approval.

Article 72. Settlement state budget surplus

1. Surplus of central and provincial government budgets shall be used for payment of principal and interest of loans of state budget. If surplus still remains, 50% of it will be transferred to the financial reserve fund at the same level, the other 50% will be transferred to the next year's budget; if the financial reserve fund has reached 25% of annual budget expenditure estimate, the remaining surplus shall be included in next year budget revenue.
2. Surplus of budgets of districts and communes shall be included in next year budget revenue.

Article 73. Settlement of illegitimate state budget revenues and expenditures after the state budget statement is approved

In case illegitimate state budget revenues and expenditures are found after a state budget statement is approved, Clause 8 Article 65 of this Law shall apply and such amounts may be accounted for in the budget of the year in which they are dealt with.

Chapter VII

IMPLEMENTATION

Article 74. Instructions on implementation of some special regulations

1. Pursuant to this Law, the government shall promulgate regulations on management and use of budget for some fields related to national defense and security, diplomacy, some special budget – finance policies applied to Ho Chi Minh City, some provinces, and administrative - economic units; a report shall be submitted to Standing Committee of the National Assembly for opinions before promulgation and to the National Assembly at the nearest meeting.

2. Hanoi shall implement some special state budget – finance policies according to the Law on Capital City.

Article 75. Transitional clause

1. The Law on State budget No. 01/2002/QH11 still applies to budget statements of 2015 and 2016.

2. Budget stability period 2011 – 2015 is extended to the end of 2015. The next budget stability period is 2017 – 2020. With regard to budget estimates of 2016 of Ministries, ministerial agencies, Governmental agencies, other central and local regulatory agencies:

a) Limits on allocation of estimate of recurrent expenditure estimate of the Prime Minister's Decision No. 59/2010/QĐ-TTg dated September 30, 2010 shall apply to recurrent expenditure estimates;

b) Principles, criteria, and norms for allocation of investment capital derived from state budget 2016 – 2020 of Resolutions of Standing Committee of the National Assembly shall apply to budget estimates for expenditure on development investment, Budget estimates for expenditure on development investment 2016 must comply with the framework for midterm investment 2016 - 2020 and appropriate for the growth rate of state budget expenditure in 2016 compared to 2015.

Article 76. Effect

1. This Law comes into force from the budget year 2017.

2. The Law on State budget No. 01/2002/QH11 expires from the effective date of this Law.

Article 77. Specific regulations

The government shall promulgate specific regulations on some Articles and Clauses of this Law as assigned.

This Law is ratified by the 13th National Assembly of Socialist Republic of Vietnam during the 9th meeting on June 25, 2015.

THE GOVERNMENT

THE SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 163/2016/ND-CP

Hanoi, December 21, 2016

DECREE

ON GUIDELINES FOR THE LAW ON STATE BUDGET

Pursuant to the Law on Government organization dated June 19, 2015;

Pursuant to the Law on State budget dated June 25, 2015;

At the request of the Minister of Finance;

The Government promulgates a Decree on guidelines for the Law on State budget.

Chapter I

GENERAL PROVISIONS

Article 1. Scope and regulated entities

1. Scope:

a) This Decree provides guidelines for the Law on State budget in terms of making estimates; collecting revenues; controlling budget expenditures; state budget management according to achievement of objectives; budget statement; rules, conditions, and competence to recover advances, expenditures carried over to the next year's budget, using budget reserve; using financial reserve fund; publishing of state budget, supervision of state budget by the public and other contents as prescribed in the Law on State budget;

b) 5-year financial plans, 3-year state budget-finance plans; management and use of budget for some fields related to national defense and security, diplomacy; some special budget-finance policies applied to some provinces and central-affiliated cities; state fund management; regulation on consideration and decision of estimate and allocation of local government budgets, and approving local government budgets as prescribed by the Government.

2. Regulated entities:

a) Regulatory agencies, political organizations, and socio-political organizations;

b) Socio-political-professional organizations, social organizations, socio-professional organizations supported by the state budget under tasks given by the State;

c) Public service agencies;

d) Other organizations or individuals relevant to state budget.

Article 2. State budget revenues

1. Taxes paid by organizations and individuals as prescribed in laws on taxation.
2. Fees paid by organizations and individuals as prescribed by law.
3. Collected charges for services provided by central regulatory agencies; if the fixed operating expenditures are determined, the charges may be deducted.
4. Collected charges for services provided by central public service agencies and state-owned enterprises after being deducted to cover expenditures as prescribed by law.
5. Amounts payable to State budget from economic activities of the State, including:
 - a) Profits distributed to home country and other revenues from petroleum exploration and extraction;
 - b) Recovery of investment by the State in business entities;
 - c) Revenues from distributed dividends and profits of joint-stock companies, multi-member limited liability companies that have state capital;
 - d) Revenues from post-tax profit that remains after making contributions to various funds of state-owned enterprises;
 - dd) Positive difference between revenue and expenditure of the State bank of Vietnam;
 - e) Recovery of loans of State (including principal and interest), other than foreign loans of the Government.
6. Contributions by other organizations and individuals as prescribed by law.
7. Revenues from selling state-owned property, including revenues from transfer of land use right, change of purpose of land use under the management of the State.
8. Land levies; land rents, water surface rents; sea-area use levies; rents and proceeds from the sale of state-owned houses.
9. Revenues from property under the State ownership; revenues from issuance of mining right or issuance of the right to exploit water resources.
10. Fines for administrative violations and other fines, confiscations as prescribed by law.
11. Voluntary contribution of domestic and foreign organizations and individuals.
12. Grant aid provided by governments of other countries, overseas organizations and individuals for Vietnam's State, Vietnam's government and local governments of Vietnam.
13. Revenues from financial reserve fund as prescribed in Article 11 of the Law on State budget.
14. Other revenues prescribed by law.

Article 3. State budget expenditures

1. Capital expenditure includes:

- a) Capital expenditure on projects of the fields mentioned in Clause 3 of this Article;
 - b) Investment in and support of capital for enterprises providing public services and products ordered by the State; business organizations and central and local financial institutions; investment of state capital in enterprises prescribed by law;
 - c) Other capital expenditures prescribed by law.
2. Expenditure on national reserve.
3. Recurrent expenditures in the following fields:
- a) Defense;
 - b) Social safety, security, and order;
 - c) Education and vocational training;
 - d) Science and technology;
 - dd) Healthcare, population, and families;
 - e) Culture and information;
 - g) Radio, television, and the press;
 - h) Sports;
 - i) Environmental protection;
 - k) Economic activities;
 - l) Operation of regulatory agencies, the Communist Party of Vietnam and socio-political organizations, including: Committee of Vietnamese Fatherland Front, Confederation of Labor of Vietnam, Communist Youth Union of Ho Chi Minh City, Vietnam Veterans Association, Vietnam Women's Union, Vietnam Farmers' Union; support for operation of socio-political-professional organizations, social organizations, socio-professional organizations as prescribed by law;
 - m) Expenditures on social security, including expenditures on support for implementation of social policies as prescribed by law;
 - n) Other recurrent expenditures prescribed by law.
4. Payment of interests, charges and other expenses associated with the loans taken by the Government or government of provinces.
5. Aid granted from central budget to overseas Governments and organizations.
6. Grant of loans prescribed by law.
7. Provision of additional funding for financial reserve fund.

8. Expenditures carried over to next year's budget.

9. Provision of additional funding for budget balancing, provision of dedicated additional funding for inferior budgets from the superior budget.

Article 4. State budget deficit

1. The State budget deficit includes deficit of the central government budget and deficit of provincial budgets:

a) Central government budget deficit is the positive difference between total central government budget expenditure and total central government budget revenue in a budget year;

b) Provincial budget deficit is total deficit of budget of each central-affiliated city or province, which is the positive difference between total budget expenditure and total budget revenue of every province in a budget year.

2. Central government budget deficit shall be covered by the following sources:

a) Domestic loans from issuance of Government bonds and other domestic loans prescribed by law;

b) Foreign loans granted by Official Development Assistance, concessional loans granted by governments of other countries, financial institutions of other countries and international organizations; issuance of Government bonds to international market, not including on-lend loans.

3. Local government budget deficit shall be covered by the following sources:

a) Domestic loans from issuance of municipal bonds and other domestic loans prescribed by law;

b) On-lend loans from the Government.

4. Loans to cover budget deficit prescribed in Clause 2 and Clause 3 of this Article do not include borrowing amounts to repay principal.

5. Provincial budget deficit of each province is permitted only when it meets all the regulations and conditions as follows:

a) Only provincial budget deficit because of investment in projects under midterm public investment plans decided by the People's Council of the province is permitted as prescribed in Point a Clause 5 Article 7 of the Law on State budget;

b) Annual provincial budget deficit shall not exceed the annual budget deficit decided by the National Assembly for such province as prescribed in Point c Clause 5 Article 7 of the Law on State budget;

c) Within 90 days from the end of the budget year preceding the year in which the estimates are made, no overdue outstanding debt arising from the loans payable in the budget year preceding the year in which the estimates are made. In exceptional circumstances, the Ministry of Finance shall request the Government to:

d) Take loans to cover local government budget deficit primarily mobilized from midterm and long-term loans. Annually, according to capital market development, the Ministry of Finance shall propose minimum rate of midterm and long-term loans to cover local government budget deficit;

dd) Loan balance of local government budget, inclusive of loans to cover budget deficit according to the estimate shall not exceed the loan balance prescribed in Clause 6 hereof.

6. Loan balance of local government budgets:

- a) Loan balance of budgets of Hanoi and Ho Chi Minh City must not exceed 60% of the local government budget revenue they may retain;
- b) In the administrative divisions permitted to retain an amount of revenue higher than Recurrent expenditure of the local government budgets, loan balance must not exceed 30% of the amount retained;
- c) In the administrative divisions permitted to retain an amount of revenue not exceeding recurrent expenditure of the local government budgets, loan balance must not exceed 20% of the amount retained;
- d) The revenue higher than or exceeding recurrent expenditure of the local government budgets prescribed in Point b and Point c of this Clause shall be determined according to the revenue and expenditure estimates of the local government budgets decided by the National Assembly of the year in which budget estimates are made, and the revenue of the local government budgets to be retained shall be determined in accordance with Clause 1 and Clause 2 Article 15 of this Decree, not including residual revenues of local government budget.

7. Assign the Ministry of Finance to provide guidelines for loans and repayment of local governments.

Article 5. Payment of principal of loans

1. Sources of repayment of loans' principal include:

- a) Borrowing amounts to repay principal decided annually by the National Assembly or People's Council of province;
- b) Budget surplus of central government budget and local government budgets;

Central government budget surplus is the positive difference between total central government budget revenue and total central government budget expenditure in a budget year. Provincial budget surplus is total deficit of budget of each central-affiliated city or province, which is the positive difference between total budget revenue and total budget expenditure of every province in a budget year;

- c) Surplus of central government budget and provincial government budgets prescribed in Clause 1 Article 72 of the Law on State budget;
- d) Revenue increase and expenditure decrease compared with the estimates in the process of enactment of state budget prescribed in Clause 2 Article 59 of the Law on State budget.

2. Mature principal debts must be repaid sufficiently and on schedule according to the signed commitment and contract.

3. Principal payment must be managed and recorded via State Treasury.

Article 6. State budget system and relation between various levels of state budget

1. State budget consists of central government budget and local government budgets.

2. A local government budget consists of budgets of local authorities at various levels, in which:

- a) Budgets of provinces and central-affiliated cities (hereinafter referred to as provincial budgets) include provincial budget and budgets of districts, district-level towns, provincial-affiliated cities, cities affiliated to central-affiliated cities;
- b) Budgets of districts, district-level towns, provincial-affiliated cities, cities affiliated to central-affiliated cities (hereinafter referred to as district budgets) include district budget and budgets of communes, wards, and commune-level towns;
- c) Budgets of communes, wards, and commune-level towns (hereinafter referred to as commune budgets).

3. Rules for management of sources of revenue, obligatory expenditures, and relation between various levels of state budget shall be consistent with Article 9 of the Law on State budget.

Article 7. State budget reserve

1. In expenditure estimate of central government budget and expenditure estimate of local government budgets, the reserve of 2% - 4% of total budget expenditure at each level shall be built up.

2. State budget reserve is used for expenditures prescribed in Clause 2 Article 10 of the Law on State budget.

3. The power to decide the use of central government budget reserve:

- a) With regard to expenditures of greater than VND 3 billion associated with a specific objective, the Ministry of Planning and Investment shall take charge and cooperate with the Ministry of Finance and relevant agencies in requesting the Prime Minister to decide capital expenditures and expenditures under management of the Ministry of Planning and Investment. The Ministry of Finance shall take charge and cooperate with relevant agencies in requesting the Prime Minister to decide remaining expenditures.

The Minister of Finance shall decide expenditures not exceeding VND 3 billion associated with a specific objective and send quarterly reports to the Prime Minister;

- b) According to policies funded by expenditures from central government budget reserve, the Minister of Finance shall decide to provide for expenditures, other than expenditures prescribed in Point a of this Clause and consolidate and send reports on implementation results to the Prime Minister;

- c) Quarterly, the Ministry of Finance shall send a report on using central government budget reserve to the Government as prescribed in Point a and Point b of this Clause; the Government shall report it to the Standing Committee of National Assembly or the National Assembly at the nearest meeting.

4. During the enactment of budget, when an objective associated with expenditures of central government budget reserve prescribed in Clause 2 of this Article arises, Ministries, central and local authorities shall make budget estimates and detailed presentation and send them to the Ministry of Finance, the Ministry of Planning and Investment for consideration within their competence, or request the Prime Minister to consider providing additional funding for Ministries, central and local authorities.

5. The power to decide the use of budget reserve at localities shall be consistent with Point b Clause 3 of Article 10 of the Law on State budget.

Article 8. Financial reserve funds

1. Financial reserve fund is a fund of the State established in central government and provincial government.
2. A financial reserve fund is established from the following sources:
 - a) Annual budget expenditure estimate;
 - b) Budget surplus prescribed in Clause 1 Article 72 of the Law on State budget;
 - c) Revenue increase prescribed in Clause 2 Article 59 of the Law on State budget;
 - d) Interests of deposits of financial reserve fund;
 - dd) Other financial sources as prescribed by law.
3. The balance of the financial reserve fund at each level must not exceed 25% the annual budget expenditure estimate that the same level, not including expenditures from dedicated additional funding from superior budget.
4. Financial reserve funds are used in the following cases:
 - a) Advance funding to cover necessary expenditures according to the budget expenditure estimate before aggregating enough revenue. Such amount must be returned within the budget year;
 - b) In case state budget revenues or loans taken to cover budget deficit fail to reach the estimate decided by the National Assembly or the People's Council, budget reserve is used up but still not sufficient for disaster recovery, response to widespread and serious epidemics, performance of tasks related to national defense and security, and other urgent tasks that are unplanned, the financial reserve fund may be used. However, the amount used in the year must not exceed 70% of the opening balance of the fund.
5. The power to use financial reserve funds:
 - a) With regard to central financial reserve fund, the Minister of Finance shall decide advances of financial reserve funds to cover expenditures prescribed in Point a Clause 4 of this Article; the Prime Minister shall decide to use financial reserve funds for the cases prescribed in Point b Clause 4 of this Article;
 - b) With regard to provincial financial reserve funds, People's Committees of provinces shall decide to use them in the cases prescribed in Clause 4 of this Article.
6. The Minister of Finance shall be the account holder of central financial reserve funds. Presidents of People's Committees of provinces or Director of Service of Finance, in case of authorization, shall be the account holders of provincial financial reserve funds.
7. The financial reserve fund in the cases prescribed in Point b Clause 4 of this Article shall be transferred to the State budget revenues to pay obligatory expenditures which are decided.
8. The financial reserve fund shall be deposited at the State Treasury and the State Treasury shall pay interests according to interest rates prescribed in law on state fund management.
9. The provincial budget may be advanced from central financial reserve fund, the district budget and commune budget may be advanced from provincial financial reserve fund and refund advances within the budget year.

Article 9. Operating costs of Communist Party of Vietnam and socio-political organizations

1. Operating costs of Communist Party of Vietnam and socio-political organizations, including: Committee of Vietnamese Fatherland Front, Confederation of Labor of Vietnam, Communist Youth Union of Ho Chi Minh City, Vietnam Veterans Association, Vietnam Women's Union, Vietnam Farmers' Union shall be covered by State budget according to the rule that the State budget covers the difference between the expenditure estimate determined according to policies and standards prescribed by competent authorities in terms of revenue sources according to charters of these organizations.
2. The making of budget estimates, enactment of estimates, and statement of budget prescribed in Clause 1 of this Article shall be carried out in accordance with the Law on State budget, this Decree and relevant law provisions.
3. Assign the Ministry of Finance to provide guidelines for management and use of State budget applicable to Communist Party of Vietnam.

Article 10. Operating costs of socio-political-professional organizations, social organizations, socio-professional organizations

1. Socio-political-professional organizations, social organizations, and socio-professional organizations shall cover their own operating costs. If socio-political-professional organizations, social organizations, socio-professional organizations are assigned to perform certain objectives by competent authorities, their relevant operating costs shall be covered by the State budget.
2. Supportive budget for socio-political-professional organizations, social organizations, and socio-professional organizations is included in the budget estimate of each budget level which is submitted to the National Assembly or People's Council for decision.
3. The making of budget estimates, enactment of estimates, and statement of supportive budget shall be carried out in accordance with the Law on State budget, this Decree and relevant law provisions.
4. The Government shall provide guidelines for support of government budget to organizations prescribed in Clause 1 of this Article.

Article 11. State budget management according to achievement of objectives

1. State budget management according to achievement of objectives means the making, allocation, enactment, and statement of government budget according to determination of budget associated with objectives, services to be completed with quantity, number, and quality, technical standards as prescribed.
2. Entities subject to state budget management according to achievement of objectives are budget-using units must satisfy the following conditions:
 - a) Determine quantity, number, quality, completion time;
 - b) There are bases to make and allocate budget estimates according to technical-economic limits, limits on budget expenditures or value of objectives, services, equivalent products provided in similar conditions (including taxes, fees and charges payable as prescribed by law);
 - c) There are criteria and mechanism for supervision and assessment of performance;

d) There is a written agreement between the authority that assigns objectives and the authority that receives objectives in terms of management of budget according to achievement of objectives.

3. Scope of application is objectives, services, and products that it is unable to determine requirements for quantity, number, quality, technical standards of objectives, services, and products that are completed and the need of budget according to the technical-economic limits, criteria, expenditure limits decided by competent authorities.

4. Rules of application:

a) Enhance power together with intensify personal responsibility and take legal self-responsibility imposed on the head of the service provider;

b) Simplify procedures for state budget management in the stage of expenditure control or statement of State budget;

c) Quantity, number, quality, technical standards, provision time, expenditure estimate of objectives, services, and products must equal to or higher than the method of state budget management according to input factors;

d) Assign the Ministry of Finance to provide guidelines for state budget management according to achievement of objectives.

Article 12. Off-budget financial fund

1. Off-budget financial fund is a fund established as prescribed in Clause 19 Article 4 of the Law on State budget.

2. State budget does not cover operating costs of off-budget financial funds.

3. According to state budget's capacity, an off-budget financial fund only has its charter capital supported by state budget only when the conditions are satisfied:

a) It is established and operating in accordance with law;

b) It is financially independent;

c) Its sources of revenue and obligatory expenditures do not coincide with those of state budget.

4. Off-budget financial funds and fund management agencies must comply with the Law on State budget and regulations of this Decree in terms of making, enactment, statement, and auditing of state budget regarding the amounts supported by state budget.

5. Annually, fund management agencies under management of the central government shall send reports on implementation of the current financial plan, the next-year financial plan and statement of receipts and expenditures to the Ministry of Finance for consolidating and sending them to the Government; the Government shall report those reports in conjunction with estimate reports and statements of State budget thereafter; fund management agencies under management of the local governments shall send reports on implementation of the current financial plan, the next-year financial plan and statement of receipts and expenditures to the Service of Finance for consolidating and sending them to the People's Committee; the People's Committee shall report those reports in conjunction with estimate reports and statements of local government budget.

6. Fund management agencies of off-budget financial funds at the central government shall take charge and cooperate with the Ministry of Finance in providing reports for the Government; the Government shall give explanation to the National Assembly upon request thereafter; fund management agencies of off-budget financial funds at the local government shall take charge and cooperate with the Service of Finance in providing reports for the People's Committee of province; ; the People's Committee of province shall give explanation to the People's Council upon request thereafter.

Chapter II

BUDGET MANAGEMENT DECENTRALIZATION AND RELATION BETWEEN VARIOUS LEVELS OF STATE BUDGET

Article 13. Sources of revenue of central government budget

1. The following revenues are wholly retained by central government budget:

- a) VAT on imported goods;
- b) Export and import duties;
- c) Special excise tax on imported goods, including special excise tax on imported goods continuously sold in domestic market by the import business entity;
- d) Environmental protection tax on imported goods;
- dd) Severance tax, corporate income tax, value-added tax, profits distributed to home country, charges, water surface rents, taxes, charges and other revenues from petroleum exploration and extraction;
- e) Grant aid provided by the government of other countries, international organizations, other overseas organizations and individuals for Vietnam's government;
- g) Collected charges for services provided by central regulatory agencies, if the competent authority permits the fixed operating costs, collected charges may be deducted. Collected charges for services provided by central public service agencies and state-owned enterprises under management of central regulatory agencies may be partly or wholly retained to cover expenses as prescribed by law;
- h) Fees collected by regulatory agencies, except for license fees prescribed in Point g and registration fees prescribed in Point h Clause 1 Article 15 of this Decree;
- i) Fines for administrative violations and other fines, confiscations collected by central regulatory agencies;
- k) Revenues from selling state-owned property, including revenues from transfer of land use rights associated with property on land, change of purpose of land use under the management of regulatory agencies, political organizations, socio-political organizations, public service providers, single-member limited liability companies whose owner is the State or enterprises whose stakes are partly held by central government before their equitization, restructuring and other organizations under management of central government,
- l) Revenues from property under the State ownership under the management of central organizations and units, excluding costs as prescribed by law;

- m) Recovery of investment by central government budget in business organizations (including principal and interests); revenues from distributed dividends and profits of joint-stock companies, multi-member limited liability companies that have state capital and ownership of which is represented by a Ministry, ministerial agency, Governmental agency, or another central regulatory agency; revenues from post-tax profit that remains after making contributions to various funds of state-owned enterprises whose ownership is represented by a Ministry, ministerial agency, Governmental agency, or another central regulatory agency; p
- n) Revenues from charges for granting mineral extraction right, granting right to exploit water resources which central government budget may retain as prescribed by law;
- o) Charges for use of sea areas within competence of central government;
- p) Positive difference between revenue and expenditure of the State bank of Vietnam;
- q) Revenues from central financial reserve fund;
- r) Revenues from surplus of central government budget;
- s) Revenues carried over from last year's budget of central government budget;
- t) Other revenues prescribed by law.

2. Revenues distributed between central government budget and local government budgets (%):

- a) Value-added tax, including value-added tax of sub-contractor arising from services for exploration and extraction of oil and gas; excluding value-added tax prescribed in Point a and Point dd Clause 1 of this Article;
- b) Corporate income tax, including corporate income tax of sub-contractors arising from services for exploration and extraction of oil and gas; excluding corporate income tax prescribed in Point dd Clause 1 of this Article.
- c) Personal income tax;
- d) Special excise tax, except for that mentioned in Point c Clause 1 of this Article;
- dd) Environmental protection tax, except for that mentioned in Point d Clause 1 of this Article. With regard to environment protection tax on domestically produced oil and gas, the revenues shall be determined according to the production sold on the market by the central enterprise and density of total domestic oil production and total imported production. The Ministry of Finance is assigned to provide guidance on this regulation.

Article 14. Obligatory expenditures of central government budget

1. Capital expenditure:

- a) Investment in capital construction for programs and projects of other Ministries, ministerial agencies, Governmental agencies, and other central regulatory agencies of the fields prescribed in Clause 3 of this Article;
- b) Investment in and support of capital for enterprises providing public services and products ordered by the State; business organizations and financial institutions under management of central regulatory agencies; investment of state capital in enterprises prescribed by law;

c) Other capital expenditures prescribed by law.

2. Expenditure on national reserve.

3. Recurrent expenditures of Ministries, ministerial agencies, Governmental agencies, and other central regulatory agencies are classified into the following fields:

a) Defense;

b) Social security, order and safety;

c) Education and vocational training;

d) Science and technology;

dd) Healthcare, population, and families;

e) Culture and information;

g) Radio, television, and the press;

h) Sports;

i) Environmental protection;

k) Economic activities in the fields of: Agriculture, forestry, irrigation, aquaculture; transportation; resources; border demarcation; commerce and tourism planning; expenditures on import, export, storage, protection, insurance of national reserves goods by the State; other economic activities;

l) Operation of regulatory agencies, Communist Party of Vietnam; the Central Committee of Vietnamese Fatherland Front, Vietnam General Confederation of Labor, Central Committee of Communist Youth Union of Ho Chi Minh City, Central Committee of Communist Youth Union of Ho Chi Minh City, Central Committee of Vietnam Veterans Association, Central Committee of Vietnam Women's Union, Central Committee of Vietnam Farmers' Union;

m) Support for operation of socio-political-professional organizations, social organizations, socio-professional organizations in the central government as prescribed by law;

n) Expenditures on social security, including expenditures on support for implementation of social policies as prescribed by law;

o) Other recurrent expenditures prescribed by law.

4. Payment of interests, charges and other expenses associated with the loans taken by the Government.

5. Provision of aid.

6. Grant of loans prescribed by law.

7. Provision of additional funding for central financial reserve fund.

8. Expenditures of central government budget carried over to next year's budget.

9. Provision of additional funding for budget balancing, provision of dedicated additional funding for local government budgets.

Article 15. Sources of revenue of local government budgets

1. The following revenues are wholly retained by local government budgets:

a) Resource royalty, except for that on petroleum exploration and extraction;

b) Levies on agricultural land;

c) Levies on non-agricultural land;

d) Land levies;

dd) Land rents, water surfaces rents, except for those on petroleum exploration and extraction;

e) Revenue from lease and sale of state-owned housing;

g) License fees;

h) Registration fees;

i) Revenues from lottery, including electronic lottery;

k) Recovery of investment by local government budgets in business organizations (including principal and interests); revenues from distributed dividends and profits of joint-stock companies, multi-member limited liability companies that have state capital and ownership of which is represented by the People's Committee of the province and central-affiliated city (hereinafter referred to as province); revenues from post-tax profit that remains after making contributions to various funds of state-owned enterprises whose ownership is represented by the People's Committee of the province;

l) Revenues from selling state-owned property, including revenues from transfer of land use rights associated with property on land, change of purpose of land use under the management of regulatory agencies, political organizations, socio-political organizations, public service providers, single-member limited liability companies whose owner is the State or enterprises whose stakes are partly held by local government budget before their equitization, restructuring and other organizations under management of local government;

m) Grant aid provided by international organizations, other organizations, overseas individuals to local governments;

n) Collected charges for services provided by local regulatory agencies, if the competent authority permits the fixed operating costs, collected charges may be deducted. Collected charges for services provided by local public service agencies and state-owned enterprises under management of local regulatory agencies may be partly or wholly retained to cover expenses as prescribed by law;

o) Fees collected by local regulatory agencies;

p) Fines for administrative violations and other fines, confiscations collected by local regulatory agencies;

- q) Revenues from property under the State ownership under the management of local organizations and units, excluding costs as prescribed by law;
 - r) Revenues from charges for granting mineral extraction right, granting right to exploit water resources which local government budget may retain as prescribed by law;
 - s) Charges for use of sea areas within competence of local government;
 - t) Revenue from public land and other public benefits;
 - u) Contributions by other organizations and individuals as prescribed by law.
 - v) Revenues from local financial reserve funds;
 - x) Surplus of local government budgets;
 - y) Other revenues prescribed by law.
2. Revenues distributed between central government budget and local government budgets (%) are specified in Clause 2 Article 13 of this Decree.
3. Provision of additional funding for budget balancing, provision of dedicated additional funding by central government budget.
4. Revenues carried over from last year's budgets local governments.

Article 16. Obligatory expenditures of local government budget

1. Capital expenditure:

- a) Investment in capital construction for projects/programs under the management of local governments of the fields mentioned in Clause 2 of this Article;
- b) Investment in and support of capital for enterprises providing public services and products ordered by the State; business organizations and local financial institutions; investment of state capital in enterprises prescribed by law;
- c) Other capital expenditures prescribed by law.

2. Recurrent expenditures of local organizations and units are classified into the following fields:

- a) Education and vocational training;
- b) Science and technology;
- c) Social safety, security, and order under the management of local governments;
- d) Healthcare, population, and families;
- dd) Culture and information;

e) Radio, television, and the press;

g) Sports;

h) Environmental protection;

i) Economic activities: Agriculture, forestry, irrigation, aquaculture; transportation; resources; planning; commerce and tourism; urban reconstruction activities; other economic activities;

k) Operation of regulatory agencies, Communist Party of Vietnam; the Central Committee of Vietnamese Fatherland Front, Communist Youth Union of Ho Chi Minh City, Vietnam Veterans Association, Vietnam Women's Union, Vietnam Farmers' Union in local governments;

l) Support for operation of socio-political-professional organizations, social organizations, socio-professional organizations in the local government as prescribed by law;

m) Expenditures on social security, including expenditures on support for implementation of social policies as prescribed by law;

n) Other recurrent expenditures prescribed by law.

3. Payment of interests, charges and other expenses associated with the loans taken by government of provinces.

4. Provision of additional funding for local financial reserve funds.

5. Amounts carried over to next year's budget of the local government.

6. Provision of additional funding for budget balancing, provision of dedicated additional funding for inferior budgets.

Article 17. Rules for classifying sources of revenues and obligatory expenditures between various levels of local government budgets

1. In consideration of the sources of revenue and obligatory expenditures of local government budget prescribed in Article 15 and Article 16 of this Decree, the People's Council of the province shall decide specific distribution of sources of revenue and obligatory expenditures between various levels of local government budgets as follows:

a) The distribution must suit the socio-economic and national defense of objectives with regard to each field, economic, geographical characteristics, population, and managerial capacity of each area;

b) Budgets of communes are funded from levies on non-agricultural land; license tax paid by business households and individuals; levies on agriculture land paid by households; registration fees on land and housing; levies on non-agricultural land; license tax paid by household businesses and individuals; levies on agriculture land paid by households; registration fees on land and housing;

c) Expenditures on science research and technology are not obligations of budgets of districts and communes. Expenditures on technology application and transfers are obligations of budgets of districts and communes;

d) Obligatory expenditures of budgets of towns and cities of province must include investment in public schools, lighting electricity, water supply and drainage, urban transport, urban hygiene, and other public facilities.

2. Depending on the ratio of revenues distributed by the National Assembly or the Prime Minister revenues wholly retained by local government budgets, the People's Council of the province shall decide the ratio of revenues distributed between various levels of local government budgets. Regarding revenues distributed between central government budget and local government budgets, the ratio of revenues distributed between various levels of local government budgets shall not exceed the ratio decided by the National Assembly or the Prime Minister in each province.

3. The Ministry of Finance is assigned to provide guidelines for budget management and other financial activities of communes, wards, and district-level towns.

Article 18. Rules for determining ratio of distribution of revenues and additional funding from superior budget to balance their budgets

1. Ratio of distribution of revenues between central government budget and local government budgets is determined to ensure that the revenue sources of local government budget is balanced with obligatory expenditures. If a province that may wholly retain revenues distributed between central government budget and local government budgets, but obligatory expenditures as prescribed are greater than the retained local budget revenues, the central government budget shall provide additional funding in proportion to the deficit between revenue sources and obligatory expenditures.

2. Ratio of distribution of revenues between various levels of local government budgets is determined to ensure that the revenue sources is balanced with obligatory expenditures. According to the actual condition of a province, the People's Council of province shall both classify distributed revenues and provide additional funding for budgets of districts, district-level towns, provincial-affiliated cities, and cities affiliated to central-affiliated cities.

3. Ratio of distribution of revenues and additional funding are determined in consideration of calculation of revenue sources and obligatory expenditures of each level of budget according to criteria for population, natural conditions, socio-economic conditions of each areas, especially remote areas, areas having military bases, areas of ethnic minorities, disadvantaged areas and extremely disadvantaged areas; areas with large-scale paddy production; areas of protection forests, specialized forests; key economic areas;

4. Ratio of distribution of revenues generally applies to all revenues distributed between central government budget and local government budgets. Revenues distributed between various levels of local government budgets shall be decided by the People's Council of province.

Article 19. Additional funding from superior budget

1. The Government shall request the National Assembly to decide additional funding from central government budget to each province's budget. The People's Committee shall request the People's Council at the same administrative level to decide additional funding from provincial budget to inferior budget.

2. Additional funding for balancing budget is provided for inferior budget to enable inferior government to assure achievement of socio-economic, national defense and security objectives. In years of the stability period, in consideration of the capacity of the superior budget, the competent authority may decide increase in additional funding for balancing budget from the superior budget to inferior budgets compared to the first year of the stability period.

3. Dedicated additional funding is provided to enable an inferior budget to:

- a) Implement new policies established by superior agencies that is included in the budget estimate of the beginning year of the budget stability period; specific additional funding is determined according to expenditures and capacity of balancing of relevant budget levels;
- b) Execute National target programs and other programs/projects of the superior government, parts of programs/projects assigned to the inferior government; specific additional funding shall be consistent with expenditure estimate assigned by the competent authority;
- c) Recover from expansive epidemics and disasters beyond the capacity of the inferior budget although budget reserve and financial reserve fund are used as prescribed;
- d) Execute some major and particularly important programs/projects that have tremendous impact of local socio-economic development. The level of support varies according to each program/project. The total level of supportive capital for annual investment in development from central government budget to local government budgets mentioned in this must not exceed 30% of total expenditure on investment in fundamental construction of the central government budget.

Article 20. The Ministry of Finance's power to promulgate policies, standards, and limits on budget expenditures nationwide

- 1. Promulgate budget expenditures regarding policies, standards, and limits decided by the Government or the Prime Minister without specific amounts.
- 2. Promulgate the policies, standards, limits on budget expenditures on various fields and sectors after reaching a consensus with corresponding Ministries; if a consensus is not achieved, the Ministry of Finance shall request the Prime Minister to consider and offer opinions as prescribed in Clause 3 Article 26 of the Law on State budget.
- 3. Promulgate policies, standards, limits on budget expenditures as assigned by the Government or the Prime Minister.

Article 21. People's Councils of provinces' power to promulgate policies, standards, and limits on budget expenditures nationwide

- 1. According to rules, criteria, and limits on budget appropriation in local government promulgated by the Standing Committee of National Assembly, local government budget capacity and actual condition of a province, the People's Council of province shall decide rules, criteria, and limits on budget appropriation in local government as the basis for making of local budget estimates.
- 2. Decide policies, standards, and limits on budget expenditures according to framework regulations of the Government.
- 3. Decide policies on special obligatory expenditures of their areas apart from the policies, standards, and limits imposed by the Government, the Prime Minister, and the Minister of Finance in order to achieve socio-economic development objectives, ensure social safety and order locally in a way that suits capacity of local government budgets, central government budget. Expenditures associated with salaries, wages, allowances must be consulted with the Ministry of Finance, Ministry of Home Affairs, the Ministry of Labor, War Invalids and Social Affairs, and relevant managing Ministries before decision.

Within 10 working days, from the date on which a decision is promulgated by the People's Council of province, the People's Committee of province shall send its regulations on budget expenditures to the Ministry of Finance and relevant Ministries and agencies for consolidation and supervision.

Chapter III

MAKING OF STATE BUDGET ESTIMATES

Article 22. Time for providing instructions on making, aggregating, deciding, and giving state budget estimates

1. Before May 15, the Prime Minister shall promulgate regulations on making socio-economic development plans and state budget estimates of the next year.

2. Before June 1, the Ministry of Planning and Investment shall:

a) Promulgate Circular(s) on guidelines for formulation on socio-economic development plan, development investment plan of the next year;

b) Communicate checked estimate of expenditure on development investment of State budget in the next year to each of Ministries, ministerial-level agencies, Governmental agencies, other agencies of central government and provinces;

c) Communicate checked estimate of expenditure on development investment of State budget of the next year on execution of national target programs, target programs to each of Ministries, and agencies in charge of national target programs or target programs.

3. Before June 1, the Ministry of Finance shall:

a) Promulgate Circular(s) on guidelines for making of state budget estimates of the next year;

b) Communicate checked estimate of state budget with the whole revenue and each revenue, expenditure on national reserve, recurrent expenditure for the next year to each of Ministries, ministerial-level agencies, Governmental agencies, and other agencies of central government;

c) Communicate checked estimate of particular recurrent expenditures according to each field in the next year on execution of national target programs, target programs to each of Ministries, and agencies in charge of national target programs or target programs;

d) Communicate checked estimate of total State budget revenue in administrative divisions, total State budget expenditures and some important expenditures to each of provinces and central-affiliated cities (hereinafter referred to as provinces).

4. Before June 15:

a) Ministries, ministerial-level agencies, Governmental agencies, and other agencies of central government shall provide guidelines for budget estimates in the next year within their scope of management; communicate checked estimate of state budget revenue and expenditure in the next year to each of their affiliated entities;

b) People's Committees of provinces shall provide guidelines for budget estimates in the next year in provinces in conformity with requirements, contents, and time of making state budget estimates of provinces;

communicate checked estimate of budget revenue and expenditure in the next year to each of their affiliated entities and People's Committees of districts; People's Committees of districts shall communicate estimate of budget revenue and expenditure in the next year to each of their affiliated entities and People's Committees of communes.

5. Before July 20:

a) Ministries, ministerial-level agencies, Governmental agencies, and other agencies of central government shall make estimates of budget expenditure and revenue, allocation of budget estimates in the next year within specific amounts in sorted fields and specific budget-using units, and send them to the Ministry of Finance, the Ministry of Planning and Investment, agencies in charge of the national target programs or target program (with regard to expenditure on the national target program or target program);

b) People's Committees of provinces shall make and consolidate estimates of local government budget in the next year and send them to the Ministry of Finance, the Ministry of Planning and Investment, agencies in charge of the national target program or target program (regard to expenditure on the national target program or target program);

6. Before August 15, Ministries, agencies in charge of national target programs or target programs shall take charge of making estimates of budget expenditure and allocation of budget estimates in the next year of the national target program or target program and send them to the Ministry of Finance and the Ministry of Planning and Investment.

7. Before August 31, the Ministry of Planning and Investment shall send a plan for allocation of capital expenditures of central government budget in the next year to the Ministry of Finance for consolidation.

8. The Ministry of Finance shall take charge, consolidate, and make estimates of budget expenditure and revenue and allocation of budget estimates in the next year which are reported to the Government; the Government shall submit them to the Standing Committee of National Assembly for opinions before September 20 as prescribed in Clause 2 Article 44 of the Law on State budget.

9. According to opinions of agencies the National Assembly, the Ministry of Finance shall complete the report on assessment of enactment of current year's state budget, state budget estimates, and allocation of central government budget in the next year and send them to the Government; the Government shall forward them to National Assembly deputies within 20 days before the opening date of year-end meeting of the National Assembly.

10. Before November 20, after the National Assembly decides state budget estimates and allocation of central government budget, the Prime Minister shall give estimates of budget revenue and expenditure in the next year to each of the Ministries, ministerial agencies, Governmental agencies, other central regulatory agencies, and provincial governments.

11. Before December 10, the People's Councils of provinces shall decide their budget estimates and allocation of provincial budget of the next year. The People's Councils at inferior levels shall decide their local government budget estimates and budget allocation of the next year within 10 days from the day on which the People's Council at the superior level decides the estimate and budget allocation.

12. Within 05 working days from the day on which the People's Council decides budget estimate, the People's Committee at the same level shall give the budget estimate of revenue and expenditure in the next year to each of its affiliated agencies and units; send a report to the People's Committee and finance authority that the superior level. The People's Committees of provinces shall send reports on budget estimates decided by the People's Councils of provinces to the Ministry of Finance.

13. Before December 31, Ministries, ministerial agencies, Governmental agencies, other central regulatory agencies, and the People's Committees must finish giving budget estimates to their affiliated agencies, units and the People's Committees at inferior levels, except for the cases prescribed in Article 27 of this Decree.

Article 23. Making state budget estimates at budget estimate unit and organizations funded by budget

1. Budget-using units and investors shall make estimates of budget revenue and expenditure within their assigned objectives and send them to their superior agencies.
2. Budget-using units which are assigned to manage budget according to achievement of objectives shall make a separate budget for each of objectives, services and specific products. The budget estimates for each of objectives, services and specific products shall be made according to requirements for specific results, technical standards, completion time for each of objectives, services and specific products; technical-economic limits, limits on budget expenditures according to applicable regulations or value of objectives, services, equivalent products provided in similar conditions.
3. The superior agencies (other than budget estimate units level I) shall consider and consolidate estimates of their inferior units and send them to budget estimate units level I.
4. Organizations funded by State budget shall make estimates of budget revenue and expenditure within their assigned objectives and send them to finance authorities and planning and investment authorities at the same administrative level.
5. Budget estimate units level I shall consider estimates made by their inferior units, consolidate and make estimates of budget revenue and expenditure within their scope of management and send them to finance authorities and planning and investment authorities at the same administrative level.
6. The estimates of budget revenue and expenditure must satisfy requirements for making of state budget estimates prescribed in Article 42 of the Law on State budget.

Article 24. Making state budget estimates at collecting authorities

1. Each Department of Taxation shall:
 - a) Make estimates of state budget revenues in provinces and refundable value-added tax within their management, and send them to General Department of Taxation, the People's Committee of province, the Service of Finance, and the Service of Planning and Investment;
 - b) Instruct affiliated tax authorities to make estimates of state budget revenues in the province and send them to the People's Committee, the finance authority and the planning and investment authority in conformity with requirements, contents, and time of making local budget estimates.
2. Each Department of Customs shall make estimates of revenues on export and import duty; special excise tax, value-added tax, environment protection tax on imported goods, and other revenues in connection with export and/or import operation within its scope of management and according to administrative divisions of each province, and send them to the General Department of Customs, the People's Committee of province, the Service of Finance, and the Service of Planning and Investment.
3. Other agencies assigned to collect state budget revenues from fees and charges shall make estimates of revenues from those fees and charges, and send them to a tax authority and finance authority at the same administrative level.

Article 25. Making estimates of local government budgets

1. Each Service of Finance shall take charge and cooperate with the Service of Planning and Investment in considering estimates of state budget revenue and expenditure in the province made by collecting authorities regarding budget estimate units level I within their scope of management and estimates of state budget revenue and expenditure of district; and making estimates of state budget revenues in the province, estimates of state budget revenues of local government budget and send a report to the People's Committee of province. The People's Committee of province shall forward it to the Standing board of People's Council of province for consideration.

2. After receiving opinions of the Standing board of People's Council of province, the People's Committee of province shall send estimates of local government budget to the Ministry of Finance, the Ministry of Planning and Investment, agencies in charge of national target programs, target programs (regard to expenditure on national target program, target program).

Article 26. Making of state budget estimate and plan for allocation of central government budget

1. The Ministry of Finance shall take charge and cooperate with the Ministry of Planning and Investment and Ministries, relevant agencies in consolidating and making estimates of budget revenue and expenditure and a plan for allocation of central government budget, and send documents prescribed in Clause 1 Article 47 of the Law on State budget to the Government.

2. According to assignment of the Government or authorization of the Prime Minister, the Minister of Finance shall, on behalf of the Government, report and account for making of estimates of budget revenue and expenditure and the plan for allocation of central government budget to the National Assembly and the National Assembly agencies as prescribed by law.

Article 27. Remaking state budget estimate

1. The remaking of state budget estimates or plan for allocation of central government budget; estimates of local government budget or plan for allocation of local government budgets shall be consistent with Article 48 of the Law on State budget.

2. Time for remaking of state budget estimates and central government budget allocation plan shall be subject to the National Assembly's decision.

3. Time for remaking of local government budget estimates:

a) With regard to state budget estimates or central government budget allocation which is/are ratified by the National Assembly or assigned by the Prime Minister, the People's Committee of province shall request People's Council at the same administrative level to decide estimates of local government budget and provincial budget allocation before December 10. In a case where the People's Council of province requests the People's Committee of province to remake local budget estimates or provincial budget allocation plan, it shall be submitted to the People's Council of province within a certain time decided by the People's Council of province but not later than December 20 of the previous year;

b) With regard to the making of estimates of a local government budget or a plan for budget allocation prescribed in Clause 2 of this Article, the People's Committee shall submit them to the People's Council for decision within 15 days from the date on which the Prime Minister assigns estimates to local government budget;

c) The People's Committee of province shall decide the specific time for making of budget estimates in districts and communes, provided that the People's Councils at inferior levels shall decide their local government budget estimates and budget allocation within 10 days from the day on which the People's Council at the superior level decides the estimate and budget allocation.

Article 28. Responsibilities of agencies in making state budget estimates and plans for allocation of budget estimates

1. Each People's Committee shall:

a) Instruct and direct affiliated entities, inferior government to make estimates of budget revenue and expenditure within its scope of management; cooperate and tax authorities and customs authorities in the province to make estimates of budget revenue and refundable value-added tax as prescribed;

b) Make estimates of budget revenue in the province, estimates of local budget revenue and expenditure; send reports to the Standing board of People's Council before send them superior State administrative agencies;

c) According to estimates of budget revenue and expenditure assigned by a superior authority, request People's Council at the same administrative level to decide its estimates of local government budget and budget allocation plan, then send reports on estimates of local government budget and budget allocation plan which are decided by the People's Council to the superior State administrative agency, finance authority, and planning and investment authority.

d) According to a Resolution of People's Council at the same administrative level, assign estimates of budget revenue and expenditure to its affiliated entities, estimates of budget revenue and expenditure and additional funding for its inferior budgets;

dd) Make plan for adjusting local budget estimate and plan for allocation of its estimates of budget revenue and expenditure, submit them to People's Council at the same administrative level for decision at the request of superior state administrative agencies if the Resolution of People's Council at the same administrative level is not consistent with estimates of budget revenue and expenditure assigned by the superior authority;

e) Request an inferior People's Council to adjust its budget estimates in exceptional circumstances.

2. Each finance authority shall:

a) Take charge and cooperate with planning and investment authorities to discuss about annual budget estimates of agencies at the same administrative level. In the beginning year of the budget stability period, the finance authority shall take charge and cooperate with planning and investment authorities, tax authorities and relevant agencies to discuss with inferior People's Committees to determine estimates of budget revenue and expenditure, ratio of revenue distribution between superior budgets and inferior ones, additional funding for balancing budget from superior budgets to inferior ones. In the next years of the budget stability period, the superior finance authority shall discuss with the People's Committees at inferior levels at their request.

During the discussion about budget estimates and budget allocation plans, if there are revenues and/or expenditures that are not conformable with law, not consistent with the policies and standards, not reasonable or frugal, not suitable for the budget capacity and socio-economic development orientation, finance authorities shall request adjustment. If there are contrary opinions between finance authorities, other agencies and units at the same level, and the People's Committees at inferior levels, each local finance authority shall submit a report to the People's Committee at the same level for decision; the Ministry of Finance shall submit a report to the Prime Minister for decision.

b) Take charge and cooperate with planning and investment authorities and relevant agencies at the same administrative level in consolidating and making state budget estimates and budget allocation plan according to each field of its budget level. In capital expenditures and recurrent expenditures, each finance authority shall consolidate and make estimates of specific expenditures on education, vocational training, science and technology in the province and nationwide;

c) Take charge and cooperate with planning and investment authorities and relevant agencies at the same administrative level in consolidating and making state budget estimates and budget allocation plan of its budget level;

d) Cooperate with planning and investment authorities at the same administrative level in making of budget estimates of capital expenditures of its budget level;

dd) The Ministry of Finance shall assess national target programs or target program in terms of recurrent expenditures made by agencies in charge of the national target program or target program and consolidate estimates and the plan for allocation of expenditures on the national target program or target program sent by the Ministry of Planning and Investment and submit them to the Government;

e) Take charge and cooperate with relevant agencies in proposing plans for balancing budget and measures for implementing the revenue increase and expenditure decrease policy;

g) The Ministry of Finance shall inspect Resolution on budget estimates of People's Councils of provinces and request adjustments to budget estimates in exceptional circumstances. Each of local finance authorities shall inspect the Resolution on budget estimates of inferior People's Council so as to request People's Committee at the same administrative level or inferior People's Council to adjust the budget estimates in exceptional circumstances.

3. Planning and investment authorities:

a) The Ministry of Planning and Investment shall submit a national socio-economic development plan to the Government and essential balance of national economy, in which balance of finance, currency, investment capital shall be based to make budget estimates;

b) Each planning and investment authority shall cooperate with finance authority at the same administrative level in consolidating and making its budget estimates; take charge and cooperate with finance authority at the same administrative level in making estimates of capital expenditures and plan for allocation of capital expenditures; and send them to finance authority at the same administrative level to consolidating and making state budget estimates and budget allocation plan;

c) The Ministry of Planning and Investment shall assess national target programs or target program in terms of capital expenditures made by agencies in charge of the national target program or target program and consolidate estimates; consolidate and send estimates and plan for allocation of expenditures on the national target program or target program to the Ministry of Finance.

4. Central and local regulatory agencies:

a) Ministries, ministerial-level agencies, Governmental agencies, and other agencies of central government shall cooperate with the Ministry of Finance in formulating policies, standards, expenditure limits in their assigned fields;

b) Each of central and local regulatory agencies shall make estimates of budget revenue and expenditure within their scope of management and send them to a finance authority and planning and investment authority at the

same administrative level; make estimates of budget expenditure on national target programs or target program and send them to the finance authority, planning and investment authority, and the agency in charge of the national target programs or target programs; cooperate with the finance authority at the same administrative level in making and allocating budget estimates according to the fields of its budget level;

c) Each of agency in charge of the national target programs or target programs shall take charge and cooperate with the finance authority and planning and investment authority in making estimates and plan for allocation of expenditures on national target programs or target program to units and localities, and send them to the finance authority and planning and investment authority at the same administrative level for including in the budget estimates and plan for allocation of budget estimates which are submitted to competent authority for decision. If there are contrary opinions between the agency in charge of the national target program or target program and the Ministry of Finance or the Ministry of Planning and Investment, the agency in charge of the national target program or target program shall request the Prime Minister to consider.

Article 29. Deciding and giving state budget statement

1. According to the Resolution of the National Assembly on budget estimates, the Prime Minister shall giving estimates of budget revenue and expenditure to each of Ministries, ministerial-level agencies, Governmental agencies, and other agencies of central government by each field; estimates of revenue and expenditure, total loan to cover deficit and repay debt principal of each locality, ratio of revenue distribution between central government budget and local government budget and additional funding for budget balancing, dedicated additional funding from central government budget to each local government budget before November 20 of the previous year.

2. According to the decision of the Prime Minister on giving budget estimates, the People's Committee of province shall request People's Council at the same administrative level to decide estimates of local budget and plan for allocation of provincial budget estimates from provincial budget to inferior budget to and ratio of revenue distribution between local government budgets before December 10 of the previous year; send a report on local budget estimates and allocation of provincial budget estimates decided by the People's Council of province to the Ministry of Finance and the Ministry of Planning and Investment.

3. According to the Resolution of the People's Council of province, the People's Committee of province shall give estimates of budget revenue and expenditure to each provincial-affiliated entity; estimates of budget revenue and expenditure, and ratio of revenue distribution between local government budgets; additional funding from provincial budget to budgets of districts, district-level towns, provincial-affiliated cities, cities affiliated to central-affiliated cities.

4. After receiving the decision on giving budget estimates from the superior People's Committee, the People's Committee shall request the People's Council at the same administrative level to decide its local government budget estimates and budget allocation plan, provided that budget estimates of communes are decided before December 31 of previous year. After People's Council decides the budget estimates, the People's Committee at the same administrative level shall send reports to the superior People's Committee and finance authority.

Article 30. Forms of making of state budget estimates

The Ministry of Finance shall provide guidelines for system of forms of making and consolidating state budget estimates, plan for allocation of central government budget; local government budget estimates, plan for allocation of local government budget.

Chapter IV

ENACTMENT OF STATE BUDGET

Article 31. Allocating and giving state budget estimates of budget estimate units

1. After being given budget estimates by the Prime Minister or the People's Committee, budget estimate units level I shall allocate and give budget estimates to affiliated budget-using units and units of inferior budgets in accordance with procedures, requirements and deadline prescribed in Article 49 and Article 50 of the Law on State budget.
2. Estimates given to budget-using units shall be specific in sorted fields, obligatory expenditures. If there are obligatory expenditures for managing the budget according to achievement of objectives, estimates must be specific in each of objectives, services, or products
3. The superior regulatory agency that authorizes an inferior regulatory agency to make obligatory expenditures on its behalf must give a budget estimate to such inferior agency. The agency that receives the funding must submit a statement of the use of such funding to the authorizing agency.
4. Finance authorities of the same level shall inspect the budget estimates given by budget estimate units level I to their budget-using units within 10 working days from the day on which budget allocation report made by the budget estimate unit is received. If the allocation is found incorrect in terms of total amount, fields, objectives, or policies, the budget estimate unit level I shall be requested to make correction.
5. The Ministry of Finance shall provide guidance on forms of giving estimates to agencies, organizations and units.

Article 32. Organizing collection of state budget revenues

1. Organizing management and collection of taxes, fees, charges, and other receivables paid to State Treasuries. The amounts collected via a third party must be transferred in full and on schedule to State Treasuries as prescribed by the Ministry of Finance.
2. Grant aid in cash must be collected promptly to State budget, if an international agreement or granting agreement specifies direct disbursement to a program/ project, such grant aid shall be included sufficiently in State budget as prescribed by the Ministry of Finance.
3. State Treasuries may open accounts at the State bank of Vietnam and commercial banks to concentrate state budget revenues as prescribed in Article 40 hereof; transfer them to the state budget, regulate and distribute the revenues among various levels of state budget as prescribed.
4. The Ministry of Finance shall provide guidelines for collecting and accounting of amounts receivable and grant aid to State Treasuries.

Article 33. Management, accounting of State budget's loans

1. State budget's loans shall be managed and accounted on accounts of each budget level. If an international agreement or granting agreement specifies that external borrowings shall be directly disbursed to a program/ project, such external borrowing shall be included sufficiently in State budget as prescribed by the Ministry of Finance.
2. The Ministry of Finance shall provide guidance on management and accounting of State budget's loans.

Article 34. Organizing state budget expenditure

1. Finance authorities, State Treasuries shall inspect, control and make payment sufficiently, promptly on schedule of obligatory expenditures within the given budget estimate. Heads of finance agencies, State Treasuries may refuse expenditures unsatisfactory with requirements prescribed in Clause 2 Article 12 of the Law on State budget, and take responsibility for their own decisions as prescribed by law and promptly inform relevant agencies, organizations and units. If an agency, organization or unit receiving the refusal disagrees with the decision of the finance authority or State Treasury, it may send a report to the agency that gives estimate directly and superior finance agency or State Treasury for consideration.

2. Finance authorities are entitled to suspend budgets, other than expenditures on wage, allowances, social subsidies, scholarships, and other urgent expenditures as prescribed by the Ministry of Finance, of agencies, organizations and units at the same level that fail to adhere to regulations on accounting, statement, or other financial statement, and take responsibility for their decision. The finance authority shall notify managing agency of the agency, organization, or unit subject to the suspension of the decision on suspension of budget.

3. Capital and fund shall be advanced as prescribed in Clause 2 and Clause 3 Article 56 of the Law on State budget and the amount of advanced capital shall be recovered immediately when the conditions for expenditures are satisfied as prescribed.

4. Obligatory expenditures which are made recurrently must be divided equally during a year; obligatory expenditures on capital expenditure, procurement, major repair and other non-recurrent expenditures shall be covered by certain sources on schedule and within the given budget estimate.

5. State budget's expenditures shall be made in the form of direct payments from State Treasuries to person receiving wages, allowances, subsidies and providers of goods and services. With regard to expenditures unsatisfactory with conditions for direct payments from State Treasuries, the budget-using unit shall make advances of funding to pay these expenditures according to the given budget estimate, and then make payments with State Treasuries as prescribed by the Ministry of Finance.

With regard to expenditures funded by external borrowings of the Government, grant aid specified in granting agreement which stipulates direct disbursement through corporate banking to programs and projects, those expenditures shall be controlled in accordance with instructions of the Ministry of Finance and included in State budget regularly as prescribed in Clause 2 Article 32 and Clause 1 Article 33 of this Decree.

6. Capital expenditures:

a) An investor shall, according to the estimate of facilities or work items decided by the competent authority and the given budget estimate, finished quantity value and conditions for budget expenditures, submit an application for payment or application for advance to the State Treasury if the conditions are satisfied as prescribed respectively in Clause 2 Article 12 or Clause 2 Article 56 of the Law on State budget;

b) The State Treasury shall inspect the estimate balance and legitimacy of documents submitted by the investor and conditions prescribed in Clause 2 Article 12 or applications for advances as prescribed in Clause 2 Article 56 of the Law on State budget, and then disburse and record budget expenditures as prescribed.

7. Expenditures on management according to achievement of objectives:

a) According to the given budget estimate, contract, schedule, quantity, and quality of the achievement of objectives, services, products, the head of budget-using unit shall make a decision on expenditure and take responsibility for his/her decision, and submit an application for payment or advance to the State Treasury where the payment or advance is made as prescribed;

b) The State Treasury shall inspect the estimate balance and the legitimacy of the application, disburse and record the expenditure or advance as prescribed.

8. Recurrent expenditures:

a) According to the conditions for budget expenditure and progress of work, the head of budget-using unit shall make decision on expenditure, and submit an application for payment or advance to the State Treasury where the payment or advance is made as prescribed;

b) The State Treasury shall inspect the estimate balance and legitimacy of application and conditions prescribed in Clause 2 Article 12, and then disburse and record budget expenditure or advance as prescribed.

9. Additional funding provided from superior budgets to inferior ones shall be made at State Treasuries.

10. Expenditures on authorization:

a) Expenditures on authorization shall be paid by the authorized entity as prescribed in Clauses 6, 7, and 8 of this Article;

b) The State Treasury and the authorizing entity shall do accounting and make a separate report on expenditures on authorization.

11. Expenditures on payment of interests, charges and other expenses associated with State budget's loans shall be consistent with Article 35 of this Decree.

12. The Ministry of Finance shall provide guidelines for procedures, accounting, and control of recurrent expenditures, capital expenditures, expenditures on debt repayment, enterprise subsidies and obligatory expenditures with particular characteristics of State budget, provision of additional funding from superior budgets to inferior ones.

Article 35. Management, accounting, and repayment of State budget's loans

1. Outstanding interests, charges, and other expenses associated with State budget's loans shall be paid according to their occurrence and within the given budget estimate.

2. Principal of due loans shall be paid on due date as specified in the commitment, concluded contract and within the given budget estimate decided by the competent authority as prescribed in Clause 1 Article 5 of this Decree.

3. Accounting of expenditures on debt repayment:

a) Expenditures on payment of interests, charges, and expenses associated with loans shall be included in State budget's expenditure;

b) Expenditures on principal repayment shall be recorded as a decrease in debt balance of State budget, not included in the State budget's expenditure;

c) The Ministry of Finance shall provide guidelines for accounting of principal repayment; payment of interests, charges and other expenses associated with State budget's loans.

Article 36. Organizing state budget management

1. Finance authorities have the responsibility to maintain sources for making expenditures according to budget estimates. Temporary deficit in government budgets:

a) In case of temporary deficit in central government budget: The Ministry of Finance shall provide an advance funding from the central financial reserve fund and other legitimate financial sources, including issuance of State Treasury bills and such advance funding must be returned within the budget year. If the financial reserve fund and other sources cannot cover the deficit, the Ministry of Finance shall provide advance funding from the State Bank of Vietnam under a decision of the Prime Minister as prescribed in Clause 1 Article 58 of the Law on State budget;

b) In case of temporary deficit in a provincial budget: The People's Committee of province shall provide an advance funding from provincial financial reserve fund and other legitimate financial sources and such advance funding must be returned within the budget year. If the financial reserve fund and other sources cannot cover the deficit, the People's Committee of province shall send a report to the Ministry of Finance to provide advance funding from central financial reserve fund or central government budget advance, and such funding must be returned within the budget year;

c) In case of temporary deficit in a district budget: The People's Committee of province shall, according to a request of the People's Committee of district, provide an advance funding from provincial financial reserve fund and other legitimate financial sources and such advance funding must be returned within the budget year;

d) In case of temporary deficit in a commune budget: The People's Committee of district shall, according to a request of the People's Committee of commune, provide an advance funding from district financial reserve fund and such advance funding must be returned within the budget year. If the district budget cannot cover the deficit, the People's Committee of district shall request the People's Committee of province to provide advance funding from provincial financial reserve fund or central government budget advance, and such funding must be returned within the budget year.

2. During the enactment of state budget, if the revenue is expected to be lower than the estimated revenue decided by the National Assembly or People's Council, the Government shall request Standing Committee of the National Assembly to decide adjustments to some expenditures, and then submit a report to the National Assembly at the nearest meeting; the People's Committee shall request Standing Committee of the People's Council at the same level to decide adjustments to local government budget estimate and submit a report to the People's Council at the nearest meeting as prescribed in Point a Clause 2 and Point a Clause 3 Article 52 of the Law on State budget.

3. The budget estimates given to budget-using units shall be adjusted as prescribed in Article 53 of the Law on State budget.

4. Regarding expenditures on programs/projects funded by ODA and concessional loans that do not have budget estimates or exceed the budget estimates, the Ministry of Planning and Investment shall take charge and request the Government to send a report to Standing Committee of the National Assembly before enactment and submit a report to the National Assembly at the nearest meeting.

5. Financial reserve funds are used to cover State budget's expenditures in accordance with Point c Clause 2 Article 11 of the Law on State budget and Article 8 of this Decree.

6. At the end of the budget year, in case of revenue increase and expenditure decrease, the Ministry of Finance shall send a report to the Government, then the Government shall forward it to the Standing Committee of National Assembly, local finance authority shall send a report to the People's Committee, the People's Committee shall forward it to the Standing board of People's Council at the same administrative level to decide

the amount of additional estimate and revenue increase; allocate and use revenue increase and expenditure decrease as prescribed in Clause 2 Article 59 of the Law on State budget.

7. Bonus for excess revenues distributed between central government budget and local government budgets shall be given as prescribed in Point a Clause 4 Article 59 of the Law on State budget and the following rules must be satisfied:

- a) Total revenue of central government budget is greater than the estimate decided by the National Assembly;
- b) Bonus rate does not exceed 30% of revenue increase which central government budget may retain. Nevertheless, the bonus must not exceed the last year's revenue increase. Bonus given to each locality shall be given according to total revenues distributed in the locality, not each revenue separately.

8. According to the level of bonus decided by Standing Committee of the National Assembly, the People's Committee of the province shall request the People's Council at the same level to use the bonus to make investment in infrastructure projects, performance of important tasks, and giving bonus to inferior budgets.

Article 37. Rules, criteria, conditions and power to decide advance funding from next year's budget

1. Rules for advancing next year's funding:

- a) When allocating the next year's budget estimate, the advance funding must be recovered in full. Otherwise, next year's advance funding is not permitted;
- b) The advance funding of next year's budget estimate must not exceed 20% of the estimated capital expenditure of the plan for midterm investment of state budget that is approved.;

2. Criteria for advance funding from next year's budget:

- a) Projects of national importance;
- b) Urgent projects and facilities of capital construction of central and local governments.

3. Conditions for advancing next year's funding:

- a) Ensure the balance of budget funding of each level;
- b) Projects and facilities of capital construction must satisfy conditions as prescribed by law on public investment and construction of the plan for midterm investment of state budget that is approved and accelerate progress;
- c) There is no balance of advance funding;
- d) An investor of a project or facility of capital construction eligible for advance funding from next year's budget must provide documents on necessity of advance funding.

4. Power to decide advance funding from next year's budget:

- a) According to assignment of the Government and requests of Ministries, ministerial-level agencies, Governmental agencies, other agencies of central government and the People's Committees of provinces and central-affiliated cities, the Ministry of Finance and the Ministry of Planning and Investment shall request the

Government to decide advance funding from next year's budget; and submit biannual reports to the Standing Committee of National Assembly, and reports to the National Assembly at the nearest session.

b) The People's Committees of provinces and district shall decide its advance funding from next year's budget; submit biannual reports to Standing Committee of the People's Council and to the People's Council at the nearest meeting.

Article 38. Management and use of budget by budget-using units

1. Ministries, ministerial-level agencies, Governmental agencies, other agencies of central and local government shall provide guidelines, inspect, and monitor the enactment of budget within the fields under their management and the enactment of budget of affiliated entities; submit periodic reports on receipts and expenditures and other financial statement as prescribed by law.

2. Heads of budget-using units are responsible for management and use of their budgets according to given estimates, ensure efficiency, frugality, adherence to policies, standards, and limits on budget expenditures; send periodic reports on enactment of the given budget estimate to their superior authorities.

3. The person in charge of finance – accounting of the budget-using unit has the responsibility to adhere to regulations on budget – finance management, state accounting, internal inspection, prevent, discover violations and request the head of the unit or a finance authority at the same level to take punitive actions.

4. Heads of agencies, units, organizations and persons in charge of finance and/or accounting at budget-using units prescribed in Clauses 1, 2, and 3 of this Article shall adhere to their duties and entitlements to state budget – finance and take responsibility for misconducts within their competence.

Article 39. Opening accounts at State Treasuries

1. Budget-using units and organizations funded by state budget regularly must open accounts at State Treasuries and be subject to the inspection and control of finance authorities and State Treasuries during the payment and funding use progress. If a budget-using unit or an organization funded by state budget regularly is permitted to open an account at a bank for the purpose of concentrating revenues, they must be managed and used as prescribed by law.

2. Assign the Ministry of Finance to provide guidelines for opening accounts at State Treasuries.

Article 40. Opening accounts of State Treasuries at banks

1. State Treasury shall open accounts at the State Bank of Vietnam and commercial banks for the purpose of concentrating revenues and expenditures of state budget.

2. A bank at which the State Treasury opens its account shall ensure the payment, regulate cash and foreign currencies adequately and promptly according to obligatory revenues and expenditures of state budget.

3. The bank shall pay interests on deposits of the State Treasury at the bank similarly to business entities; payments of State Treasury made through the State Treasury shall incur charges as prescribed by law.

Article 41. Report on enactment of state budget

1. Agencies, organizations and units shall submit reports on enactment of state budget as prescribed in Article 60 of the Law on State budget.

2. Forms and deadlines for reports prescribed in Clauses 1, 2, 3, 4, 5, 6, and 7 Article 60 of the Law on State budget shall be prescribed by the Ministry of Finance.

3. Forms and deadlines for reports prescribed in Clause 8 Article 60 of the Law on State budget shall be prescribed in a resolution of the Standing Committee of National Assembly on promulgation of regulations on making, assessment, and submission of state budget estimates, plan for allocation of central government budget to National Assembly for decision and ratification of statement of state budget.

Chapter V

ACCOUNTING, AUDIT, AND STATEMENT OF STATE BUDGET

Article 42. Closing accounting books and settlement of state budget revenues and expenditures at year's end

1. At the end of the budget year, agencies, organizations, and units related to budget revenue and expenditure shall close accounting books and make state budget statement according to the given budget estimates and State budget entries. The Ministry of Finance is assigned to stipulate the system of State budget entries.

2. The accounting books shall be closed meeting the following requirements:

a) Revenues of budgets of previous years which are paid from January 1 of the next year shall be recorded in the next year's revenues, other than revenues prescribed in Clause 4 hereof;

b) When the deadline for adjusting state budget statement expires, estimated expenditures, including additional expenditures in the year that are not enacted or completely enacted, except for the expenditures which are permitted to be carried over to the next year shall be enacted as prescribed in Article 43 of this Decree;

c) Advances in the budget estimate shall be paid until the deadline for adjusting state budget statement; if the conditions for payment are not satisfies when the deadline for adjusting state budget statement expires, the procedures below shall be followed:

The advances, if being permitted as prescribed in Article 43 of this Decree, shall be carried over to the next year;

The advances, if not being permitted as prescribed in Article 43 of this Decree, shall be paid to state budget before February 15 of the next year. If the unit fails to pay to state budget, the State Treasury shall recover the advances by deducting expenditures in sorted fields in next year's budget estimates, if the next year's budget estimate fails to provide such expenditures or provide but less than the amounts recoverable, the State Treasury shall notify the finance agency at the same level;

d) Temporarily collected/withheld accounts shall be settled as prescribed by competent authorities. Until the end of December 31, if the balances of temporarily collected/withheld accounts are not settled by the competent authorities, they shall be carried over to the next year for monitoring and settlement as prescribed by law;

dd) Until the end of December, materials and goods in stock at budget estimate units shall be subject to stocktaking as prescribed in according to applicable regulations and processed as follows: The value of materials and goods in stock shall be recorded in the previous year's budget expenditures. If they are kept using for the next year, they shall be monitored closely with separate reports. If they are not kept using for the next year, a council shall be established to sell those materials and goods and make payments to state budget; those of public service providers shall be used as prescribed;

e) The balance of deposit account funded by budgets in budget estimate units opened at the State Treasury until the end of December 31 shall be kept paying as prescribed in the period of adjusting statement. Upon expiry of deadline for adjusting statement, the remaining balance must be repaid to State budget, except that it is carried over to the next year as prescribed in Article 43 of this Decree. The balance of deposit accounts not funded by state budget shall be carried over to the next year as prescribed by law.

3. The deadline for adjusting state budget statement is January 31 of the next year.

4. During the period of adjusting statements, agencies, units, organizations and budget levels shall follow the regulations below:

a) Do accounting of revenues and expenditures arising from December 31 or earlier whose documents are circulated;

b) Do accounting of advances which satisfy conditions for spending, payments for works and quantity made from December 31 or earlier given in the budget estimates;

c) Adjust nonconformities during the accounting.

Article 43. Expenditures carried over to next year's budget

1. The estimated expenditures that are not enacted or completely enacted, advances in estimates or balance of deposit accounts that are not enacted or completely used, upon expiry of deadline for adjusting statements, shall be carried over to the next year include:

a) Capital expenditure carried over to the next year's budget according to the Law on Public Investment. In exceptional circumstances, the Prime Minister shall decide the permission for carrying expenditure over to the year succeeding the next year, provided not exceeding expiry of disbursement of the project in the plan for midterm public investment;

b) Expenditures on equipment purchase that have adequate documents and purchase contracts signed before December 31 of the enactment year; expenditures on additional or covering purchase of national reserves goods;

c) Sources of implementation of policies on wage, allowances, subsidy, and amounts determined according to base salary, or social protection;

d) Autonomous budgets of public service agencies and regulatory agencies; grant aid specified in obligatory expenditures;

dd) Estimates added by competent authorities after September 30 of the enactment year, excluding additional amounts provided for inferior budget estimate units by superior budget estimate units upon the adjustment of statement;

e) Funding for scientific research which is provided for subjects scientific research projects decided by competent authorities during the enactment period.

2. The usable revenue increases and expenditure decreases prescribed in Clause 2 Article 59 of this Law may be carried over to next year's budget if permitted by a competent authority.

Article 44. Requirements and procedures applied to state budget statement

1. The making of state budget statement must meet requirements prescribed in Article 65 of the Law on State budget.

2. With regard to a budget-using unit that enact state budget management according to achievement of objectives, the actual expenditure for the purpose of achievement of objectives shall be accounted for in the budget.

3. Procedures for making, examination, and assessment of budget statement of a budget estimate unit:

a) The budget-using unit shall make a budget statement as prescribed and submit it to its superior budget estimate unit. In a case where the inferior agency receives authorized funding from a superior agency, it must submit a statement of the use of such funding to the authorizing agency;

b) The superior budget estimate unit shall examine the budget statement of the inferior budget estimate unit and provide it with results; then submit a consolidated budget statement under its scope of management to its superior budget estimate unit;

c) The budget estimate unit level I shall consider the budget statement of the inferior budget estimate unit and provide it with results; then submit a consolidated budget statement under its scope of management to the finance authority at the same level;

d) The finance authority shall assess the budget statement submitted by inferior budget estimate units level I and provide assessed units with results. If the budget estimate unit level is also a budget-using unit, the finance authority shall consider the statement and provide the assessed unit with results.

4. Procedures for making and assessment of budget statement applied to capital construction projects/programs, projects of national importance, scientific research programs/projects/subjects and national target programs:

a) At the end of the budget year: investors of capital construction projects/programs, projects of national importance, scientific research programs/projects/subjects and national target programs shall make statements of the capital sources, state budget capital, use of capital, amount of works completed and paid for in the year; send it to the provider of capital construction, supervisory agency of the investor, and the finance authority at the same level. When the capital construction program/project or project of national importance is finished: make a statement of capital sources and state capital enclosed with explanation of use of capital; send it to the provider of capital construction and the agency competent to examine the budget statement of capital construction projects/programs, projects of national importance, scientific research programs/projects/subjects as prescribed;

b) Agencies, organizations, and units provided with expenditure estimate of national target programs shall make a statement of the given budget estimate as prescribed, and submit it the superior agency for prepare a consolidate report for the agency in charge of management of the national target programs;

c) With regard to national target programs and projects of national importance the investment contents of which are decided by the National Assembly, the budget statement must be submitted to the Government for consideration and submission to the National Assembly apart from the regulations in Point a and Point b of this Clause.

5. Procedures for statement of commune budgets:

a) The People's Committee of commune shall make a statement of state budget revenue in the given administrative division and statement of revenues and expenditures of commune budgets and send them to the socio-economic board of People's Council of commune for assessment and the finance authority of district;

b) The People's Committee of commune shall submit the budget statement to the Standing board of People's Council of commune for consultation. Upon receipt of consultation of the Standing board of People's Council of commune, the People's Committee of commune shall submit the budget statement to the People's Council of communes for ratification;

c) Within 05 working days, from the date on which the budget statement of commune is ratified, the People's Committee of commune shall send it to People's Committee of district and finance authority of district.

6. Procedures for statement of district budgets:

a) The finance authority of district shall assess the statement of receipts and expenditures of the commune budget ratified by People's Council of commune; assess and examine the budget statements of inferior budget estimate units level I; submit a consolidate statement of state budget revenues in the district and statement of receipts and expenditures of the district budget to the People's Committee of district, then send them to the socio-economic board of the People's Council of district for assessment and to the Service of Finance;

b) The People's Committee of district shall submit the budget statement to the Standing board of People's Council of district for consultation. Upon receipt of consultation of the Standing board of People's Council of district, the People's Committee of district shall submit the budget statement to the People's Council of district for ratification;

c) Within 05 working days, from the date on which the budget statement of district is ratified, the People's Committee of district shall send it to People's Committee of province and the Service of Finance.

7. Procedures for statement of provincial budget:

a) The Service of Finance shall assess the statement of the district budget ratified by People's Council of district; assess and examine the budget statements of inferior budget estimate units level I; submit a consolidate statement of state budget revenues in the province and statement of revenues and expenditures of the province budget to the People's Committee of province, then send them to the socio-economic board of the People's Council of province for assessment and to the Ministry of Finance, State Audit Office;

b) The People's Committee of province shall submit the budget statement to the Standing board of People's Council of province for consultation. Upon receipt of consultation of the Standing board of People's Council of province, the People's Committee of province shall submit the budget statement to the People's Council of province for ratification;

c) Within 05 working days, from the date on which the budget statement of province is ratified, the People's Committee of province shall send it to the Ministry of Finance and State Audit Office.

8. Procedures for statement of state budget:

a) Budget estimate units level I of central government budget shall make budget statements within their competence and send them to the Ministry of Finance and State Audit Office of Vietnam before October 01 of the next year;

b) The People's Committee of each province shall submit its provincial budget statement to the Ministry of Finance and State Audit Office of Vietnam before October 01 of the next year;

c) The Ministry of Finance shall assess and examine statement of revenues and expenditures of budget estimate units level I of the central government budget;

d) Based on the result of verification of budget statements of budget estimate units level I of central government budget, and local government budget statements ratified by the People's Councils of provinces, the Ministry of Finance shall make a statement of central government budget, submit it to government and State Audit Office of Vietnam within 14 months after the end of the budget year;

dd) Procedures for assessment of agencies of the National Assembly related to state budget statement shall be prescribed in a resolution of the Standing Committee of National Assembly on promulgation of regulations on making, assessment, and submission of state budget estimates, plan for allocation of central government budget to National Assembly for decision and ratification of statement of state budget;

e) The National Assembly shall consider approving the statement of central government budget within 18 months from the end of the budget year.

Article 45. Forms of state budget statement

1. Forms of state budget statement of agencies of the Government which are submitted to the National Assembly shall be prescribed in a resolution of the Standing Committee of National Assembly on promulgation of regulations on making, assessment, and submission of state budget estimates, plan for allocation of central government budget to National Assembly for decision and ratification of statement of state budget.

2. The Ministry of Finance is assigned to provide guidelines for forms of state budget statements.

Chapter VI

PUBLISHING OF STATE BUDGET, SUPERVISION OF STATE BUDGET BY THE PUBLIC

Article 46. Entities and scope of publishing of state budget

1. Entities required to publish budget include:

- a) State budget levels,
- b) Budget estimate units;
- c) Organizations funded by state budget;
- d) Capital construction programs/projects funded by state budget.

2. Collecting authorities, finance authorities, and State Treasuries shall publish state budget procedures.

Article 47. State budget contents to be published

1. Contents of state budget and central government budget to be published:

a) data and description of state budget estimates submitted to the National Assembly; state budget estimates decided by the National Assembly; state budget statements ratified by the National Assembly, including:

Balance of revenues and expenditures of state budget;

State budget revenues in sorted fields and according to types of taxes;

State budget expenditures, including development investment expenditures, recurrent expenditures, expenditure on loan interests and aid, additional contribution to financial reserve funds, and budget reserve;

State budget deficit; total loan of state budget, including loans for covering state budget deficit and loans for repayment of principal of state budget;

Central government budget expenditures according to specific fields; total amount and specific amounts in sorted fields for each of Ministries, ministerial-level agencies, Governmental agencies, other agencies of central government; central government budget expenditures on national target programs;

State budget revenues in administrative divisions, local government budget expenditures, additional funding for balancing budget, provision of dedicated additional funding from central government budget to budgets of each province and central-affiliated city; ratio of distribution of revenues between central government budgets and budgets of each province and central-affiliated city;

b) Publish data and description of enactment of estimates of budget revenue and expenditure, including balance of revenues and expenditures, state budget revenues in sorted fields, state budget expenditures by development investment expenditures and recurrent expenditures.

2. Contents of local government budgets to be published:

a) data and description of state budget estimates submitted to the People's Council; state budget estimates decided by the People's Council; state budget statements ratified by the People's Council, including:

State budget revenues in sorted fields and according to types of taxes;

Balance of revenues and expenditures of local government budgets;

Local budget revenues permitted to retain;

Local budget expenditures, including development investment expenditures, recurrent expenditures, expenditure on loan interests and aid, additional contribution to provincial budgets, and budget reserve;

Budget expenditures according in sorted fields; total amount and specific amounts in sorted fields for each of inferior agencies and units, capital construction expenditures in their budgets for each of projects and works; expenditures on national target programs;

State budget revenues in administrative divisions of each inferior local governments, expenditures provided for inferior budgets, additional funding for budget balancing and provision of dedicated additional funding to inferior budgets;

Ratio of distribution of revenues between levels of local government budgets to each of budget levels in the budget stability period;

b) Publish data and description of enactment of budget revenue estimates in the administrative divisions, local budget revenue estimates, local budget expenditure estimates.

3. Data and description of budgets in the fields of national defense and security and national reserve shall be consistent with Point a Clause 1 Article 15 of the Law on State budget.

4. Contents of publishing state budget procedures shall be consistent with Point b Clause 2 Article 15 of the Law on State budget.

Article 48. Contents of budgets to be published by budget estimate units, organizations funded by state budget, capital construction programs and projects funded by state budget

1. Regarding budget estimate units:

a) Estimates of budget revenue and expenditure given by competent authorities, enactment of budget estimates and budget statement approved by competent authorities;

b) Estimates of budget revenue and expenditure provided for inferior budget estimate units; publishing of budget statements of inferior budget estimate units that are approved or assessed.

2. Organizations funded by state budget shall publish data of estimates of budget revenue and expenditure given by competent authority, enactment and statement of revenues and expenditures, contribution of organizations and individuals; basis for determining funded subsidy levels and amounts.

3. Publish budget related to capital construction programs/projects funded by state budget as prescribed in the Law on public investment and relevant law provisions.

Article 49. Deadline for publishing budget

1. Every state budget estimate must be published within 05 working days from the day on which it is sent by the government to members of the National Assembly or by the People's Committee to the People's Council.

2. Reports on state budget estimates approved by competent authorities, state budget statements approved by competent authorities must be published within 30 days from the day on which they are issued.

3. Quarterly and biannual reports on state budget enactment must be published within 15 days from the ending day of the quarter or half-year period.

4. Annual reports on state budget enactment must be published upon the submission to the National Assembly or People's Council respectively by the Government or the People's Committee.

5. Publish estimates of budget estimate units and organizations funded by state budget within 15 days, from the date on which the competent authority give such estimates; publish the budget enactment of the year of budget estimate units within 5 working days from the date on which they send reports to their superior budget estimate units; publish budget statement of budget estimate unit within 15 days, from the date on which it is approved or assessed by competent authority.

6. Publish government budget procedures within 5 working days from the date on which the competent authority promulgates relevant regulations.

Article 50. Publish result of processing proposals of State Audit Office

1. Contents to be published:

a) Contents completed according to the proposals of State Audit Office;

b) Contents uncompleted according to the proposals of State Audit Office and explanation thereof.

2. Publish result of processing proposals of State Audit Office within 30 days from the date on which a document is promulgated.

Article 51. Manners, criteria and forms of publishing budget

1. State budget shall be published in one or some of the following manners: announcement at meetings; posting at offices; issued in publications; written notifications to relevant organizations and individuals; posting on websites; announcement through the media. Any organization having a website shall publish the budget on its website.

2. The Ministry of Finance shall provide guidelines for criteria, forms and manners of publishing budget applied to entities subject to budget publishing.

Article 52. Supervision of state budget by the public

1. Vietnamese Fatherland Front shall take charge and cooperate with members in organizing supervision of state budget by the public.

2. Vietnamese Fatherland Front, directly or authorize members to, receive information and requests for supervision; take charge of formulating plan and implementation of the supervision of state budget in accordance with the plan and regulations of law.

3. The supervision contents shall be consistent with Points a, b, and c Clause 1 Article 16 of the Law on State budget.

4. Supervision manners:

a) Study and examine documents of competent authorities in respect of state budget in connection with legitimate rights and interests of the people;

b) Organize supervision delegations;

c) Cooperate with competent authorities in supervision;

dd) Supervise through operation of people's inspection boards established at commune level, investment supervision board of the community.

5. Supervised agencies, units, and organizations and relevant agencies shall:

a) Provide information and documents according to supervision contents to Vietnamese Fatherland Front at various levels;

b) Provide explanation and process requests of the people sent to Vietnamese Fatherland Front at various levels and send reports on issues beyond their competence to competent authorities;

c) Publish result and explanation for requests of the people, proposals of Vietnamese Fatherland Front at various levels in terms of supervisory activities.

Chapter VII

IMPLEMENTATION

Article 53. Transitional clause

1. Budget statements of 2015 and 2016 shall apply regulations on the Law on State budget No. 01/2002/QH11 and the Government's Decree No. 60/2003/ND-CP dated June 6, 2003 on guidelines for the Law on State budget.
2. The budget stability period of 2011 and 2015 shall last until the end of 2016. The following budget stability period shall begin from 2017 to 2020.
3. Any province having mobilized debit balance, until December 31, 2016, exceed the loan balance limit prescribed in the Law on State budget, in the budget estimates of 2017 and following years, the source of local budget revenues which may retain according to decentralization, decrease planned expenditures on midterm public investment to increase expenditures on principal payment and ensure that the loan balance does not exceed the loan balance prescribed in the Law on State budget.

Article 54. Effect

1. This Decree comes into force from January 1, 2017 and applies from budget year 2017.
2. The Government's Decree No. 60/2003/ND-CP dated June 6, 2003 on guidelines for the Law on State budget shall be annulled.

Article 55. Implementation

1. The Minister of Finance shall provide guidelines for implementation of this Decree.
2. Ministers, Heads of ministerial-level agencies, Governmental agencies, other agencies of central government and the Presidents of the People's Committees of provinces and central-affiliated cities shall implement this Decree./.

**ON BEHALF OF THE GOVERNMENT
PRIME MINISTER**

Nguyen Xuan Phuc

*This translation is made by **LawSoft** and for reference purposes only. Its copyright is owned by **LawSoft** and protected under Clause 2, Article 14 of the Law on Intellectual Property. Your comments are always welcomed*

LAW 107 ON IMPORT AND EXPORT DUTY

Dated 6 April 2016

CONTENTS

CHAPTER 1	3
General Provisions	3
Article 1 Governing scope.....	3
Article 2 Dutiable objects	3
Article 3 Duty payers.....	4
Article 4 Definitions	4
CHAPTER 2	5
Basis for Assessing Duty, Time for Assessing Duty, and Duty Tariffs	5
Article 5 Basis for assessing import and export duty on goods subject to the pro rata duty assessment method.....	5
Article 6 Basis for assessing import and export duty on goods subject to the absolute duty assessment method and combined duty assessment method.....	5
Article 7 Import duty on goods subject to tariff quota	6
Article 8 Dutiable value and time for assessing duty	6
Article 9 Time-limit for payment of duty	6
Article 10 Principles for promulgation of Duty Tariffs and duty rates.....	6
Article 11 Authority to promulgate Duty Tariffs and duty rates	7
CHAPTER 3	7
Anti-Dumping Duty, Anti-Subsidy Duty and Self-Defence Duty	7
Article 12 Anti-dumping duty	7
Article 13 Anti-subsidy duty	8
Article 14 Self-defence duty	8
Article 15 Application of anti-dumping duty, anti-subsidy duty and self-defence duty.....	8
CHAPTER 4	9
Exemption from, Reduction of and Refund of Duty.....	9
Article 16 Exemption from duty	9
Article 17 Conditions and procedures for exemption of duty	12
Article 18 Reduction of duty	12
Article 19 Refund of duty.....	13

CHAPTER 5	13
Implementing Provisions.....	13
Article 20 Effectiveness.....	13
Article 21 Transitional provision.....	13
Article 22 Detailed regulations and implementing guidelines	14
EXPORT DUTY TARIFF IN ACCORDANCE WITH THE LIST OF GROUPS OF DUTIABLE GOODS AND THE FRAMEWORK [BRACKET] OF EXPORT DUTY RATES APPLICABLE TO EACH SUCH GROUP OF GOODS	15

LAW**ON IMPORT AND EXPORT DUTY**

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly hereby promulgates the *Law on Import and Export Duty*.

CHAPTER 1**General Provisions****Article 1** *Governing scope*

This Law regulates dutiable objects, duty payers, the basis and time for assessing duty; Duty Tariffs; anti-dumping duty, anti-subsidy duty and self-defence duty applicable to imported goods ["imports"]¹ and exported goods ["exports"]; and duty exemption, reduction and refund.

Article 2 *Dutiable objects*

- 1 Goods which are imported and exported via the border gates and borders of Vietnam.
- 2 Goods exported from the domestic market into a non-tariff zone, and goods imported from a non-tariff zone onto the domestic market.
- 3 Goods imported or exported on the spot, and imports and exports of an enterprise exercising import rights, export rights and distribution rights.
- 4 Goods in the following cases are not subject to import or export duty ["non-dutiable objects"]:
 - (a) Goods in transit, border gate transit and trans-shipment;
 - (b) Goods given as humanitarian aid and non-refundable aid;
 - (c) Goods exported abroad from a non-tariff zone; goods imported from abroad into a non-tariff zone and used only within a non-tariff zone; and goods passing from one non-tariff zone to another;
 - (d) The share of oil and gas on export used for payment of royalties to the State.
- 5 The Government shall provide detailed regulations on this article.

¹ Allens footnote: Square brackets contain translator's comments only.

Article 3 *Duty payers*

- 1 Owners of imports or exports.
- 2 Organizations entrusted to import or export goods.
- 3 Persons on entry or exit carrying imports or exports or consigning or receiving goods via a border gate or border of Vietnam.
- 4 Persons who are authorized, who guarantee or who pay duty on behalf of duty payers, comprising:
 - (a) Customs clearance agents authorized by duty payers to pay duty;
 - (b) Enterprises being international express mail service providers which pay duty on behalf of duty payers;
 - (c) Credit institutions or other organizations operating pursuant to the *Law on Credit Institutions* which provide guarantees for duty payers and/or pay duty on behalf of duty payers;
 - (d) Persons authorized by owners of goods being donations or gifts of individuals; or of luggage consigned before or after the voyage of the person entering or exiting;
 - (dd) Branches of enterprises authorized to pay duty on behalf of such enterprises;
 - (e) Any other person authorized to pay duty on behalf of duty payers in accordance with law.
- 5 Persons who purchase or transport goods within the limits on which duty is exempt of border inhabitants where such goods are not used for production or consumption but are sold on the domestic market, and goods of foreign business entities permitted to conduct business [trade imports or exports] at border markets in accordance with law.
- 6 Persons with imports or exports in the category of non-dutiable objects or duty exempt, but thereafter there is a change and such goods become dutiable objects as stipulated by law.

Article 4 *Definitions*

In this Law, the following terms are construed as follows:

- 1 *Non-tariff zone* means an economic zone within the territory of Vietnam, established in accordance with law, with defined geographical borders, separated from the external area by a hard fence, and enabling customs inspection, supervision and control by customs officers and other relevant agencies in respect of imports and exports and means of entry and exit and people entering and existing; and where the relationship of purchase and sale or exchange of goods between such zone and external areas is an import/export relationship.
- 2 *Combined duty assessment method* means simultaneous application of the pro-rata duty assessment method and the absolute duty assessment method.
- 3 *Percentage [pro-rata] duty assessment method* means determining duty as a percentage (%) of the dutiable [assessable] value of the imports or exports.
- 4 *Absolute duty assessment method* means fixing a specific amount of money as duty calculated per one unit of the imports or exports.
- 5 *Anti-dumping duty* means an import surtax applicable where goods dumped and imported into Vietnam cause, or threaten to cause, significant loss to a domestic manufacturing industry or prevent the formation of a domestic manufacturing industry.

- 6 *Anti-subsidy duty* means an import surtax applicable where subsidized goods imported into Vietnam cause, or threaten to cause, significant loss to a domestic manufacturing industry or prevent the formation of a domestic manufacturing industry.
- 7 *Self-defence duty* means an import surtax applicable to goods where the importation of goods into Vietnam beyond the limit causes, or threatens to cause, serious loss to a domestic manufacturing industry or prevents the formation of a domestic manufacturing industry.

CHAPTER 2

Basis for Assessing Duty, Time for Assessing Duty, and Duty Tariffs

Article 5 *Basis for assessing import and export duty on goods subject to the pro rata duty assessment method*

- 1 The amount of money as import or export duty is determined based on dutiable [assessable] value and the pro rata duty rate of each goods line at the time of duty assessment.

- 2 Duty rates on exports are specified for each goods line in the Export Duty Tariff.

For goods exported to a country, group of countries or territory with an agreement on preferential export duty within its trading relationship with Vietnam, the provisions of such agreement shall apply to duty rates.

- 3 Duty rates applicable to imports comprise preferential duty rates, special preferential duty rates and standard [or ordinary] rates, applicable as follows:

- (a) Preferential duty rates apply to imports originating from a country, group of countries or territory which applies most favoured nation treatment [to Vietnam] within its trading relationship with Vietnam; and to goods from a non-tariff zone imported onto the domestic market and which satisfy the conditions on origin from a country, group of countries or territory which applies most favoured nation treatment [to Vietnam] within its trading relationship with Vietnam;
- (b) Special preferential duty rates apply to imports originating from a country, group of countries or territory with an agreement on special preferential import duty within its trading relationship with Vietnam; and to goods from a non-tariff zone imported onto the domestic market and which satisfy the conditions on origin from a country, group of countries or territory with an agreement on special preferential import duty within its trading relationship with Vietnam;
- (c) Standard duty rates apply to imports not within the cases prescribed in sub-clauses (a) and (b) above. The standard duty rate shall be stipulated as 150% of the preferential duty rate for each corresponding goods line. If the preferential duty rate is 0%, the Prime Minister shall rely on article 10 of this Law to decide application of a standard duty rate.

Article 6 *Basis for assessing import and export duty on goods subject to the absolute duty assessment method and combined duty assessment method*

- 1 The amount of duty applicable by the absolute duty assessment method on imports or exports is determined based on the quantity of actually imported or exported goods and the absolute duty rate levied on one unit of goods at the time of assessing duty.
- 2 The amount of duty applicable by the combined duty assessment method on imports or exports is determined as the total amount of duty as a percentage plus the amount of absolute duty [payable] in accordance with articles 5.1 and 6.1 respectively of this Law.

Article 7 *Import duty on goods subject to tariff quota*

- 1 The duty rate or absolute duty rate prescribed in articles 5.3 and 6 respectively of this Law shall apply to imports subject to a tariff quota.
- 2 Where goods are imported outside the tariff quota, the outside tariff duty rate or absolute duty rate shall be decided by the competent agency prescribed in article 11.1 of this Law.

Article 8 *Dutiable value and time for assessing duty*

- 1 Dutiable value for the purpose of assessing import and export duty is the customs value as stipulated in the *Law on Customs*.
- 2 The time for assessing import and export duty is the time of customs declaration registration.

In the case of imports and exports which are non-dutiable objects or which are duty exempt or subject to tariff quota rates or absolute duty rates but then there is a change in terms of the objects which are non-dutiable, which are duty exempt or subject to tariff quota rates or absolute duty rates in accordance with law, then the time for assessing import and export duty is the time of registration of the new customs declaration.

The law on customs applies to the time for registration of customs declarations.

Article 9 *Time-limit for payment of duty*

- 1 Duty must be paid on imports and exports which are dutiable objects prior to customs clearance or goods release as stipulated in the *Law on Customs*, except in the case prescribed in clause 2 below.

Where a credit institution provides a guarantee for the duty amount payable, customs clearance or goods release shall be permitted, but a late payment charge must be paid [for the period] from the date of customs clearance or goods release to the date of duty payment as prescribed in the *Law on Tax Management*. The maximum guarantee term shall be thirty (30) days as from the date of customs declaration registration.

Where a credit institution has provided a guarantee but on the expiry of the guarantee term the duty payer has failed to pay the duty plus the late payment charge (if any), then the guarantor organization is liable to pay in full the duty plus any late payment charge on behalf of the duty payer.

- 2 Any duty payer entitled to the priority regime pursuant to the *Law on Customs* shall pay duty for customs declarations for which customs clearance or goods release for the month has been made, no later than the tenth (10th) day of the following month. Any duty payer which has not paid duty on expiry of this time-limit must pay the full amount of the duty owing plus a late payment charge in accordance with the *Law on Tax Management*.

Article 10 *Principles for promulgation of Duty Tariffs and duty rates*

- 1 The importation of raw materials and supplies is encouraged with priority to those which the domestic market is unable to supply; and the development of the sectors of high tech, source technologies, energy conservation and environmental protection is also encouraged.
- 2 Compliance with the orientation of socio-economic development of the State, and with commitments on import and export duty in international treaties of which Vietnam is a member.
- 3 Contribution to market stabilization and State budget revenue.
- 4 Simplification and transparency, and facilitating duty payers and administrative reform of tax procedures.

- 5 Application of uniform duty rates to goods of the same nature, composition, utility and technical features; and application of descending import duty rates from the finished product down to raw materials, and of ascending export duty rates from the finished product up to raw materials.²

Article 11 *Authority to promulgate Duty Tariffs and duty rates*

- 1 The Government shall rely on the provisions in article 10 of this Law, on the Export Duty Tariff in accordance with the list of groups of dutiable goods and bracket rates of export duty applicable to each group of goods issued with this Law, and on the preferential tariff committed in the Protocol on Accession to the WTO ratified by the National Assembly and on other international treaties of which Vietnam is a member, in order to promulgate:
- (a) The Export Duty Tariff; and the Preferential Export Duty Tariff;
 - (b) The Preferential Import Duty Tariff and the Specially Preferential Import Duty Tariff;
 - (c) List of goods and rates of absolute duty, combined duty, and import duty outside the tariff quota.
- 2 In necessary cases, the Government shall make a submission to the Standing Committee of the National Assembly to amend or add to the Export Duty Tariff in accordance with the list of groups of dutiable goods and bracket rates of export duty applicable to each group of goods issued with this Law.
- 3 Chapter 3 of this Law stipulates and applies to the principles and authority for application of anti-dumping duty, anti-subsidy duty and self-defence duty.

CHAPTER 3

Anti-Dumping Duty, Anti-Subsidy Duty and Self-Defence Duty

Article 12 *Anti-dumping duty*

- 1 The conditions for application of an anti-dumping duty are:
- (a) The imports have been dumped into Vietnam and the dumping margin has been verified;
 - (b) The dumping of the goods is the reason causing, or threatening to cause, significant loss to a domestic manufacturing industry or prevention of the formation of a domestic manufacturing industry.
- 2 Principles for application of an anti-dumping duty:
- (a) An anti-dumping duty is only applicable at the necessary and appropriate level aimed at preventing or restricting significant loss to a domestic manufacturing industry;
 - (b) An anti-dumping duty shall only be applied after an investigation has been conducted and application must be based on the investigation conclusions in accordance with law;
 - (c) An anti-dumping duty is only applicable to goods dumped into Vietnam;
 - (d) Application of an anti-dumping duty must not cause loss and damage to domestic socio-economic interests.
- 3 The duration of application of an anti-dumping duty shall not exceed five (5) years from the effective date of the application decision. In necessary cases, an application decision may be extended.

² Allens footnote: So that import of raw materials is subject to lower duty and export of raw materials is subject to higher duty.

Article 13 *Anti-subsidy duty*

- 1 The conditions for application of an anti-subsidy duty are:
 - (a) The imports are identified as being subsidized as prescribed by law;
 - (b) The imports are the reason causing, or threatening to cause, significant loss to a domestic manufacturing industry or prevention of the formation of a domestic manufacturing industry.
- 2 Principles for application of an anti-subsidy duty:
 - (a) An anti-subsidy duty is only applicable at the necessary and appropriate level aimed at preventing or restricting significant loss to a domestic manufacturing industry;
 - (b) An anti-subsidy duty shall only be applied after an investigation has been conducted and application must be based on the investigation conclusions in accordance with law;
 - (c) An anti-subsidy duty is only applicable to subsidized goods imported into Vietnam;
 - (d) Application of an anti-subsidy duty must not cause loss and damage to domestic socio-economic interests.
- 3 The duration of application of an anti-subsidy duty shall not exceed five (5) years from the effective date of the application decision. In necessary cases, an application decision may be extended.

Article 14 *Self-defence duty*

- 1 The conditions for application of a self-defence duty are:
 - (a) The volume, quantity or value of the imports increases suddenly [surges] absolutely or relatively in comparison with the volume, quantity or value of similar goods or of directly competing goods manufactured domestically;
 - (b) The surge in the volume, quantity or value of imports prescribed in sub-clause (a) above causes or threatens to cause, serious loss to a similar manufacturing industry or to directly competing goods manufactured domestically or prevents the formation of a domestic manufacturing industry.
- 2 Principles for application of a self-defence duty:
 - (a) A self-defence duty shall apply within the necessary scope and level aimed at preventing or minimizing serious loss and damage to a domestic manufacturing industry and in order to facilitate such industry to improve its competitiveness;
 - (b) Application of a self-defence duty must be based on an investigation conclusion, except where it is temporarily imposed;
 - (c) A self-defence duty shall be applied on the basis of non-discrimination and irrespective of the origin of the goods.
- 3 The duration of application of a self-defence duty shall not exceed four (4) years including the duration of application of the temporary duty. The duration of application may be extended for the six (6) following years, provided that serious loss and damage or the threat of serious loss and damage to a domestic industry still exists and there is evidence proving that such manufacturing industry is adjusting itself in order to improve its competitiveness.

Article 15 *Application of anti-dumping duty, anti-subsidy duty and self-defence duty*

- 1 The application, change and/or repeal of an anti-dumping duty, anti-subsidy duty and self-defence duty must be implemented in accordance with the provision of this Law and the laws on anti-dumping duty, anti-subsidy duty and self-defence duty respectively.

- 2 Customs declarants must, based on the duty rates and the quantity or value of the goods subject to the anti-dumping duty, anti-subsidy duty or self-defence duty, declare and pay duty in accordance with the law on tax management.
- 3 The Ministry of Industry and Trade makes decisions on the application of an anti-dumping duty, anti-subsidy duty and self-defence duty.
- 4 The Ministry of Finance regulates the declaration, collection, payment and refund of anti-dumping, anti-subsidy and self-defence duties.
- 5 If the interests of the Socialist Republic of Vietnam under international treaties are infringed or breached, the Government shall, based on [such] international treaties, report to the National Assembly to make a decision on application of other appropriate safeguard taxes.

CHAPTER 4

Exemption from, Reduction of and Refund of Duty

Article 16 *Exemption from duty*

[The following imports and exports are exempt from duty in the following circumstances:]

- 1 Imports and exports of foreign organizations and individuals enjoying diplomatic privileges and immunity in Vietnam at levels consistent with international treaties of which Vietnam is a member; goods within the quantity of duty-free baggage of individuals upon entering or exiting Vietnam; and goods imported for sale in duty-free shops.
- 2 Goods being moveable assets, gifts and donations within the stipulated levels of foreign organizations and individuals given to Vietnamese organizations and individuals, and vice versa.

Moveable assets, gifts or donations with a quantity or value exceeding the level at which duty is exempt shall be subject to payment of duty on such excess, except where the recipient is an agency or organization for which the State Budget guarantees [provides] operational funding and the higher level managing agency permits such receipt; and [goods being gifts or donations] for humanitarian or charitable purposes [are exempt from duty].

- 3 Goods which are purchased and sold or exchanged across borders by border inhabitants on the List of goods and within the levels servicing production and everyday living requirements of border inhabitants.

Goods shall be subject to duty if, within the prescribed levels, they are purchased and/or transported but are not then used for production or consumption of the border inhabitants, and imports and exports of foreign business entities permitted to conduct business at border markets.

- 4 Goods which are exempt from import and export duty pursuant to an international treaty of which Vietnam is a member.
- 5 Goods with a value or with an amount of duty payable which is below the minimum level stipulated in Government regulations.
- 6 Raw materials, supplies and components imported in order to process export products; completed products imported in order to be coupled with processed products; and export processed products.

Export processed products which are produced from domestic raw materials and supplies subject to export duty shall not be exempt from duty with respect to that part being the value of the domestic raw materials and supplies corresponding to their composition of the export product.

Goods which are exported for processing and which are thereafter imported shall be import and export duty exempt on that part being the value of the raw materials and supplies exported and forming composition of the processed product. In the case of goods which are exported for processing and thereafter imported and which are natural resources and/or minerals and products where the total value of such natural resources and/or minerals plus energy expenses accounts for 51% or more of the cost price of the product, then such goods shall not be duty exempt.

- 7 Raw materials, supplies and components imported for production of export products.
- 8 Goods which are manufactured, processed, recycled or assembled in non-tariff zones without using raw materials or components imported from abroad, upon import onto the domestic market.
- 9 Goods temporarily imported and then re-exported, or goods temporarily exported and then re-imported within a specified period, comprising:
 - (a) Goods temporarily imported for re-export, or goods temporarily exported for re-import for the purpose of holding or participating in trade fairs, exhibitions, goods displays, sports, cultural or artistic or other events; machinery and equipment temporarily imported for re-export for purposes of product testing or research into product development; trade machinery, equipment and apparatus temporarily imported for re-export or temporarily exported for re-import in order to service work within a certain period of time, or in order to service processing for foreign business entities, except for machinery, equipment, tools and transport facilities of organizations and individuals permitted to temporarily import and re-export them to implement an investment project, to carry out construction or installation of works or to service production;
 - (b) Machinery, equipment, components and accessories temporarily imported to replace or repair foreign ships or aircraft, or temporarily exported to replace or repair Vietnamese ships or aircraft overseas; goods temporarily imported for re-export to supply foreign ships anchored in Vietnamese ports or foreign aircraft parked at Vietnamese airports;
 - (c) Goods temporarily imported for re-export or temporarily exported for re-import for purposes of their warranty, repair or replacement;
 - (d) Facilities which are rotated in the form of temporary import for re-export or temporary export for re-import in order to contain imports or exports;
 - (e) Business goods which are temporarily imported for re-export within the time-limit for temporary import and re-export (including any extended time-limit) which a credit institution guarantees or for which a security deposit has been paid corresponding to the amount of import duty on the goods temporarily imported for re-export.
- 10 Goods not for commercial purposes in the following cases: sample goods; photographs, films and models replacing sample goods; and advertising publications in small quantities.
- 11 Goods which are imported in order to form fixed assets of a subject entitled to investment incentives as stipulated by the law on investment, comprising:
 - (a) Machinery and equipment; components, details, separate sections and accessories for complete assembly or for synchronous use with machinery and equipment; and raw materials and supplies used to manufacture machinery and equipment or used to manufacture the components, details, separate sections and accessories of machinery and equipment;
 - (b) Specialized means of transportation of a technological line directly used for the manufacturing activities of the project;
 - (c) Building materials which are not yet able to be produced domestically.

The import duty exemption on imports as prescribed in this clause shall also apply to a new project and to an expanded project.

- 12 Seeds and saplings; animal breeds; and fertilizers and plant protection agents which are not yet able to be produced domestically and which it is necessary to import in accordance with regulations of the competent State administrative authority.
- 13 Raw materials, supplies and components which are not yet able to be produced domestically and which are imported for manufacture by an investment project on the list of specially preferential investment industries and trades or in an area with specially difficult socio-economic conditions as prescribed in the law on investment, and high-tech enterprises, science and technology enterprises and science and technology organizations shall be import duty exempt for a five (5) year period as from the date of commencement of production.

The import duty exemption prescribed in this clause does not apply to investment projects for mining minerals; nor to projects for the manufacture of products with a total value of natural resources and/or minerals plus energy expenses accounting for 51% or more of the cost price of the product; or to projects for the manufacture or trading of goods and services subject to special sales tax in accordance with the *Law on Special Sales Tax*.

- 14 Raw materials, supplies and components which are not yet able to be produced domestically and which are imported for an investment project to produce and/or assemble medical equipment for which research or manufacture is prioritized, shall be exempt from import duty for a five (5) year period as from the date of commencement of production.
- 15 Goods imported in order to support petroleum operations, comprising:
 - (a) Machinery, equipment, replacement accessories and specialized means of transportation which are essential for the petroleum operation, including cases of their being temporarily imported for re-export;
 - (b) Machinery and equipment; components, details, separate sections and accessories for complete assembly or for synchronous use with machinery and equipment; and raw materials and supplies used to manufacture machinery and equipment or used to manufacture the components, details, separate sections and accessories of machinery and equipment essential for the petroleum operation;
 - (c) Materials which are essential for the petroleum operation and which are not yet able to be produced domestically.
- 16 Shipbuilding projects and establishments on the list of preferential [investment] industries and trades as stipulated by law shall be duty exempt on:
 - (a) Goods imported to form the fixed assets of the shipbuilding establishment, comprising: machinery and equipment; components, details, separate sections and accessories for complete assembly or for synchronous use with machinery and equipment; raw materials and supplies used to manufacture machinery and equipment or used to manufacture the components, details, separate sections and accessories of machinery and equipment; transport facilities within a technological line directly serving the shipbuilding operation; and building materials not yet able to be produced domestically;
 - (b) Imports being machinery, equipment, raw materials, supplies, components and semi-finished products which are not yet able to be produced domestically and which serve the shipbuilding operation;
 - (c) Export ships.

- 17 Machinery, equipment, raw materials, supplies, components, sections and accessories imported to serve the operation of printing and coining money.
- 18 Imports being raw materials, supplies and components not yet able to be produced domestically and which are imported to directly serve operations of producing information technology products, digital items and software.
- 19 Imports and exports for environmental protection purposes, comprising:
 - (a) Machinery, equipment, facilities, instruments and specialized materials not yet able to be produced domestically and which are imported for the purposes of gathering, transporting, dealing with and processing waste water, solid waste, gas waste; for environmental monitoring and analysis, for production of recycled energy, for dealing with environmental pollution, and for dealing with environmental incidents;
 - (b) Exports produced from waste recycling or processing operations.
- 20 Specialized imports which are not yet able to be produced domestically and which directly serve education.
- 21 Imports being machinery, equipment, components and specialized materials which are unable to be produced domestically, and specialized scientific books and data directly used for scientific research and technological development, for development of technical incubation activities, for science and technology incubation enterprises, and for renovation of technology.
- 22 Specialized imports directly serving national defence and security, of which transportation facilities must be of the type not yet able to be produced domestically.
- 23 Imports and exports serving assurance of social security and for remedying the effect of natural disasters, fire, epidemic or other special cases.
- 24 The Government shall provide detailed regulations for implementation of this article.

Article 17 *Conditions and procedures for exemption of duty*

- 1 Conditions:
 - (a) In the cases prescribed in clauses 11 to 16 inclusive and clause 18 of article 16, the duty payer shall notify the customs office of the duty exempt goods it is proposed to import.
 - (b) The Government shall issue a decision with a list of duty exempt goods in the cases of duty exemption as prescribed in article 16 of this Law where it is necessary to have such a list.
- 2 Procedures for duty exemption shall be implemented in accordance with the provisions of the law on tax management.

Article 18 *Reduction of duty*

- 1 Imports and exports which are damaged or lost in the process of supervision by the customs office, and where such damage or loss is certified by a competent evaluation agency, shall be considered for a reduction of duty.

The level of reduction of duty shall correspond to the ratio of actual loss of the goods. If imports or exports are entirely damaged or lost, then duty is not payable.
- 2 Procedures for reduction of duty shall be implemented in accordance with the provisions of the law on tax management.

Article 19 *Refund of duty*

1 Duty shall be refunded in the following cases:

- (a) The duty payer has already paid import or export duty but in fact there are no goods imported or exported, or the imports or exports are in fact less than the quantity for which duty has been paid;
- (b) The duty payer has already paid export duty but the exports must be re-imported in which case there shall be a refund of export duty and it is not required to pay import duty;
- (c) The duty payer has already paid import duty but the imports must be re-exported in which case there shall be a refund of import duty and it is not required to pay export duty;
- (d) The duty payer has already paid duty on goods imported for the purposes of production and business but has put such goods into production of export goods and has already exported the products;
- (dd) The duty payer has paid duty on machinery, equipment, tools and/or means of transportation belonging to an organization or individual who was permitted to temporarily import them for re-export, except in a case of leasing such items in order to implement an investment project, to carry out construction or installation of works or to serve manufacture, [the duty shall be refunded] on re-export overseas or on importation into a non-tariff zone.

The amount of the refund of import duty shall be determined on the basis of the residual use value of the goods on re-export calculated in accordance with the period of time that they were used and/or in circulation in Vietnam. There shall be no refund of import duty paid if the use value of the goods has expired.

There shall be no refund of any item of duty below the minimum refundable limit prescribed in Government regulations.

- 2 The goods prescribed in sub-clauses (a), (b) and (c) of clause 1 above shall be entitled to a refund of duty when they have not been used or have not been processed [including processing for other parties].
- 3 Procedures for a refund of duty shall be implemented in accordance with the provisions of the law on tax management.

CHAPTER 5

Implementing Provisions

Article 20 *Effectiveness*

This Law is of full force and effect as from 1 September 2016, and *Law 45 on Import and Export Duties* of year 2005 shall no longer be effective as from the date of effectiveness of this Law.

Article 21 *Transitional provision*

- 1 Any project currently enjoying preferences [or incentives] on import and export duty higher than those prescribed in this Law shall continue to enjoy the incentives at such higher level for the residual period of the project's incentive entitlement; and if the preferences on import and export duty are lower than those prescribed in this Law or if there is no entitlement to such preferences in accordance with this Law then such project shall be entitled to the preferences stipulated in this Law for the residual period of the project's incentive entitlement.
- 2 The provisions of this Law shall apply where raw materials, supplies and components have been imported for the manufacture of export goods but the products have not yet been exported; and to commercial goods temporarily imported for re-export but which have not yet been re-exported and

which belong to declarations registered with the customs office prior to the effective date of this Law and on which duty has not yet been paid.

Article 22 *Detailed regulations and implementing guidelines*

The Government shall issue detailed regulations on the articles assigned in this Law and shall also issue implementing guidelines.

This Law was passed by Legislature XIII of the National Assembly of the Socialist Republic of Vietnam at its 11th session on 6 April 2016

Chairman of the National Assembly

NGUYEN SINH HUNG

EXPORT DUTY TARIFF IN ACCORDANCE WITH THE LIST OF GROUPS OF DUTIABLE GOODS AND THE FRAMEWORK [BRACKET] OF EXPORT DUTY RATES APPLICABLE TO EACH SUCH GROUP OF GOODS

(Issued with Law 107 on Import and Export Duty)

No	Goods' Group	Goods' Description	Framework Rate %
1	03.01	Live fish.	0-10
2	03.02	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 03.04 in Vietnam's List of imports and exports.	0-10
3	03.03	Fish, frozen, excluding fish fillets and other fish meat of heading 03.04 in the above List.	0-10
4	03.04	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen.	0-10
5	03.05	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flour, meal and pellets of fish, fit for human consumption.	0-10
6	03.06	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; smoked crustaceans, whether in shell or not, whether or not cooked before or during the smoking process; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; and flour, meal and pellets of crustaceans, fit for human consumption.	0-10
7	03.07	Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; smoked molluscs, whether in shell or not, whether or not cooked before or during the smoking process; and flour, meal and pellets of molluscs, fit for human consumption.	0-10
8	03.08	Aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; smoked aquatic invertebrates other than crustaceans and molluscs, whether or not cooked before or during the smoking process; and flour, meal and pellets of aquatic invertebrates other than crustaceans and molluscs, fit for human consumption.	0-10
9	07.14	- Manioc (cassava).	0-10
10	08.01	- Coconuts, fresh or dried, whether or not shelled or peeled.	0-5
		- Brazil nuts and cashew nuts, fresh or dried, whether or not shelled or peeled.	0-10
11	09.01	Coffee, whether or not roasted or decaffeinated; coffee husks and skin; and coffee substitutes containing coffee in any proportion.	0-5
12	09.02	Tea, whether or not flavoured.	0-5
13	09.04	Pepper of the Piper type; dried or crushed or ground fruit of the Capsicum type or of the Pimenta type.	0-5
14	10.05	Maize (corn).	0-15
15	10.06	Rice in the husk (paddy or rough).	0-15

No	Goods' Group	Goods' Description	Framework Rate %
16	12.11	Various kinds of plants and parts of plants (including seeds and fruit) used primarily for perfume, in pharmacy or for insecticidal, fungicidal or similar purposes, whether fresh or dried, and whether or not cut, crushed or powdered.	0-25
		Including: sandalwood and aloe.	15-25
17	14.01	Vegetable materials used primarily for plating (such as bamboo, rattan, reeds, rushes, osier, raffia, which have been cleaned, bleached or dyed cereal straw and lime bark).	0-10
18	16.04	- Fish which has been processed or preserved.	0-2
		- Caviar and caviar substitutes prepared from fish egg.	0-10
19	16.05	Crustaceans, molluscs and other live sea invertebrates, which have been prepared [processed] or preserved.	0-10
20	25.02	Unbaked iron pyrite.	5-30
21	25.03	Sulphur of various types, except for sublimed sulphur, precipitated sulphur or colloidal sulphur.	5-30
22	25.04	Natural graphite.	5-30
23	25.05	Various types of natural sand, whether or not coloured, except for metal-bearing sands prescribed in Chapter 26 of Vietnam's List of imports and exports.	5-30
24	25.06	Quartz (except for natural sand); quartzite, whether or not roughly trimmed or merely cut by sawing or otherwise into rocks or slabs of a rectangular (including square) shape.	5-30
25	25.07	Kaolin and other kaolinic clay, whether or not calcined.	5-30
26	25.08	Other clays (excluding expanded clays of heading 68.06), andalusite, kyanite and sillimanite, whether or not calcined; mullite; chamotte or dinas earths.	5-30
27	25.09	Chalk.	5-35
28	25.10	- Natural calcium phosphates, natural aluminium calcium phosphates and phosphatic chalk.	5-30
		- Apatite.	10-40
29	25.11	Natural barium sulphate (barytes); natural barium carbonate (witherite) whether or not calcined, except for barium oxide of heading 28.16 in the List referred to above.	5-30
30	25.12	Silicelous fossil meal (for example kieselguhr, tripolite and diatomite) and similar silicelous earths whether or not calcined, of an apparent specific gravity of 1 or less.	5-30
31	25.13	Pumice stone; emery; natural corundum, natural garnet and other natural abrasives, whether or not heat-treated.	5-35
32	25.14	Slate, whether or not roughly trimmed or merely cut by sawing or otherwise into blocks or slabs of a rectangular (including square) shape.	10-35
33	25.15	Marble, travertine, ecaussine and other calcareous monumental or building stone of an apparent specific gravity of 2.5 or more, and alabaster whether or not roughly trimmed or merely cut by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape.	10-35

No	Goods' Group	Goods' Description	Framework Rate %
34	25.16	Granite, porphyry, basalt, sandstone and other monumental or building stone, whether or not roughly trimmed or merely cut by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape.	10-35
35	25.17	Pebbles, gravel, broken or crushed stone used basically for concrete aggregates, for road metalling or for railway or other ballast, shingle and flint whether or not heat treated; macadam of slag, dross or similar industrial waste whether or not incorporating the materials cited in the first part of this heading; tarred macadam; granules, chippings and powder of stones of heading 25.15 or 25.16 above, whether or not heat-treated.	5-35
36	25.18	Dolomite, whether or not calcined or sintered, including dolomite roughly trimmed or merely cut by sawing or otherwise into blocks or slabs of a rectangular shape; and dolomite ramming mix.	5-30
37	25.19	Natural magnesite; fused magnesia; sintered magnesia, whether or not containing small quantities of other oxides added before sintering; other magnesium oxides, whether pure or impure.	5-30
38	25.20	Gypsum; anhydrite; plasters (calcined gypsum or calcium sulphate) whether or not coloured, with or without small quantities of accelerators or retarders.	5-30
39	25.21	Limestone flux; limestone and other calcareous stone of the kind used to manufacture lime or cement.	5-30
40	25.22	Quicklime, slaked lime and hydraulic lime, except for calcium oxide and hydroxide of heading 28.25 in Vietnam's List of imports and exports.	5-30
41	25.24	Asbestos.	5-30
42	25.25	Mica, including splittings; and mica waste.	5-30
43	25.26	Natural steatite, whether or not roughly trimmed or merely cut by sawing or otherwise into blocks or slabs of rectangular shape, and talc.	5-30
44	25.28	Natural borates and concentrates thereof (whether or not calcined), but excluding borate separated from natural brine; natural boric acid containing not more than 85% H ₃ BO ₃ calculated at dry weight.	5-30
45	25.29	Feldspar; leucite; nepheline and nepheline syenite; and fluorspar.	5-30
46	25.30	Minerals substances not specified or included elsewhere.	5-30
47	26.01	Iron ores and concentrates, including baked iron pyrite.	15-40
48	26.02	Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more calculated on dry weight.	15-40
49	26.03	Copper ores and concentrates.	15-40
50	26.04	Nickel ores and concentrates.	10-40
51	26.05	Cobalt ores and concentrates.	10-40
52	26.06	Aluminium ores and concentrates.	15-40
53	26.07	Lead ores and concentrates.	10-40
54	26.08	Zinc ores and concentrates.	15-40
55	26.09	Tin ores and concentrates.	15-40

No	Goods' Group	Goods' Description	Framework Rate %
56	26.10	Chromium ores and concentrates.	10-40
57	26.11	Tungsten ores and concentrates.	10-40
58	26.12	Uranium or thorium ores and concentrates.	10-40
59	26.13	Molybdenum ores and concentrates.	10-40
60	26.14	Titanium ores and concentrates.	10-40
61	26.15	Niobium, tantalum, vanadium or zirconium ores and concentrates.	10-40
62	26.16	Precious metal ores and concentrates.	10-40
63	26.17	Other ores and concentrates.	10-40
64	26.18	Granulated slag (slag sand) from the manufacture of iron or steel.	0-20
65	26.19	Slag, dross (excluding granulated slag), scalings and other waste from the manufacture of iron and steel.	0-20
66	26.20	Slag, ash and residues (except from the manufacture of iron and steel) containing metals, arsenic or their components.	0-20
67	26.21	Other slag and ash including kalp; ash and residue from the incineration of municipal waste.	0-20
68	27.01	Coal, briquettes, ovoids and similar solid fuels manufactured from coal.	10-45
69	27.02	Lignite, whether or not agglomerated, excluding jet.	10-45
70	27.03	Peat (including peat litter), whether or not agglomerated.	10-45
71	27.04	Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; and retort carbon.	10-45
72	27.09	Petroleum oils and oils obtained from bituminous minerals, in the crude state.	0-50
		In which: crude oil.	5-50
73	27.10	Various types of petroleum oils.	0-40
74	27.11	Petroleum gases and other gaseous hydrocarbons.	0-40
75	27.12	Petroleum jelly; paraffin wax, microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes, and similar products obtained by synthesis or other process, whether or not coloured.	0-40
76	27.13	Petroleum coke, petroleum bitumen and other residue of petroleum oil or of oil from bituminous minerals.	0-40
77	27.14	Bitumen and asphalt in the natural state; bituminous or oil shale and tar sand; asphaltite and asphaltic rock.	0-40
78	27.15	Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example bituminous mastics and cutbacks).	0-40
79	27.16	Electrical energy.	0-40
80	28.04	Hydrogen, rare gases and other non-metals.	0-20

No	Goods' Group	Goods' Description	Framework Rate %
81	28.17	Zinc oxide; and zinc peroxide.	0-20
82	28.18	Artificial corundum, whether or not chemically defined; and aluminium oxide and aluminium hydroxide.	0-20
83	28.23	Titanium oxides.	0-20
84	29.03	Halogenated derivatives of hydrocarbons.	0-10
85	31.01	Animal or vegetable fertilizers, whether or not mixed together or chemically treated, and fertilizers produced by mixing or chemical treatment of animal or vegetable products.	0-40
86	31.02	Mineral or chemical fertilizers, being nitrogenous [containing nitrogen].	0-40
87	31.03	Mineral or chemical fertilizers containing phosphate.	0-40
88	31.04	Mineral or chemical fertilizers containing potassium.	0-40
89	31.05	Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorous and potassium; other fertilizers; and goods of this Chapter in tablets or similar form or in packages of a gross weight up to 10 kg.	0-40
90	38.24	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of a mixture of natural products) not specified or included elsewhere [in this List].	0-20
91	40.01	Natural rubber, balata, gutta-percha, guayule, chicle and similar natural gums in primary forms or in plate, sheet or strip.	0-20
92	41.01	Raw hide and skin of bovine (including buffalo) or equine animals (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not dehaired or split.	5-25
93	41.02	Raw skin of sheep or lamb (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not with wool on or split, other than those excluded in note 1(c) of this Chapter 41 of the List.	5-25
94	41.03	Other raw hide and skin (fresh or salted, dried, limed, pickled or otherwise preserved but not tanned, parchment-dressed or further prepared), whether or not dehaired or split, other than those excluded by notes 1(b) or 1(c) to the Chapter 41 of the List.	5-25
		- Crocodile skin.	0-25
95	41.04	Tanned or crust hide and skin of bovine (including buffalo) or equine animals, without hair on, whether or not split, but not further prepared or processed.	0-25
96	41.05	Tanned or crust skin of sheep or lamb, without wool on, whether or not split, but not further processed.	0-25
97	41.06	Tanned or crust hide and skin of other animals, without wool or hair on, whether or not split, but not further processed.	0-25
98	41.07	Leather further processed after tanning or crusting, including parchment-dressed leather of bovine or equine animals, without hair on, whether or not split, other than the heading 41.14 in this List.	0-25

No	Goods' Group	Goods' Description	Framework Rate %
99	41.12	Leather further processed after tanning or crusting, including parchment-dressed leather of sheep or lamb, without wool on, whether or not split, other than leather under the heading 41.14 in this List.	0-25
100	41.13	Leather further processed after tanning or crusting, including parchment-dressed leather, of other animals, without wool or hair on, whether or not split, other than leather under the heading 41.14 of this List.	0-25
101	41.14	Chamois (including combination chamois) leather; patent leather and patent laminated leather; and metallised leather.	0-25
102	41.15	Composition leather with a basis of leather or leather fibre, in slab, sheet or strip, whether or not in rolls; parings and other waste of leather or composition leather, unsuitable for manufacture of leather articles; and leather dust, powder and flour.	0-25
103	44.01	- Fuel wood in logs or in billets or in twigs or in faggots or similar forms.	5-25
		- Wood in chips or particles; sawdust and wood waste and scrap whether or not gathered into logs or briquettes or similar forms.	0-25
104	44.02	- Wood charcoal whether or not agglomerated, excluding coconut shell or other charcoal from any sort of fruit skin or shell.	5-25
		- Coconut shell charcoal and charcoal from other fruit skin.	0-25
105	44.03	Wood in rough form, whether or not stripped of its bark or sapwood or whether or not roughly squared.	5-25
106	44.04	Hoopwood; split poles; piles, pickets and stakes of wood, appointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for making walking sticks, umbrellas or tool handles and so on; and chipwood and the like.	5-25
107	44.06	Railway or tramway sleepers (cross-ties) made of wood.	5-25
108	44.07	Wood which has been sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm.	5-25
109	44.08	Sheets for veneering (including obtained by slicing laminated wood), for plywood or for similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded or spliced or end-jointed, of a thickness not exceeding 6 mm.	5-25
110	44.09	Wood (including unassembled pieces for parquet flooring) continuously shaped (grooved, V-jointed, moulded, rounded or the like) along any of its edges, ends or faces, and whether or not planed, sanded or end-jointed.	5-25
111	44.10	Particle board, oriented strand board (OSB) and similar board such as waferboard of wood or other ligneous materials, whether or not agglomerated with resin or other organic binding substance.	0-25
112	44.11	Fibreboard of wood or other ligneous materials, whether or not bonded with resin or other organic substance.	0-25
113	44.12	Plywood, veneered panels and similar laminated wood.	0-25
114	44.13	Densified wood in block, plate, strip or profile shape.	0-25
115	44.14	Wooden frames for paintings, photographs, mirrors and so forth.	0-25

No	Goods' Group	Goods' Description	Framework Rate %
116	44.15	Packing cases, boxes, crates, drums and similar wooden packings; wooden cable drums; pallets, box pallets and other load boards of wood; and pallet collars of wood.	0-25
117	44.16	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood, including staves.	0-25
118	44.17	Tools, tool bodies, tool handles, broom or brush bodies and handles of wood; boot or shoe lasts, of wood.	0-25
119	44.18	Builders' joinery and carpentry of wood, including cellular wood panels, assembled flooring panels, shingles and shakes.	0-25
120	44.19	Tableware and kitchenware of wood.	0-25
121	44.20	Wood marquetry and inlaid wood; cases of jewellery or cutlery and similar articles of wood; small statutes and other ornaments of wood; and wooden furniture articles not falling within Chapter 94 of this List.	0-25
122	44.21	Other articles of wood.	0-25
123	71.02	Diamonds, whether or not worked, but not mounted or set.	5-40
		Including unworked or simply sawn, cleaved or bruted.	10-40
124	71.03	Precious stones (including diamonds) and semi-precious stones, whether or not worked or graded but not strung, mounted or set; ungraded precious stones (excluding diamonds) and semi-precious stones, temporarily strung for convenience of transport.	5-40
		Including not yet worked or processed or only simply cut or formed into a rough shape.	10-40
125	71.04	Synthetic or reconstructed precious or semi-precious stones, whether or not worked or graded but not strung, mounted or set; and ungraded synthetic or reconstructed precious or semi-precious stones, temporarily strung for convenience of transport.	5-40
		Including not yet worked or processed or only simply cut or formed into a rough shape.	10-40
126	71.05	Dust and powder of natural or synthetic precious or semi-precious stones.	0-20
127	71.06	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured form or in powder form.	5-30
128	71.07	Base metals clad with silver, but not further worked other than semi-manufactured.	0-30
129	71.08	Gold (including gold plated with platinum) unwrought or in semi-manufactured form or in powder form.	0-30
130	71.09	Base metals or silver, clad with gold, but not further worked other than semi-manufactured.	0-30
131	71.10	Platinum, unwrought or in semi-manufactured form or in powder form.	0-30
132	71.11	Base metals, silver or gold, clad with platinum, but not further worked other than semi-manufactured.	0-30

No	Goods' Group	Goods' Description	Framework Rate %
133	71.12	Waste and scrap of precious metal or of metal clad with precious metal; other waste and scrap containing precious metal or precious metal compounds, of the kind mainly used to recover precious metal.	0-30
134	71.13	Articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal.	0-10
135	71.14	Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal.	0-10
136	71.15	Other articles of precious metal or of metal clad with precious metal.	0-10
137	72.01	Pig iron and spiegeleisen in pigs, blocks or other primary forms.	0-40
138	72.02	Ferro-alloys.	0-40
139	72.03	Ferrous products obtained by direct reduction of iron ore and other spongy ferrous products, in lumps, pallets or similar forms; iron with a minimum purity by weight of 99.94% in lumps, pallets or similar forms.	0-40
140	72.04	Ferrous waste and scrap; remelting scrap ingots of iron or steel.	15-17
141	72.05	Granules and powders of pig iron, spiegeleisen, iron or steel.	0-40
142	72.06	Iron and non-alloy steel in ingots or other primary forms (excluding iron under the heading 72.03).	0-40
143	72.07	Semi-finished products of iron or non-alloy steel.	0-40
144	74.01	Copper mattes; cement copper (precipitated copper).	5-40
145	74.02	Unrefined copper; copper anodes for electrolytic refining.	5-40
146	74.03	Refined copper and copper alloys, unwrought [unprocessed].	5-40
147	74.04	Copper waste and scrap.	20-22
148	74.05	Master alloys of copper.	5-40
149	74.06	Copper powders and flakes.	5-40
150	74.07	Copper in bars, rods and profiles.	5-40
151	74.08	Copper wire.	0-30
152	74.09	Copper plates, sheets and strip, of a thickness exceeding 0.15 mm.	0-30
153	74.10	Copper foil (whether or not printed or backed with paper, paperboard, plastic or similar backing material), of a thickness (excluding any backing) not exceeding 0.15 mm.	0-30
154	74.11	Copper tubes and pipes.	0-30
155	74.12	Copper tube or pipe fittings (for example couplings, elbows and sleeves).	0-30
156	74.13	Stranded wire, cables, plaited bands and the like of copper, not electrically insulated.	0-30
157	74.15	Nails, tacks, drawing pins, staples (except for those under heading 83.05) and similar articles of copper or of iron or steel with heads of copper; screws, bolts, nuts, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles of copper.	0-30

No	Goods' Group	Goods' Description	Framework Rate %
158	74.18	Table, kitchen or other household articles and parts thereof of copper; pot scourers and scouring or polishing pads, gloves and the like of copper; sanitary ware and parts thereof of copper.	0-30
159	74.19	Other products made of copper.	0-30
160	75.01	Nickel mattes, nickel oxide sinters and other intermediate products of nickel metallurgy.	5-40
161	75.02	Unprocessed (unwrought) nickel.	5-40
162	75.03	Nickel waste and scrap.	20-22
163	75.04	Nickel powders and flakes.	5-40
164	75.05	Nickel bars, rods, profiles and wire.	0-30
165	75.06	Nickel plates, sheets, strip and foil.	0-30
166	75.07	Nickel tubes, pipes and tube or pipe fittings (for example couplings, elbows and sleeves).	0-30
167	75.08	Other articles or products of nickel.	0-30
168	76.01	Unprocessed (unwrought) aluminium.	5-40
169	76.02	Aluminium waste and scrap.	20-22
170	76.03	Aluminium powders and flakes.	5-40
171	76.04	Aluminium bars, rods and profiles.	5-40
172	76.05	Aluminium wire.	0-30
173	76.06	Aluminium plates, sheets and strip of a thickness exceeding 0.2 mm.	0-30
174	76.07	Aluminium foil (whether or not printed or backed with paper, paperboard, plastic or similar backing material) of a thickness (excluding any backing) not exceeding 0.2 mm.	0-30
175	76.08	Aluminium tubes and pipes.	0-30
176	76.09	Aluminium tube or pipe fittings (for example couplings, elbows and sleeves).	0-30
177	76.10	Aluminium structures (excluding prefabricated buildings under heading 94.06) and parts of structures such as bridges, bridge sections, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames, thresholds for doors, balustrades, pillars and columns; and aluminium plates, rods, profiles, tubes and the like prepared for use in structures.	0-30
178	76.11	Various types of aluminium reservoirs, tanks, vats and similar containers for any material (other than compressed or liquefied gas) of a capacity exceeding 300 litres whether or not lined or heat insulated, but not filled with mechanical or thermal equipment.	0-30
179	76.12	Aluminium casks, drums, cans, boxes and similar containers (including ridged or collapsible tubular containers) for any material (other than compressed or liquefied gas) of a capacity not exceeding 300 litres whether or not lined or heat insulated, but not filled with mechanical or thermal equipment.	0-30
180	76.13	All types of aluminium containers for compressed or liquefied gas.	0-30

No	Goods' Group	Goods' Description	Framework Rate %
181	76.14	Stranded wire, cables, plaited bands and the like of aluminium, not electrically insulated.	0-30
182	76.15	Table, kitchen or other household articles and parts thereof of aluminium; pot scourers and scouring or polishing pads, gloves and the like of aluminium; sanitary ware and parts thereof of aluminium.	0-30
183	76.16	Other articles of aluminium.	0-30
184	78.01	Unwrought lead.	5-40
185	78.02	Lead waste and scrap.	20-22
186	78.04	Lead plates, sheets, strip and foil; lead powders and flakes.	5-40
187	78.06	Other articles of lead.	0-30
188	79.01	Unwrought zinc.	5-40
189	79.02	Zinc waste and scrap.	20-22
190	79.03	Zinc dust, powders and flakes.	5-40
191	79.04	Zinc bars, rods, profiles and wire.	5-40
192	79.05	Zinc plates, sheets, strip and foil.	5-40
193	79.07	Other articles of zinc.	0-30
194	80.01	Unwrought tin.	5-40
195	80.02	Tin waste and scrap.	20-22
196	80.03	Tin bars, rods, profiles and wire.	5-40
197	80.07	Other tin products and articles.	0-30
198	81.01	- Tungsten (wolfram) waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of tungsten.	5-40
		- Tungsten articles and products.	0-30
199	81.02	- Molybdenum waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of molybdenum.	5-40
		- Molybdenum articles and products.	0-30
200	81.03	- Tantalum waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of tantalum.	5-40
		- Tantalum articles and products.	0-30
201	81.04	- Magnesium waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of magnesium.	5-40
		- Magnesium articles and products.	0-30

No	Goods' Group	Goods' Description	Framework Rate %
202	81.05	- Cobalt waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of cobalt.	5-40
		- Cobalt articles and products.	0-30
203	81.06	- Bismuth waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of bismuth.	5-40
		- Bismuth articles and products.	0-30
204	81.07	- Cadmium waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of cadmium.	5-40
		- Cadmium articles and products.	0-30
205	81.08	- Titanium waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of titanium.	5-40
		- Titanium articles and products.	0-30
206	81.09	- Zirconium waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of zirconium.	5-40
		- Zirconium articles and products.	0-30
207	81.10	- Antimony waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of antimony.	5-40
		- Antimony articles and products.	0-30
208	81.11	- Manganese waste and scrap.	20-22
		- Ordinary metallic semi-finished products made of manganese.	5-40
		- Manganese articles and products.	0-30
209	81.12	- Waste and scrap of beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium.	20-22
		- Ordinary metallic semi-finished products from beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium.	5-40
		- All products made from beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium), rhenium and thallium.	0-30
210	81.13	- Waste and scrap from metallic pottery (cermets).	20-22
		- Ordinary metallic semi-finished products of pottery.	5-40
		- Other metallic pottery or earthenware articles.	0-30
211		Raw materials, materials and semi-finished products not specified above with the value of natural resources and/or minerals plus energy expenses accounting for 51% more of the cost price of the product.	5-20

**LAW
ON CORPORATE INCOME TAX**

The Law on Corporate Income Tax No. 14/2008/QH12 dated June 03, 2008 of the National Assembly, which comes into force from January 01, 2009, is amended by:

1. The Law No. 32/2013/QH13 dated June 19, 2013 of the National Assembly providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014;
2. The Law No. 71/2014/QH13 dated November 26, 2014 of the National Assembly providing amendments to the tax laws, which comes into force from January 01, 2015;
3. The Law on Investment No. 61/2020/QH14 dated June 17, 2020 of the National Assembly, which comes into force from January 01, 2021.

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, as amended in the Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law on Corporate Income Tax^[1].

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Law deals with taxpayers, taxable income, tax-free income, basis and method of tax calculation, and corporate income tax incentives.

Article 2. Taxpayers

1. Payers of corporate income tax (CIT) are organizations that earn taxable income from manufacture and/or trade of goods and/or service provision (hereinafter referred to as “enterprises”), including:
 - a) Enterprises that are duly established and operating under the law of Vietnam;
 - b) Any enterprise established under a foreign law (hereinafter referred to as “foreign enterprise”), whether it has a permanent establishment in Vietnam or not;
 - c) Organizations established under the Law on co-operatives;
 - d) Public service units that are duly established under the law of Vietnam;
 - dd) Other organizations earning income from production/business operations.
2. Enterprises that have taxable income prescribed in Article 3 of this Law will pay CIT as follows:
 - a) Enterprises that are duly established under the law of Vietnam will pay CIT on taxable income earned within and outside of Vietnam;
 - b) A foreign enterprise that has a permanent establishment in Vietnam will pay CIT on taxable income earned within and outside of Vietnam in connection with operations of that permanent establishment;
 - c) A foreign enterprise that has a permanent establishment in Vietnam will pay CIT on taxable income which are earned within Vietnam and are not related to operations of that permanent establishment;
 - d) A foreign enterprise that has no permanent establishment in Vietnam will pay CIT on taxable income earned in Vietnam.

3.[2] A permanent establishment of a foreign enterprise is a business establishment through which the foreign enterprise conducts part or all of its business operations in Vietnam, including:

- a) Branches, offices, factories, plants, means of transport, mines, oil fields, or other natural resource extraction sites in Vietnam;
- b) Construction sites;
- c) Establishments where services are provided, including consulting services via employees or other entities;
- d) Agents of foreign enterprises;
- dd) Representatives in Vietnam, including representatives that are authorized to sign contracts undersigned by foreign enterprises or representatives that are not authorized to sign such contracts but regularly deliver goods or provide services in Vietnam.

Article 3. Taxable income

1. Taxable income includes income earned from manufacture and/or trade of goods and/or service provision and other income prescribed in Clause 2 of this Article.

Other incomes include incomes from transfer of stakes or right to contribute capital; incomes from transfer of real estate, investment projects, right to participate in investment projects, right to mineral exploration, extraction and processing; incomes from the right to use and ownership of property, including incomes from intellectual property rights as prescribed by laws; incomes from transfer, lease or liquidation of assets, including financial instruments; income from deposit interests, loan interests and sale of foreign currencies; incomes from collected bad debts; incomes from debts payable without identified creditors; omitted incomes from previous years' business operation and other income.

In case where a Vietnamese enterprise makes investment in a foreign country that has signed a Double Taxation Agreement and transfers its income to Vietnam after paying CIT overseas, regulations of such Agreement shall apply. If the foreign country has not signed a Double Taxation Agreement with Vietnam and the rate of CIT incurred in the foreign country is lower, the difference in CIT shall be collected in accordance with the Law on Corporate Income Tax of Vietnam.

Article 4. Tax-free incomes

- 1. [4] Incomes from farming, husbandry, aquaculture and salt production of cooperatives; incomes of cooperatives engaged in agriculture, forestry, fisheries and salt production in disadvantaged areas or extremely disadvantaged areas; incomes of enterprises from farming, husbandry and aquaculture in extremely disadvantaged areas; incomes from fishing activities.
- 2. Incomes from provision of technical services directly serving agriculture.
- 3. Incomes from the execution of scientific research and technological development contracts, experimental products during the experimental production period, and products that are results of new technologies applied in Vietnam for the first time.
- 4.[5] Incomes from manufacture and/or trade of goods and/or service provision of an enterprise of which at least 30% of annual average number of employees are disabled people, rehabilitated drug abusers, HIV/AIDS patients and whose average number of employees in the year is at least 20, excluding finance and real estate enterprises.
- 5. Incomes from provision of vocational training for ethnics, disabled people, disadvantaged children and ex-offenders.
- 6. Incomes from contribution of capital or domestic business cooperation distributed after CIT is paid in accordance with regulations of this Law.
- 7. Sponsorships for education, scientific research, culture, art, charity and other social activities in Vietnam.
- 8.[6] Incomes from transfer of Certified Emissions Reductions (CERs).

9.[\[7\]](#) Incomes of Vietnam Development Bank from credit extension serving development investment, credit extension serving export assigned by the State; incomes of Bank for Social Policies derived from credit extension to the poor and other beneficiaries of incentive policies; incomes of state financial funds and other non-profit state funds; incomes of wholly state-owned organizations established by the Government to deal with bad debts of credit institutions of Vietnam.

10.[\[8\]](#) Undistributed incomes of establishments making investment in education – training, healthcare and other fields in which private sector investment is encouraged, which are retained for investment in their development on accordance with specialized regulations of laws on education – training, healthcare and other fields in which private sector investment is encouraged; undistributed incomes of cooperatives, that are duly established and operating in accordance with the Law on cooperatives, retained for acquisition of their assets.

11.[\[9\]](#) Incomes from technology transfer in the favored fields to entities in extremely disadvantaged areas.

Article 5. Tax period

1. The tax period is the calendar year or fiscal year, except the case prescribed in Clause 2 of this Article.
2. The tax period for each generation of income shall apply to foreign enterprises prescribed in Point c and Point d Clause 2 Article 2 of this Law.

Chapter II

BASIS AND METHODS OF TAX CALCULATION

Article 6. Basis for tax calculation

The basis for tax calculation is the assessable income and CIT rate.

Article 7. Determination of assessable income

1. Assessable income incurred in a tax period equals (=) taxable income minus (-) tax-free income and loss carried forward from previous years.
2. Taxable income equals (=) revenue minus (-) deductible expenses incurred during performance of business operation plus (+) other incomes, including incomes received outside of Vietnam.
- 3.[\[10\]](#) Incomes from transfer of real estate, investment project, right to participate in an investment project, right to mineral exploration and/or mineral extraction and/or mineral processing must be determined separately. If an enterprise suffers from a loss when making a transfer of investment project (except for mineral exploration and extraction projects), transfer of the right to participate in an investment project (except for the right to participate in mineral exploration and extraction projects) or transfer of real estate, such loss shall be offset against the profit from business operation in the tax period.

The Government shall elaborate and provide guidelines for this Article.

Article 8. Revenue[\[11\]](#)

Revenue is the whole revenue from the sale of goods, processing, service provision, subsidies and surcharges to which an enterprise is entitled. The revenue is determined in VND. If an enterprise earns revenue in foreign currencies, such foreign currencies must be converted into VND at the average exchange rate on inter-bank foreign exchange market announced by the State Bank of Vietnam at the time such revenue is earned.

The Government shall elaborate and provide guidelines for this Article.

Article 9. Deductible and non-deductible expenses [\[12\]](#)

1. Except for the expenses mentioned in Clause 2 of this Article, every expense will be deductible if all of the following requirements are met:

a) [\[13\]](#) There are actual expenses related to the enterprise's business operation; expenses on provision of vocational education; or expenses on performance of national defense and security tasks as prescribed by law;

b) There are adequate invoices and evidencing documents of the expense in accordance with regulations of law. A purchase of goods or provision of service worth VND 20 million or more must be proved by evidencing documents of non-cash payment, except cases where evidencing documents of non-cash payment are not required as prescribed by law.

2. The expenses below are non-deductible:

- a) Expenses that do not meet all of the requirements specified in Clause 1 of this Article, except expenses related to damage caused by a natural disaster, epidemic or another force majeure event without compensation;
- b) Payment of fines for administrative violations;
- c) Expenses covered with other funding sources;
- d) Amounts provided by a foreign enterprise to cover administrative expenses of its permanent establishment in Vietnam beyond the limit calculated by adopting distribution methods prescribed by the law of Vietnam;
- dd) Provisions in excess of the limits prescribed by law;
- e) Payment of interests on loans serving business operation taken from entities other than credit institutions or business entities which exceeds 150% of the basic interest rate announced by the State Bank of Vietnam at the time of lending;
- g) Depreciation of fixed assets against regulations of law;
- h) Accrued expenses determined against regulations of law;
- i) Salaries and remunerations of a sole proprietor; remunerations of founders who do not directly participate in business administration; salaries, remunerations and other payables to employees that have been recorded as expenses but are not actually paid or do not have invoices/evidencing documents as prescribed by law;
- k) Payment of interest on loan equivalent to the charter capital deficit;
- l) Input VAT that has been deducted, VAT paid using credit-invoice method and CIT;
- m) [\[14\]](#) (*abrogated*)
- n) Sponsorships, except sponsorships for education, healthcare, scientific research, disaster recovery, construction of houses for the poor as prescribed by law, sponsorships in extremely disadvantaged areas under State programs;
- o) Contributions to voluntary pension fund or social security funds or purchase of voluntary pension insurance for employees in excess of the limits prescribed by law;
- p) Expenses incurred in the fields of banking, insurance business, lottery business, securities trading, and some other special business activities which shall comply with regulations adopted by the Minister of Finance.

3. [\[15\]](#) When determining taxable income, expenses incurred in foreign currencies must be converted into VND at the average exchange rate on inter-bank foreign exchange market announced by the State Bank of Vietnam at the time such expenses are incurred.

The Government shall elaborate and provide guidelines for this Article.

Article 10. Tax rate [\[16\]](#)

1. The CIT rate is 22%, except for the cases specified in Clause 2 and Clause 3 of this Article and entities given preferential CIT rates as prescribed in Article 13 of this Law. _

From January 01, 2016, the CIT rate of 20% shall apply to enterprises that are applying the CIT rate of 22% prescribed in this Clause.

2. An enterprise whose total revenue earned during a year does not exceed VND 20 billion shall apply the CIT rate of 20%.

The revenue as the basis for determination of eligibility for 20% CIT rate specified in this Clause is the revenue earned in the previous year.

3. The rate of CIT on exploration and extraction of petroleum and other rare and valuable resources in Vietnam is from 32% to 50% depending on each project or business entity.

The Government shall elaborate and provide guidelines for this Article.

Article 11. Tax calculation method

1. CIT payable in the period equals (=) assessable income multiplied by (x) CIT rate. The CIT paid overseas may be deducted but must not be greater than the CIT payable in accordance with regulations of this Law.

2. Enterprises prescribed in Point c and Point d Clause 2 Article 2 of this Law shall follow the tax calculation method prescribed by the Government.

Article 12. Tax-collecting authorities

An enterprise shall pay tax at the tax authority in the same province as its headquarters. In case where an enterprise has a financially dependent factory located in a province other than that where its headquarters is located, tax shall be paid in both provinces according to the ratio of expenses incurred by that factory to those incurred by its headquarters. Collected tax amounts shall be managed and used in accordance with regulations of the Law on State Budget.

The Government shall elaborate and provide guidelines for this Article.

Chapter III

CORPORATE INCOME TAX INCENTIVES

Article 13. Preferential CIT rates [\[17\]](#)

1. 10% CIT rate for 15 years shall be applied to:

a) Incomes of an enterprise from execution of new investment projects in extremely disadvantaged areas, economic zones or hi-tech zones;

b) Incomes of the enterprise from execution of new investment projects in the following areas: scientific research and technology development; application of high technologies given priority according to the Law on High Technology; cultivation of high technology, cultivation of high-tech enterprises; venture capital investment in development of high technologies on the list of high technologies given priority according to the Law on High Technology; investment in construction, operation of facilities for cultivation of high technologies, cultivation of high-tech enterprises; investment in development of particularly important infrastructural works of the State as prescribed by law; software production; manufacture of composite materials, light building materials, rare and valuable materials; production of renewable energy, clean energy, waste-to-energy process; development of biotechnology; investment in environmental protection;

c) Incomes of high-tech enterprises and agriculture enterprises applying high technologies as prescribed by the Law on High Technologies;

d) Incomes of an enterprise from execution of new manufacturing projects (except for manufacturing of products subject to excise tax and mineral extraction projects) that satisfy any of the following criteria:

- The project's capital is at least VND 6,000 billion disbursed within 03 years from the date of investment certificate, and total revenue is at least VND 10,000 billion per year after no more than 3 years from the first year in which revenues are generated by the project;

- The project's capital is at least VND 6,000 billion disbursed within 03 years from the date of investment certificate, and it uses over 3,000 employees.

dd) [\[18\]](#) Incomes of an enterprise for execution of a new investment project for manufacture of products on the list of ancillary products given priority that satisfy any of the following criteria:

- Ancillary products are meant to support high technologies according to regulations of the Law on High Technologies;

- Ancillary products are meant to support manufacturing of: textile and garment; leather and footwear; electronics and IT products; manufacturing of cars; fabricating mechanics that, by January 01, 2015, they cannot be manufactured in Vietnam or can be manufactured in Vietnam and satisfy technical standards of EU or equivalent standards.

The list of ancillary products given priority specified in this Point shall be announced by the Government;

e) [\[19\]](#) Incomes of an enterprise from execution of manufacturing projects, except for manufacturing of products subject to excise tax and mineral extraction projects,) in which investment is at least VND 12,000 billion, using technologies that must be appraised in accordance with the Law on High Technologies, the Law on Science and Technology, and capital is disbursed within 05 years from the date of investment licensing as prescribed in the Law on investment.

2. 10% CIT rate shall be applied to:

a) Incomes of an enterprise's investment in the public sector fields such as education – training, vocational training, healthcare, culture, sports and environment;

b) Incomes of an enterprise from execution of an investment project on construction of social housing for sale, lease or lease purchase to the entities specified in Article 53 of the Law on Housing;

c) Incomes of a press agency from newspapers, including advertisements on newspapers, as prescribed in the Law on Journalism; incomes of a publisher from publishing defined in the Law on Publishing;

d) [\[20\]](#) Incomes of an enterprise from planting, caring and protection of forests; farming, husbandry, aquaculture in disadvantaged areas; forestry in disadvantaged areas; production, propagation and cross-breeding of plant varieties, animal breeds; production, extraction, and refining of salt, except for salt production prescribed in Clause 1 Article 4 of this Law; investment in post-harvest preservation of agriculture products; preservation of agricultural products, aquatic products, and foods;

dd) Incomes of a cooperative from agriculture, forestry, aquaculture or salt production in areas other than disadvantaged areas or extremely disadvantaged areas, except incomes of cooperatives in Clause 1 Article 4 of this Law.

3. 20% CIT rate for 10 years shall be applied to:

a) Incomes of an enterprise from execution of new investment projects in disadvantaged areas;

b) Incomes of an enterprise from execution of new investment projects in the following areas: production of high-class steel; production of energy-saving products; production of machinery and equipment serving agriculture, forestry, aquaculture or salt production; production of irrigation equipment; production of feeds for livestock and poultry; development of traditional trades.

Such an enterprise specified in this Clause may apply 17% CIT rate from January 01, 2016.

3a. [\[21\]](#) 15% CIT rate shall be applied to incomes of enterprises from farming, husbandry, processing of agricultural and aquatic products in areas other than disadvantaged areas and extremely disadvantaged areas.

4. 20% CIT rate shall be applied to incomes earned by people's credit funds and microfinance institutions.

People's credit funds and microfinance institutions may apply 17% CIT rate from January 01, 2016.

5. [\[22\]](#) The duration of application of preferential tax rates may be extended as follows:

a) With regard to investment projects with large scale and high technologies that need investment, the application of preferential tax rates may be extended but for a maximum period of 15 years;

b) The projects specified in Point e Clause 1 of this Article that satisfy any of the following criteria:

- The products manufactured are capable of global competition; the revenue exceeds VND 20,000 billion per year after no more than 05 years from the first year in which revenue is generated by the project;
- Over 6,000 employees are hired;
- The project involves economic-technical infrastructure, including: investment in development of water plants, power plants, water supply and drainage system, bridges, roads, railroads, airports, seaports, air terminals, train stations, new energy, clean energy, energy-saving industry or oil refinery.

The Prime Minister shall decide extension of duration for application of preferential tax rates prescribed in this Point provided that the extension shall not exceed 15 years.

5a.[\[23\]](#) With respect to the investment projects specified in Clause 2 Article 20 of the Law on Investment, the Prime Minister shall decide to apply a preferential tax rate reducing by no more than 50% the preferential tax rate specified in Clause 1 of this Article. The duration of application of the preferential tax rate shall not exceed 1.5 times the duration of application of the preferential tax rate specified in Clause 1 and may be extended for no more than 15 years and must not exceed the duration of the investment project.

6. The preferential tax rates specified in this Article shall apply from first year in which the enterprise earns revenue from its new investment project. Regarding high-tech enterprises and agriculture enterprises applying high technologies, preferential tax rates shall be applied from the date of the certificate of high-tech enterprise or certificate of agriculture enterprise applying high technologies. Preferential tax rates shall apply to projects applying high technologies from the date of certificate of project applying high technologies.

The Government shall elaborate and provide guidelines for this Article.

Article 14. Duration of tax exemption and reduction [\[24\]](#)

1. Incomes of enterprises from execution of the new investment projects specified in Clause 1, Point a Clause 2 Article 13 of this Law, and high-tech enterprises and agriculture enterprises applying high technologies shall be eligible for CIT exemption for no more than 4 years and 50% reduction of CIT payable for no more than 9 subsequent years.

1a.[\[25\]](#) With respect to the investment projects specified in Clause 2 Article 20 of the Law on Investment, the Prime Minister shall decide to apply tax exemption for no more than 06 years and reduce 50% of total CIT payable for no more than 13 subsequent years.

2. Incomes of an enterprise from execution of new investment projects specified in Clause 3 Article 13 of this Law and incomes of an enterprise from execution of new investment projects in industrial parks (except those located in advantaged areas as prescribed by law) shall be eligible for CIT exemption for no more than 2 years and 50% reduction of CIT payable for no more than 4 subsequent years.

3. The duration of exemption/reduction of CIT on incomes of an enterprise from execution of new investment projects prescribed in Clause 1 and Clause 2 of this Article begins from the first year in which it earns taxable income from the project. In case where the enterprise earns no taxable income in the first 03 years, the tax exemption/reduction duration will begin in the 4th year from the first year in which revenue is generated by the project. The duration of tax exemption/reduction applied to high-tech enterprises, agriculture enterprises applying high technologies prescribed in Point c Clause 1 Article 13 of this Law begins from the date on which they are granted the certificate of high-tech enterprise or certificate of agriculture enterprise applying high technologies.

4. If one of the three conditions prescribed at this Clause is satisfied, the enterprise having a project of investment in another operating project such as expansion of production scale, increase of capacity and innovation of production technology (hereinafter referred to as “expansion”) in a field or area eligible for CIT incentives may decide whether to apply CIT incentives to its operating project for the remaining period (if any) or apply tax exemption or reduction to the increase in incomes from expansion. The duration of tax exemption or reduction to the increase in incomes from expansion prescribed in this Clause equals the tax exemption or reduction period applied to a new investment project in the same field or area eligible for CIT incentives.

The expansion eligible for CIT incentives specified in this Clause must satisfy one of the following criteria:

- a) The increase in cost of fixed assets when the project is finished and put into operation is at least VND 20 billion, if the expansion is of a field eligible for CIT incentives as prescribed in this Law, or VND 10 billion, if the expansion is located in disadvantaged area or extremely disadvantaged area as prescribed by law;
- b) The ratio of increase in cost of fixed assets to total cost of fixed assets before investment is at least 20%;
- c) Design capacity after expansion increases by at least 20% compared to the design capacity before investment.

In case where an operating enterprise makes an expansion in a field or area eligible for tax incentives as prescribed in this Law but fails to satisfy any of the criteria mentioned in this Clause, tax incentives shall apply to the project for the remaining period (if any).

If the enterprise chooses incentives applied to expansion, the increase in income from expansion must be accounted for separately. If the enterprise is not able to separate the increase in income from expansion, it shall be determined according to the ratio of cost of new fixed assets to total cost of fixed assets of the enterprise.

The duration of tax exemption or reduction mentioned in this Clause begins from the year in which the expansion project is finished and put into operation.

Tax incentives mentioned in this Clause do not apply in the cases of expansion due to merger or acquisition of operating projects or enterprises.

The Government shall elaborate and provide guidelines for this Article.

Article 15. Other cases of CIT reduction

1. A manufacturing, construction or transport enterprise that employs a large amount of female employees shall be eligible for CIT reduction which is proportional to the expenditure on female workers.
2. An enterprise that employs a large amount of ethnic workers is eligible for CIT reduction which is proportional to the expenditure on the ethnic workers.
3. [\[26\]](#) Income of an enterprise from transfer of technology in a field in which the technology transfer is given priority to an organization or individual located in a disadvantaged area is eligible for 50% reduction of CIT thereon.

The Government shall elaborate and provide guidelines for this Article.

Article 16. Loss carryforward [\[27\]](#)

1. An enterprise may carry forward any loss it incurs to the next years. Such loss is deducted from assessable income. The maximum loss carryforward period is 5 years from the year in which loss is incurred.
2. Losses incurred by an enterprise from transfer of real estate, investment project or right to participate in an investment project, that remain after offsetting according to Clause 3 Article 7 of this Law and losses incurred by an enterprise from transfer of the right to mineral exploration and extraction shall be carried forward to the next year and deducted from assessable income from such operation. The loss carryforward period complies with the provisions in Clause 1 of this Article.

Article 17. Contribution to science and technology development fund

1. [\[28\]](#) An enterprise that is established and operating under the law of Vietnam may contribute up to 10% of its annual assessable income to its scientific and technological development fund. Apart from contribution to the scientific and technological development fund as prescribed in this Law, state enterprises must maintain the minimum contributions specified in the Law on Science and Technology.
 2. Within 5 years from the contribution date, if at least 70% of the science and technology development fund is not used or not used properly, the enterprise shall pay CIT on the income that was contributed to science and technology development fund but was not used or not used properly and interest thereon.
- CIT rate shall be paid at the rate applied to the enterprise during the contribution period.

Interests shall be charged on the tax arrears at the interest rate of 1-year treasury bonds applied at the time of arrears collection for a 2-year period.

Interest charged on the improperly used amount is the late payment interest as prescribed in the Law on Tax Administration and shall be charged for a period from the contribution date to collection date.

3. An enterprise must not aggregate expenses from its science and technology development fund with its deductible expenses when calculating taxable income in a tax period.

4. An enterprise's science and technology development fund shall be used for making investment in science and technology in Vietnam.

Article 18. Conditions for applying CIT incentives [\[29\]](#)

1. CIT incentives prescribed in Articles 13, 14, 15, 16 and 17 shall apply to enterprises following accounting and invoicing regulations and pay CIT by declaration.

CIT incentives for new investment projects prescribed in Article 13 and Article 14 of this Law shall not apply in cases of full or partial division, merger, consolidation, change of owners, conversion of enterprises and other cases prescribed by law.

2. Incomes from business operation eligible for tax incentives prescribed in Article 13 and Article 14 of this Law must be separated from incomes from business operation which are not eligible for tax incentives. If an enterprise cannot separate such incomes, incomes from business operation eligible for tax incentives shall be determined according to the ratio of revenue from business operation eligible for tax incentives to its total revenue.

3. 20% CIT rate prescribed in Clause 2 Article 10 and regulations on CIT incentives prescribed in Clause 1 and Clause 4 Article 4, Article 13 and Article 14 of this Law shall not apply to:

a) Incomes from transfer of stakes or right to contribute capital; incomes from real estate transfer, except for incomes from investment in social housing prescribed in Article 13 of this Law; incomes from transfer of investment project or the right to participate in investment project, transfer of the right to mineral exploration and extraction; incomes from overseas business operation;

b) Incomes from exploration and extraction of petroleum, other rare and valuable resources, and income from mineral extraction;

c) Incomes from provision of services subject to excise tax prescribed by the Law on Excise Tax;

d) Other cases prescribed by the Government.

4. Within the same tax period, if an enterprise is eligible for various CIT incentives on the same income, it shall be entitled to choose the most favorable one.

Chapter IV

IMPLEMENTATION [\[30\]](#)

Article 19. Effect

1. This Law comes into force from January 01, 2009.

2. This Law supersedes the Law on Corporate Income Tax No. 09/2003/QH11.

3. An enterprise that is applying CIT incentives in accordance with regulations of the Law on Corporate Income Tax No. 09/2003/QH11 shall be eligible for such CIT incentives for the remaining period specified in such Law; In case such CIT incentives, including preferential tax rates, tax exemption and reduction period, are less favorable than those prescribed in this Law, it is entitled to apply CIT incentives prescribed in this Law for the remaining period.

4. If an enterprise is eligible for tax exemption or reduction as prescribed in the Law on Corporate Income Tax No. 09/2003/QH11 but earns not taxable income, the duration of tax exemption or reduction shall be determined in accordance with regulations of this Law and begin from the effective date of this Law.

Article 20. Guidelines for implementation

The Government shall elaborate and provide guidelines for Articles 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18 and other contents of this Law deemed necessary for management tasks./.

**CERTIFIED BY
CHAIRMAN**

Nguyen Hanh Phuc

[1] The Law No. 32/2013/QH13 providing amendments to the Law on corporate income tax is promulgated pursuant to:

“The 1992 Constitution of the Socialist Republic of Vietnam, as amended in the Resolution No. 51/2001/QH10;”

The Law No. 71/2014/QH13 providing amendments to the tax laws is promulgated pursuant to:

“ The Constitution of the Socialist Republic of Vietnam;”

The Law on Investment No. 61/2020/QH14 is promulgated pursuant to:

“ The Constitution of the Socialist Republic of Vietnam;”

[2] This Clause is amended according to Clause 1 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[3] This Clause is amended for the first time according to Clause 2 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014, as follows:

“2. Other incomes include incomes from transfer of stakes or right to contribute capital; incomes from transfer of real estate, investment projects, right to participate in investment projects, right to mineral exploration, extraction and processing; incomes from the right to use and ownership of property, including incomes from intellectual property rights as prescribed by law; incomes from transfer, lease or liquidation of assets, including financial instruments; incomes from deposit interests, loan interests and sale of foreign currencies; incomes from collected bad debts; incomes from debts payable without identified creditors; omitted incomes from previous years’ business operation and other incomes, including incomes from overseas business operation.”.

This Clause is amended for the second time according to Clause 1 Article 1 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[4] This Clause is amended for the first time according to Clause 3 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014, as follows:

“Incomes from farming, husbandry, aquaculture and salt production of cooperatives; incomes of cooperatives engaged in agriculture, forestry, fisheries and salt production in disadvantaged areas or extremely disadvantaged areas; incomes of enterprises from farming, husbandry and aquaculture in extremely disadvantaged areas; incomes from fishing activities.”.

This Clause is amended for the second time according to Clause 2 Article 1 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[5] This Clause is amended according to Clause 3 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[6] This Clause is added according to Clause 3 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[7] This Clause is added according to Clause 3 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[8] This Clause is added according to Clause 3 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[9] This Clause is added according to Clause 3 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[10] This Clause is amended according to Clause 4 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[11] Regulations on exchange rates used for determination of revenues, costs, prices for tax calculation, assessable income, taxable income and tax payable to state budget prescribed in this Article are abrogated according to Point a Clause 2 Article 6 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[12] This Clause is amended according to Clause 5 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[13] This Point is amended for the first time according to Clause 5 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014, as follows:

“a) The actual expense incurred is related to the enterprise’s business operation; expenses on performance of national defense and security tasks as prescribed by law;”

This Point is amended for the second time according to Clause 3 Article 1 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[14] This Point is amended for the first time according to Clause 5 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014, as follows:

“m) Expenses of advertising, marketing, sales promotion, brokerage commissions, reception, meetings, marketing aid, and allowances directly related to business operation in excess of 15% of total deductible expenses. Total deductible expenses exclude the expenses specified in this Point. With regard to commercial activities, total deductible expenses exclude the costs of purchase of goods to be resold;”

This Point is abrogated according to Clause 3 Article 1 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[15] Regulations on exchange rates used for determination of revenues, costs, prices for tax calculation, assessable income, taxable income and tax payable to state budget prescribed in this Article are abrogated according to Point a Clause 2 Article 6 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[16] This Clause is amended according to Clause 6 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[17] This Clause is amended according to Clause 7 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[18] This Point is added according to Clause 5 Article 1 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[19] This Point is added according to Clause 5 Article 1 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[20] This Point is amended for the first time according to Clause 5 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014, as follows:

“d) Incomes of an enterprise from planting, caring and protection of forests; farming, husbandry, aquaculture in disadvantaged areas; forestry in disadvantaged areas; production, propagation and cross-breeding of plant varieties, animal breeds; production, extraction, and refining of salt, except for salt production prescribed in Clause 1 Article 4 of this Law; investment in post-harvest preservation of agriculture products; preservation of agricultural products, aquatic products, and foods;”.

This Point is amended for the second time according to Clause 6 Article 1 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[21] This Clause is added according to Clause 7 Article 1 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[22] This Clause is amended for the first time according to Clause 7 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014, as follows:

“5. With regard to investment projects with large scale and high technologies that need investment, the application of preferential tax rates may be extended but for a maximum period of 15 years.”.

This Clause is amended for the second time according to Clause 8 Article 1 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015.

[23] This Clause is added according to Point a Clause 4 Article 75 of the Law on Investment No. 61/2020/QH14, coming into force from January 01, 2021.

[24] This Article is amended according to Clause 8 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[25] This Clause is added according to Point b Clause 4 Article 75 of the Law on Investment No. 61/2020/QH14, coming into force from January 01, 2021.

[26] This Clause is amended according to Clause 9 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[27] This Article is amended according to Clause 10 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[28] This Clause is amended according to Clause 11 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[29] This Article is amended according to Clause 12 Article 1 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014.

[30] Article 2 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014, stipulates as follows:

“Article 2

1. This Law comes into force from January 01, 2014, except the regulations in Clause 2 of this Article.

2. Regulations on application of 20% CIT rate to enterprises whose total revenue earned during a year does not exceed 20 billion in Clause 6 Article 1 and application of 10% CIT rate to incomes of enterprises from execution of investment projects on construction of social housing in Clause 7 Article 1 of this Law come into force from July 01, 2013.

3. An enterprise whose investment project is eligible for CIT incentives (including preferential tax rates, tax exemption or reduction) by the end of the tax period 2013 according to legislative documents on CIT in force before the effective date of this Law shall be eligible for CIT incentives the remaining period specified in such documents. In case where the enterprise meets the eligibility conditions for CIT incentives laid down in this Law, it may choose between keeping on applying the old CIT incentives or applying those specified in this Law for the remaining period if it is eligible for CIT incentives applied to enterprises established from new investment projects or expansion projects.

At the end of the tax period 2015, an enterprise that has investment projects eligible for 20% CIT rate prescribed in Clause 3 Article 13 of the Law on corporate income tax 14/2008/QH12, as amended in Clause 7 Article 1 of this Law, shall apply 17% CIT rate from January 01, 2016 for the remaining period.

4. The following regulations on corporate income tax are abrogated:

a) Clause 2 Article 7 of the Law on Deposit Insurance No. 06/2012/QH13;

b) Clause 2 Article 4 of the Law on Health Insurance No. 25/2008/QH12;

c) Clause 1 Article 10, Clause 1 Article 12, Clause 2 Article 18, Clause 2 Article 19, Clause 1 and Clause 2 Article 22, Clause 3 Article 24 and Clause 2 Article 28 of the Law on High Technologies No. 21/2008/QH12;

d) Clauses 1, 4, 5, 6, 7 and 8 Article 44, Article 45 of the Law on Technology Transfer No. 80/2006/QH11;

dd) Clause 1 Article 53, Clause 5 Article 55 and Clause 3 Article 86 of the Law on vocational training No. 76/2006/QH11;

e) Clause 1 Article 68 of the Law on Vietnamese guest workers No. 72/2006/QH11;

g) Clause 2 Article 6 of the Law on Social Insurance No. 71/2006/QH11;

h) Clause 3 Article 8 of the Law on legal aid No. 69/2006/QH11;

i) Clause 3 Article 66 of the Law on Higher Education No. 08/2012/QH13;

k) Article 34 of the Disabilities Law No. 51/2010/QH12;

l) Clause 4 Article 33 of the Law on investment No. 59/2005/QH11;

m) Clause 2 Article 58, Clause 2 Article 73, Clause 3 Article 117 and Clause 3 Article 125 of the Law on Enterprises No. 60/2005/QH11.

5. The Government shall elaborate and provide guidelines for articles and clauses of this Law as assigned.”.

Clause 3 Article 2 of the Law No. 32/2013/QH13 providing amendments to the Law on Corporate Income Tax, which comes into force from January 01, 2014, as amended in Clause 9 Article 1 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015, stipulates as follows:

“3. Any enterprise having an investment project shall be eligible for CIT incentives in accordance with regulations of the Law on Corporate Income Tax from the date of issuance of the license or investment certificate as prescribed by regulations of the Law on investment. Where amendments to regulations of the Law on Corporate Income Tax are made and an enterprise meets eligibility conditions for CIT incentives prescribed by new regulations, such enterprise may decide whether to apply the old or new regulations on preferential CIT rate, duration of tax exemption/reduction for the remaining period from the day on which new regulations come into force.

At the end of the tax period 2015, an enterprise that has investment projects eligible for 20% CIT rate prescribed in Clause 3 Article 13 of the Law on Corporate Income Tax No. 14/2008/QH12, as amended in the Law No. 32/2013/QH13, shall apply 17% CIT rate from January 01, 2016 for the remaining period.”.

Article 6 of the Law No. 71/2014/QH13 providing amendments to the tax laws, which comes into force from January 01, 2015, stipulates as follows:

“Article 6

1. This Law comes into force from January 01, 2015.

2. The following regulations on exchange rates used for determination of revenues, costs, prices for tax calculation, assessable income, taxable income and tax payable to state budget are abrogated:

a) Article 8 and Clause 3 Article 9 of the Law on Corporate Income Tax No. 14/2008/QH12, as amended in the Law No. 32/2013/QH13;

b) Clause 1 Article 6 of the Law on Personal Income Tax No. 04/2007/QH12, as amended in the Law No. 26/2012/QH13;

c) Clause 3 Article 7 of the Law on Value Added Tax No. 13/2008/QH12, as amended in the Law No. 31/2013/QH13;

d) Article 6 of the Law on Excise Tax No. 27/2008/QH12;

dd) Clause 3 Article 9 and Article 14 of the Law on Export and Import Duties No. 45/2005/QH11;

e) Clause 4 Article 86 of the Customs Law No. 54/2014/QH13.

3. Point c Clause 1 Article 49 of the Law on Tax Administration No. 78/2006/QH11, as amended in the Law No. 21/2012/QH13 is abrogated.

4. Regulations on determination of taxes incurred by individual businesses in Clause 1 Article 19, Clause 1 Article 20 and Clause 1 Article 21 of the Law on Personal Income Tax No. 04/2007/QH12, as amended in the Law No. 26/2012/QH13 are abrogated.

5. The Government and competent agencies shall elaborate articles and clauses of this Law as assigned.”.

Article 76 and Article 77 of the Law on Investment No. 61/2020/QH14, which comes into force from January 01, 2021, stipulate as follows:

“Article 76. Implementation

1. This Law comes into force from January 01, 2021, except the regulations in Clause 2 of this Article.

2. The regulations set out in Clause 3 Article 75 of this Law come into force from September 01, 2020.

3. The Law on Investment No. 67/2014/QH14 amended by the Law No. 90/2015/QH13, the Law No. 03/2016/QH14, the Law No. 04/2017/QH14, the Law No. 28/2018/QH14 and the Law No. 42/2019/QH14 shall cease to have effect from the effective date of this Law, except for Article 75 of the Law on Investment No. 67/2014/QH14.

4. Individuals who are Vietnamese citizens may use their personal identification numbers instead of copies of their identity cards/citizen identity cards, passports or other personal identification documents upon following administrative procedures set out in the Law on Investment and Law on Enterprises if the national population database is connected to the national investment and enterprise registration database.

5. Any legislative document that refers to regulations on project approval decisions or investment guideline decisions in accordance with the Law on Investment shall be implemented in accordance with the regulations on investment guideline approval of this Law.

Article 77. Transition

1. Investors that were issued with investment licenses, investment incentive certificates, investment certificates or investment registration certificates before the effective date of this Law shall execute their investment projects in accordance with such investment licenses, investment incentive certificates, investment certificates or investment registration certificates.

2. Investors are not required to follow procedures for approval for investment guidelines in accordance with this Law with respect to the investment projects in one of the following cases:

a) The investors obtained investment guideline decisions, investment guideline approval or investment approval in accordance with regulations of laws on investment, housing, urban areas and construction before the effective date of this Law;

b) The investors have started execution of projects that are not subject to approval for their investment guidelines, investment guideline decision or investment guideline or issuance of the investment registration certificate in accordance with regulations of laws on investment, housing, urban areas and construction before the effective date of this Law;

c) Investors won the bidding for investor selection or the land use right auction before the effective date of this Law;

d) Projects have been granted investment incentive certificates, investment licenses, investment certificates or investment registration certificates before the effective date of this Law.

3. If an investment project specified in Clause 2 of this Article is adjusted and the adjustments are subject to approval for investment guidelines in accordance with this Law, the procedures mentioned in this Law must be followed to obtain approval for investment guidelines or adjust investment guidelines.

4. Any investment project executed or approved or allowed to be executed in accordance with regulations of law before July 01, 2015 and subject to project execution security as prescribed in this Law is not required to have a deposit or a bank guarantee. If the investor adjusts the objectives or schedule for execution of the investment project or repurposes land after the effective date of this Law, the investor must pay a deposit or obtain a bank guarantee in accordance with this Law.

5. Any debt collection service contract concluded before the effective date of this Law shall cease to have effect from the effective date of this Law; and the parties to such contract may carry out activities to liquidate the contract in accordance with the civil law and other relevant regulations of law.

6. Foreign-invested business entities to which market access conditions more favorable than those prescribed in the List promulgated under Article 9 of this Law are applied may continue to apply the conditions set out in their issued investment registration certificate.

7. The regulation in Clause 3 Article 44 of this Law applies to both investment projects to which land was allocated before the effective date of this Law and projects to which land has not yet been allocated.

8. In the event that the law stipulates that documentation serving administrative procedures must consist of an investment registration certificate or written approval for investment guidelines but the investment project is not subject to issuance of an investment registration certificate or written approval for investment guidelines as prescribed in this Law, the investor is not required to submit an investment registration certificate or written approval for investment guidelines.

9. With respect to areas which have difficulties in providing land for development of residential housing, service facilities and public utilities for employees working in industrial parks, the competent authority may adjust the planning for construction of industrial zones (for industrial parks established before July 01, 2014) to reserve part of the land area for development of residential housing, service facilities and public utilities for employees working in the industrial parks.

After adjustment of the planning, the land area for development of residential housing, service facilities and public utilities for employees working in an industrial park must be outside the geographical boundary of the

industrial park and must ensure an environmental safety distance in accordance with the law on construction and other relevant regulations of law.

10. Grandfather clauses on outward investment activities:

a) Regulations on the duration of outward investment projects set out in outward investment licenses and outward investment certificates issued before July 01, 2015 shall cease to have effect;

b) Any investor issued with an outward investment license or certificate or outward investment registration certificate to make outward investment in a conditional business line subject to conditional outward investment in accordance with this Law may continue to make investment according to the issued outward investment license or certificate or outward investment registration certificate.

11. From the effective date of this Law, if any document has been received and the deadline for processing thereof has expired but the results have not been returned in accordance with the Law No. 67/2014/QH14 on Investment amended by the Law No. 90/2015/QH13, the Law No. 03/2016/QH14, the Law No. 04/2017/QH14, the Law No. 28/2018/QH14 and the Law 42/2019/QH14, such document shall continue to be processed in accordance with Law 67/2014/QH14 on Investment amended by the Law No. 90/2015/QH13, the Law No. 03/2016/QH14, the Law No. 04/2017/QH14, the Law No. 28/2018/QH14 and the Law No. 42/2019/QH14.

12. The Government shall elaborate this Article.”.

LAW 04 ON PERSONAL INCOME TAX

Dated 21 November 2007

As Amended by Law 26 dated 22 November 2012 and Law 71 dated 26 November 2014

TABLE OF CONTENTS

CHAPTER I	1
GENERAL PROVISIONS.....	1
Article 1 <i>Governing scope.....</i>	<i>1</i>
Article 2 <i>Applicable entities.....</i>	<i>1</i>
Article 3 <i>Taxable income.....</i>	<i>2</i>
Article 4 <i>Income which is tax exempt.....</i>	<i>4</i>
Article 5 <i>Reduction of tax.....</i>	<i>5</i>
Article 6 <i>Conversion of taxable income into Vietnamese dong.....</i>	<i>5</i>
Article 7 <i>Tax calculation period.....</i>	<i>6</i>
Article 8 <i>Tax management and tax refund.....</i>	<i>6</i>
Article 9 <i>Application of international treaties.....</i>	<i>6</i>
CHAPTER II	6
BASIS OF TAX CALCULATION APPLICABLE TO RESIDENT INDIVIDUALS.....	6
SECTION 1	6
DETERMINATION OF TAXABLE INCOME AND ASSESSABLE INCOME	6
(d) <i>Other business activities: one per cent (1%).....</i>	<i>7</i>
Article 11 <i>Taxable income being salaries and wages.....</i>	<i>7</i>
Article 12 <i>Taxable income being income from capital investments.....</i>	<i>7</i>
Article 16 <i>Taxable income from royalties.....</i>	<i>8</i>
Article 17 <i>Taxable income from franchises.....</i>	<i>8</i>
Article 18 <i>Taxable income from an inheritance or gift.....</i>	<i>9</i>
Article 19 <i>Deduction for family circumstances.....</i>	<i>9</i>
Article 20 <i>Deductions for contributions to charitable and humanitarian funds.....</i>	<i>10</i>
Article 21 <i>Assessable income</i>	<i>10</i>
SECTION 2	10
TAX SCALES	10
Article 22 <i>Scale of progressive tax tariff on each portion of income</i>	<i>10</i>
Article 23 <i>Scale of tariff on total income.....</i>	<i>11</i>
Article 24 <i>Responsibilities of income paying entities and responsibilities of taxpayers being resident individuals.....</i>	<i>12</i>
CHAPTER III	12
BASIS OF TAX CALCULATION APPLICABLE TO NON-RESIDENT INDIVIDUALS	12
Article 25 <i>Tax applicable to business income.....</i>	<i>12</i>
Article 26 <i>Tax applicable to income from salaries and wages</i>	<i>13</i>
Article 27 <i>Tax applicable to income from capital investments.....</i>	<i>13</i>
Article 28 <i>Tax applicable to income from transfers.....</i>	<i>13</i>
Article 29 <i>Tax applicable to income from real property transfers.....</i>	<i>13</i>
Article 30 <i>Tax applicable to income being royalties and to income from franchises.....</i>	<i>13</i>
Article 31 <i>Tax applicable to income from winnings or prizes and from an inheritance or a gift</i>	<i>13</i>

Article 32	Point of time for determining taxable income.....	13
Article 33	Responsibilities of income paying entities and responsibilities of taxpayers being non-resident individuals.....	14
CHAPTER IV		14
IMPLEMENTING PROVISIONS		14
Article 34	Effectiveness.....	14
Article 35	Implementing guidelines.....	14

**LAW
ON
PERSONAL INCOME TAX**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by Resolution 51-2001-QH10 passed by Legislature X of the National Assembly at its 10th Session on 25 December 2001;

The National Assembly hereby promulgates the *Law on Personal Income Tax*.

CHAPTER I

General Provisions

Article 1 *Governing scope*

This Law regulates taxpayers, taxable income, tax exempt income, reduction of tax and the basis for calculating personal income tax.

Article 2 *Applicable entities*

1. *Personal income taxpayer* means any resident individual with taxable income as stipulated in article 3 of this Law arising either within or outside the territory of Vietnam, or any non-resident individual with taxable income as stipulated in article 3 of this Law arising within the territory of Vietnam.
2. *Resident individual* means any person satisfying one of the following conditions:
 - (a) Being present in Vietnam for a period of one hundred and eighty-three (183) days calculated within one western calendar year or within twelve (12) consecutive months from the date of entry into Vietnam;
 - (b) Having a regular residential location in Vietnam being a residential location for which permanent residence has been registered or a property rented pursuant to a lease for a term for residential purposes.
3. *Non-resident individual* means any person not satisfying the conditions stipulated in clause 2 of this article.

¹ Allens footnote: As amended by Law 26 dated 22 November 2012 (effective 1 July 2013) and Law 71 dated 22 November 2014 (effective 1 January 2015) . All amendments are footnoted.

Article 3 Taxable income

Income which is subject to personal income tax comprises the following types of income, excluding tax exempt income as stipulated in article 4 of this Law:

1.² Business income, comprising:

- (a) Income from activities of production and business in goods and services;
- (b) Income from independent professional activities of individuals with a licence or practising certificate pursuant to law.

Business income prescribed in this clause does not include income of a business individual with a turnover of 100 million or less dong per year.

2.³ Income being salaries and wages, comprising:

- (a) Salaries and wages, and items in the nature of salaries and wages.
- (b) Allowances and subsidies, excluding the following: allowances and subsidies stipulated by law being preferential treatment for people with achievements; national defence and security allowances; allowances for toxicity and danger applicable to trades or work at workplaces with toxic or dangerous elements as stipulated by law; subsidies being one-off payments for difficult situations, for work-related accidents or occupational disease, and one-off subsidies on the birth or adoption of a child; subsidies due to decrease in ability to work, one-off payments on retirement, monthly subsidies and other subsidies in accordance with the *Labour of Social Insurance*; retrenchment or loss of work allowances in accordance with the *Labour Code*; social protection allowances in accordance with law, and other subsidies and allowances not being salary and wages money [payments] in accordance with Government regulations.
- (c) Remuneration in all forms.
- (d) Money received from participation in business associations, on boards of management, inspection committees, management committees, and from other organizations.
- (dd) Other benefits which the taxpayer receives whether or not in monetary form.
- (e) Bonuses, excluding the following: monetary awards attached to titles bestowed by the State; monetary awards attached to national and international awards; monetary awards for technical improvements, inventions and innovations recognized by State authorities; and monetary awards for detecting and reporting breaches of law to the State authorities.

3. Income from capital investments, comprising:

² Allens footnote: As amended by Law 71.

³ Allens footnote: As amended by Law 26.

- (a) Interest from lending.
- (b) Share dividends.
- (c) Income from capital investments in any other form, excluding income being Government bonds' interest.
- 4. Income from transfers, comprising:
 - (a) Income from transfer of capital portion in an economic organization.
 - (b) Income from transfer of securities.
 - (c) Income from transfer of capital in all other forms.
- 5.⁴ Income from real property transfers [is taxable income], comprising:
 - (a) Income from transfer of a land use right and assets attached to the land;
 - (b) Income from transfer of ownership of or use right to residential housing;
 - (c) Income from transfer of a right to lease a land or water surface;
 - (d) Other items of income received from real property transfers in all forms.
- 6. Income being winnings or prizes, comprising:
 - (a)⁵ Winnings from all forms of betting.
 - (b) All forms of promotional prizes.
 - (c) Winnings from all forms of betting and casino gambling.
 - (d) Winnings from games and competitions with prizes and all others forms of winnings.
- 7. Royalties, comprising:
 - (a) Income from transfer of, including transfer of use rights to, intellectual property objects.
 - (b) Income from technology transfer.
- 8. Income from franchises.
- 9. Income being inheritance of securities, of capital portion in an economic organization or business establishment, of real property or other assets for which ownership or use rights must be registered.
- 10. Income being receipt of a gift of securities, of capital portion in an economic organization or business establishment, of real property or other assets for which ownership or use rights must be registered.

⁴ Allens footnote: As amended by Law 26.

⁵ Allens footnote: As amended by Law 71.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 4 *Income which is tax exempt*

[The following income shall be tax exempt:]

1. Income from real property transfers as between husband and wife; as between parents and children, including foster parents and adopted children; as between parents-in-law and children-in-law; as between grandparents and grandchildren; and as between siblings.
2. Income from transfer of residential housing [and/or] rights to use residential land and the assets attached to the land by an individual who owns only one residential house [or] residential land block.
3. Income from the value of a land use right of an individual to whom the State allocated such land.
4. Income being receipt of an inheritance or gift of real property as between husband and wife; as between parents and children, including foster parents and adopted children; as between parents-in-law and children-in-law; as between grandparents and grandchildren; and as between siblings.
5. Income of a family household or individual directly engaged in agricultural production, forestry, salt mining, breeding animals or cultivating crops, or aquaculture where the produce has not yet been processed into other products or has only been preliminarily processed.
6. Income from conversion of agricultural land by a family household or individual to whom the State allocated such land for production.
7. Income being interest on money deposited at a credit institution, and interest from life insurance policies.
8. Income being foreign currency remitted by overseas Vietnamese.
9. Income being that part of night shift or overtime salary which is higher than the day shift or normal working hours salary stipulated by law.
- 10.⁶ Pensions paid by the Social Insurance Fund; and monthly pensions paid by voluntary Pension Funds.
11. Income being scholarships, comprising:
 - (a) A scholarship received from the State Budget;
 - (b) A scholarship received from a domestic or foreign organization pursuant to its program to assist and encourage study.
12. Income being compensation payments from life and non-life insurance contracts, compensation for labour accidents, State compensation payments and other compensation payments paid pursuant to law.

⁶ Allens footnote: As amended by Law 26.

13. Income received from charitable funds which the competent State authority permits to be established or which it recognizes, and which are for charitable or humanitarian purposes and not for profit-making purposes.
14. Income received from foreign aid sources for charitable or humanitarian purposes in both Government and non-Government forms approved by the competent State authority.
- 15.⁷ Income being salary and wages of Vietnamese crew working for foreign shipping firms or Vietnamese shipping firms engaged in international carriage.
- 16.⁸ Income of individuals being ship owners, of individuals having the ship use right, and of individuals working on ships from the supply of goods and services directly serving deep-sea aquaculture and fisheries activities.

Article 5 *Reduction of tax*

Taxpayers who meet difficulties due to natural disaster, war, accident, serious disease or illness which affects their ability to pay tax shall be considered for a reduction of tax corresponding to the amount of their loss but not to exceed the amount of tax payable.

Article 6 *Conversion of taxable income into Vietnamese dong*

- 1.⁹ Taxable income received in foreign currency must be converted into Vietnamese dong at the average trading exchange rate on the foreign currency market published by the State Bank as at the time the income arises.
2. Taxable income received in kind¹⁰ must be converted into Vietnamese dong on the basis of the market price of such products or services or of products or services of the same or similar type as at the time the income arises.

⁷ Allens footnote: As added by Law 71.

⁸ Allens footnote: As added by Law 71.

⁹ Allens footnote: Law 71 repealed "items in provisions on conversion of exchange rates when determining turnover, expenses, taxable prices, assessable income, taxable income and taxes payable to the State budget in article 6.1 of the *Law on PIT*."

¹⁰ Allens footnote: The literal translation is "income received other than in monetary form".

Article 7 *Tax calculation period*

1. The period for calculating tax payable by resident individuals shall be regulated as follows:
 - (a) Tax on business income and income being salaries and wages shall be calculated annually.
 - (b) Tax on income from capital investments, on income from transfers excluding transfer of securities; on income from real property transfers; on winnings or prizes; on royalties; on income from franchises; and on income being an inheritance or gift shall be calculated on each occasion such income arises.
 - (c)¹¹ Tax on income from transfer of securities shall be calculated either on each occasion or shall be calculated annually.
2. Tax payable by non-resident individuals shall be calculated on each occasion income arises, applicable to all types of taxable income of non-resident individuals.

Article 8 *Tax management and tax refund*

1. Tax registration, declaration, deduction and payment; tax finalization and tax refund; dealing with breaches of the law on tax; and tax management methods shall be implemented in accordance with the *Law on Tax Management*.
2. Individuals shall be entitled to a tax refund in the following circumstances:
 - (a) The amount of tax paid was higher than the amount of tax payable.
 - (b) An individual has already paid tax but assessable income is below the threshold at which tax was payable.
 - (c) In other circumstances pursuant to a decision of the authorized body.

Article 9 *Application of international treaties*

If an international treaty of which the Socialist Republic of Vietnam is a member contains provisions on personal income tax which are different from those in this Law, then the provisions of such international treaty shall apply.

CHAPTER II

Basis of Tax Calculation Applicable to Resident Individuals

SECTION 1

Determination of Taxable Income and Assessable Income

Article 10¹² *Tax applicable to business individuals*

¹¹ Allens footnote: As amended by Law 26.

¹² Allens footnote: As amended by Law 71.

1. Business individuals shall pay personal income tax as a ratio of turnover applicable to each sector or line of production or business.
2. *Turnover* means the entire monetary receipts from sale of goods, processing fees, commission, and providing services and arising within the tax assessment period from activities of production and business in goods and services.

If a business individual is unable to determine his or her turnover, then the competent tax agency shall fix the amount of turnover in accordance with the law on tax management.

3. Tax rates:
 - (a) Distribution and supply of goods: zero point five per cent (5%);
 - (b) Services and construction where the tender did not include supply of raw materials: two per cent (2%);

In the case of leasing out assets, insurance agency, lotteries agency, and multi-level sales agency: five per cent (5%);

- (c) Production, transportation, services attached to goods, and construction where the tender included supply of raw materials: one point five per cent (1.5%);
- (d) Other business activities: one per cent (1%).

Article 11 *Taxable income being salaries and wages*

1. Taxable income being salaries and wages shall be fixed as the total income as stipulated in article 3.2 of this Law which a taxpayer receives within any one tax calculation period.
2. The time for fixing taxable income being salaries and wages shall be the time when the income-paying entity pays such income to the taxpayer or when the taxpayer receives such income.

Article 12 *Taxable income being income from capital investments*

1. Taxable income being income from capital investments shall be the total income as stipulated in article 3.3 of this Law which a taxpayer receives within any one tax calculation period.
2. The time for fixing taxable income being income from capital investments shall be the time when the income-paying entity pays such income to the taxpayer or when the taxpayer receives such income.

Article 13¹³ *Taxable income from capital transfers*

1. Taxable income from a capital transfer shall be determined [fixed] as equal to the selling price, less the purchase price and reasonable expenses related to creation of income from such transfer.

Applicable to transfers of securities, taxable income shall be fixed as the price of the transfer on each occasion.

¹³ Allens footnote: As amended by Law 71.

2. The time for fixing taxable income from a capital transfer shall be the time when the transfer transaction was completed as stipulated by law.

The Government shall provide detailed regulations and guidelines for implementation of this article.

Article 14¹⁴ *Taxable income from real property transfers*

1. Taxable income from a real property transfer shall be fixed as the price of the transfer on each occasion.
2. The Government shall issue regulations on the principles and methods for fixing the transfer price of real property.
3. The time for determination of taxable income from a real property transfer is the time at which the contract or transfer takes effect pursuant to law.

Article 15 *Taxable income from winnings or prizes*

1. Taxable income from winnings shall be that part of the prize which exceeds ten million (10,000,000) dong which the taxpayer receives on each occasion of winning.
2. The time for determining taxable income from winnings shall be the time when the income-paying entity pays such income to the taxpayer.

Article 16 *Taxable income from royalties*

1. Taxable income from royalties shall be that part of the income which exceeds ten million (10,000,000) dong which the taxpayer receives when transferring an intellectual property object or the right to use such object or when transferring technology, pursuant to each contract.
2. The time for determining taxable income from royalties shall be the time when the income-paying entity pays such income to the taxpayer.

Article 17 *Taxable income from franchises*

1. Taxable income from a franchise shall be that part of the income which exceeds ten million (10,000,000) dong which the taxpayer receives pursuant to each franchise contract.
2. The time for determining taxable income from a franchise shall be the time when the income-paying entity pays such income to the taxpayer.

¹⁴ Allens footnote: As amended by Law 71.

Article 18 *Taxable income from an inheritance or gift*

1. Taxable income from an inheritance or a gift shall be that part of the value of the assets inherited or received as a gift which exceeds ten million (10,000,000) dong which the taxpayer receives on each occasion such income arises.
2. The time for determining taxable income shall be regulated as follows:
 - (a) In the case of an inheritance, it shall be the time when the taxpayer receives the inheritance;
 - (b) In the case of a gift, it shall be the time when the donor pays such income to the taxpayer or when the taxpayer receives such income.

Article 19 *Deduction for family circumstances*

- 1.¹⁵ Deduction for family circumstances means the amount of money deductible from taxable income prior to assessing business income [and/or] income being salaries and wages of taxpayers who are resident individuals. Deductions for family dependants comprise the following two components:
 - (a) A level of deduction applicable to [each] taxpayer being 9 million dong per month (108 million dong per year);
 - (b) A level of deduction for each dependant [of a taxpayer] at 3.6 million dong per month.

If market prices rise above 20% compared to market prices at the effective date of the Law [on PIT] or at the latest date of amending the deduction for family circumstances, then the Government shall make a submission to the Standing Committee of the National Assembly to amend the above levels of deduction for compliance with such market price change.

2. The level of deduction for dependants shall be determined on the principle that each dependant may only be assessed for deduction on one occasion from [taxable income of] one taxpayer.
3. Dependants means people whom the taxpayer has the responsibility to rear or care for, and comprise:
 - (a) Children who are still minors; children who are handicapped [and/or] unable to work;
 - (b) Individuals who do not receive income or who receive income which does not exceed the stipulated threshold comprising a child of full age who is currently studying at a university, college, specialized secondary school or who is undergoing vocational training; a spouse who is unable to work; a parent above the working age or who is unable to work; and any other feeble person whom the taxpayer directly rears or cares for.

The Government shall provide regulations on the income threshold and on declaration for the purpose of determining dependants for whom deductions are allowable.

¹⁵ Allens footnote: As amended by Law 26. Note Law 71 also stipulates "the provisions relevant to determination of tax payable by business individuals in articles 19.1, 20.1 and 21.1 of *Law 04 on PIT as amended by Law 26* are repealed."

Article 20 *Deductions for contributions to charitable and humanitarian funds*

- 1.¹⁶ Contributions to charitable and humanitarian funds shall be deductible from income prior to assessing business income [and/or] income being salaries and wages of taxpayers who are resident individuals as follows:
 - (a) Contributions to any institution or establishment which raises or cares for children in an especially difficult situation, for disabled people, or for elderly feeble people;
 - (b) Contributions to charitable, humanitarian and study promotional funds.
2. The institutions, establishments and funds stipulated in sub-clauses (a) and (b) of clause 1 of this article must be permitted to be established or must be recognized by the competent State authority, and must operate for charitable, humanitarian or study promotional purposes and not for profit making purposes.

Article 21 *Assessable income*

- 1.¹⁷ Assessable income in the case of business income [and/or] income being salaries and wages means total taxable income stipulated in articles 10 and 11 of this Law, less any contributions to social insurance, medical insurance, and professional indemnity insurance in the case of trades and lines of business for which such insurance is compulsory, [less any contributions to] voluntary Pension Funds, and less the deductions stipulated in articles 19 and 20 of this Law.

The Government shall regulate the maximum deduction for contributions to voluntary Pension Funds as stipulated in this clause.

2. Assessable income from income from capital investments, transfers, property transfers, winnings or prizes, royalties, franchises, inheritances and gifts shall be the taxable income as stipulated in articles 12, 13, 14, 15, 16, 17 and 18 respectively of this Law.

SECTION 2

Tax Scales

Article 22 *Scale of progressive tax tariff on each portion of income*

1. The scale of progressive tax tariff on each portion of income shall apply to assessable income as stipulated in article 21.1 of this Law.
2. The scale of progressive tax tariff on each portion of income shall be as follows:

Tax Bracket	Portion of Annual Assessable	Portion of Monthly Assessable	Tax Rate (%)
--------------------	-------------------------------------	--------------------------------------	---------------------

¹⁶ Allens footnote: Law 71 also stipulates "the provisions relevant to determination of tax payable by business individuals in articles 19.1, 20.1 and 21.1 of *Law 04 on PIT as amended by Law 26* are repealed."

¹⁷ As amended by Law 26. And see footnote 16 above.

	Income (million dong)	Income (million dong)	
1	Up to 60	Up to 5	5
2	Over 60 to 120	Over 5 to 10	10
3	Over 120 to 216	Over 10 to 18	15
4	Over 216 to 384	Over 18 to 32	20
5	Over 384 to 624	Over 32 to 52	25
6	Over 624 to 960	Over 52 to 80	30
7	Over 960	Over 80	35

Article 23 *Scale of tariff on total income*

1. The scale of tariff on total income shall apply to assessable income as stipulated in article 21.2 of this Law.
- 2.¹⁸ The scale of tariff on total income is as follows:

Assessable Income	Tax Rate (%)
(a) Income from capital investments	5
(b) Income from royalties and franchises	5
(c) Income from winnings and prizes	10
(d) Income from inheritances and gifts	10
(dd) Income from capital transfers stipulated in article 13.1	20
Income from real property transfers stipulated in article 13.1	0.1
(e) Income from real property transfers	2

¹⁸ Allens footnote: As amended by Law 71.

Article 24¹⁹ *Responsibilities of income paying entities and responsibilities of taxpayers being resident individuals*

1. The responsibility to declare, withhold and pay tax, and to conduct tax finalization is regulated as follows:
 - (a) Income-paying entities are liable to declare, withhold and pay tax into the State Budget and to conduct tax finalization of all types of taxable income which they pay to taxpayers.
 - (b) Individuals with taxable income are liable to declare and pay tax into the State Budget and to conduct tax finalization in accordance with law.
2. Income-paying entities are liable to provide information in accordance with law about income and dependents of the taxpayers within the units they manage.
3. The Government shall provide regulations on the level of deductions appropriate for each type of income stipulated in clause 1 of this article and on tax finalization as prescribed in clause 1 of this article.

CHAPTER III

Basis of Tax Calculation Applicable to Non-Resident Individuals

Article 25 *Tax applicable to business income*

1. Tax payable on business income of a non-resident individual shall be fixed as the turnover from activities of production and business stipulated in clause 2 of this article multiplied by the tax rate stipulated in clause 3 of this article.
2. *Taxable turnover* means the entire monetary receipts arising from the provision of goods and services including expenses which the purchaser of the goods and services pays on behalf of a non-resident individual which are not refundable.

If a contractual agreement excludes personal income tax, then the assessable turnover to be converted shall include all money received in any form by the non-resident individual from the provision of goods and services in Vietnam, irrespective of the location where the business activity was conducted.

3. Tax rates applicable to a sector or line of production and business shall be:
 - (a) One per cent (1%) to activities being business in goods.
 - (b) Five per cent (5%) to activities being business in services.
 - (c) Two per cent (2%) to activities being production, construction, transportation and other business activities.

¹⁹ As amended by Law 26.

Article 26 *Tax applicable to income from salaries and wages*

1. Tax payable on income from salaries and wages of a non-resident individual shall be fixed as the taxable income from salaries and wages stipulated in clause 2 of this article multiplied by the tax rate of twenty per cent (20%).
2. Taxable income from salaries and wages means the entire monetary salaries and wages which a non-resident individual receives from doing work in Vietnam, irrespective of the location where the income is paid.

Article 27 *Tax applicable to income from capital investments*

Tax payable on income from capital investments of a non-resident individual shall be fixed as the entire monetary receipt by a non-resident individual from a capital investment in an organization or individual in Vietnam multiplied by the tax rate of five per cent (5%).

Article 28 *Tax applicable to income from transfers*

Tax payable on a transfer by a non-resident individual shall be fixed as the entire monetary receipt by such non-resident individual from a transfer of a capital portion in a Vietnamese organization or individual multiplied by the tax rate of zero point one per cent (0.1%), irrespective of whether the transfer was conducted in Vietnam or abroad.

Article 29 *Tax applicable to income from real property transfers*

Tax payable on a real property transfer in Vietnam by a non-resident individual shall be fixed as the transfer price multiplied by the tax rate of two per cent (2%).

Article 30 *Tax applicable to income being royalties and to income from franchises*

1. Tax payable on royalties of a non-resident individual shall be fixed as that part of the income which exceeds ten million (10,000,000) dong pursuant to each contract of transfer of an intellectual property object or of the right to use such intellectual property object or pursuant to each contract of technology transfer in Vietnam, multiplied by the tax rate of five per cent (5%).
2. Tax payable on income from a franchise of a non-resident individual shall be fixed as that part of the income which exceeds ten million (10,000,000) dong pursuant to each franchise contract in Vietnam, multiplied by the tax rate of five per cent (5%).

Article 31 *Tax applicable to income from winnings or prizes and from an inheritance or a gift*

1. Tax payable on winnings or a prize [or] from an inheritance or a gift of a non-resident individual shall be fixed as the taxable income as stipulated in clause 2 of this article multiplied by the tax rate of ten per cent (10%).
2. Taxable income from winnings or a prize of a non-resident individual means that part of the income which exceeds ten million (10,000,000) on each occasion of winning or receiving a prize in Vietnam; and [taxable] income from an inheritance or a gift means that part of the value of the assets inherited or received as a gift which exceeds ten million (10,000,000) dong on each occasion such income arises and which the non-resident individual receives in Vietnam.

Article 32 *Point of time for determining taxable income*

1. The point of time for determining taxable income in the case of income stipulated in article 25 shall be when the non-resident individual receives such income or when the sales invoice for the goods or provision of services was issued.
2. The point of time for determining taxable income in the case of income stipulated in articles 26, 27, 30 and 31 shall be when the income-paying entity in Vietnam pays such income to the non-resident individual, or when the non-resident individual receives such income from the income-paying entity abroad.
2. The point of time for determining taxable income in the case of income stipulated in articles 28 and 29 shall be when the contract of transfer takes effect.

Article 33 *Responsibilities of income paying entities and responsibilities of taxpayers being non-resident individuals*

1. Income-paying entities shall be responsible to deduct and pay tax into the State Budget each time it arises on taxable income items paid to taxpayers.
2. Taxpayers being non-resident individuals shall be responsible to declare and pay tax each time it arises on taxable income in accordance with the *Law on Tax Management*.

CHAPTER IV

Implementing Provisions

Article 34 *Effectiveness*

1. This Law shall be of full force and effect as from 1 January 2009.
2. The following are hereby repealed:
 - (a) Ordinance 35-2001-PL-UBTVQH10 on Income Tax of High Income Earners dated 19 May 2001 as amended by Ordinance 14-2004-PL-UBTVQH11 dated 24 March 2004.
 - (b) *The Law on Land Use Rights Transfer Tax* dated 22 June 1994 as amended by Law 17-1999-QH10 dated 21 December 1999.
 - (c) The provisions on corporate income tax applicable to individuals conducting production and business excluding private enterprises as stipulated in the *Law on Corporate Income Tax* No. 09-2003-QH11 dated 17 June 2003.
 - (d) Other provisions on personal income tax which are contrary to the provisions in this Law.
3. Items of income of individuals which are subject to tax incentives pursuant to legal instruments [effective] prior to the date of effectiveness of this law shall continue to enjoy such incentives.

Article 35 *Implementing guidelines*

The Government shall provide detailed regulations and guidelines for implementation of this Law.

This Law was passed by Legislature XII of the National Assembly of the Socialist Republic of Vietnam at its 2nd Session on 21 November 2007.

Chairman of the National Assembly

NGUYEN PHU TRONG

LAW 27 ON SPECIAL SALES TAX

Dated 4 November 2008
As amended 26 November 2014 and
As further amended 6 April 2016

CONTENTS

CHAPTER I	1
General Provisions	1
Article 1 <i>Governing scope</i>	1
Article 2 <i>Taxable objects</i>	1
Article 3 <i>Non-taxable objects</i>	2
Article 4 <i>Taxpayers</i>	3
CHAPTER II	3
Bases for Tax Assessment.....	3
Article 5 <i>Bases for tax assessment</i>	3
Article 6 <i>Taxable prices</i>	3
Article 7 <i>Tax rates</i>	4
SPECIAL SALES TAX TARIFF.....	4
CHAPTER III	6
Tax Refund, Tax Credit and Tax Reduction.....	6
Article 8 <i>Tax refund and tax credit</i>	6
Article 9 <i>Reduction of tax</i>	7
Article 10 <i>Effectiveness</i>	7
Article 11 <i>Implementing guidelines</i>	7

LAW ON SPECIAL SALES TAX

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by Resolution 51-2001-QH10;

The National Assembly hereby promulgates the *Law on Special Sales Tax*³.

CHAPTER I

General Provisions

Article 1 *Governing scope*

This Law regulates taxable objects, non-taxable objects, special sales taxpayers, the basis for assessing tax, tax refund, tax credit and reduction of special sales tax.

Article 2 *Taxable objects*

1. Goods:

- (a) Cigarettes, cigars and other products processed from tobacco and used to inhale, sniff, chew, smell or swallow.
- (b) Spirits.
- (c) Beer.
- (d) Passenger vehicles of less than 24 seats, including vehicles for carrying both passengers and cargo with two or more rows of seats, designed with a fixed partition between the passenger and cargo compartments.
- (dd) Two-wheel and three-wheel motor vehicles with cylinder capacity above 125cm³.
- (e) Aircraft and yachts.

¹ Allens footnote: As amended by Law 70 dated 26 November 2014 (effective 1 January 2016). All amendments are footnoted.
² Allens footnote: And as amended by Law 106 dated 6 April 2016 (effective 1 July 2016). The two amendments are footnoted (article 6, and item 4 in the article 7 Tariff).
³ Allens footnote: Also often referred to as the *Law on Special Consumption Tax*.

- (g)⁴ Various types of petrol.
- (h) Air-conditioners with a capacity of 90,000 BTU or less.
- (i) Playing cards.
- (k) Votive paper.

2. Services:

- (a) Business of operating dancehalls.
- (b) Business of operating massage lounges and karaoke parlours.
- (c) Business of operating casinos; and of operating electronic games with prizes including jackpot machines, slot machines and other similar types of machines.
- (d) Betting business.
- (dd) Golf business including selling membership cards and tickets to play golf.
- (e) Business of operating lotteries.

Article 3 *Non-taxable objects*

Goods prescribed in article 2.1 of this Law shall not be subject to special sales tax in the following cases:

- 1. Such goods are directly exported by the manufacturing or processing establishment, or are sold for export or another manufacturing establishment is authorized to sell them for export.
- 2. Such goods are imported in the following cases:
 - (a) Humanitarian aid or non-refundable aid; gifts to State bodies, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations and units of the people's armed forces; and presents or gifts to individuals in Vietnam within the limits stipulated in Government regulations.
 - (b) Goods transported from port to port, goods transported on roads which cross bordergates or borders of Vietnam, and goods in transit as stipulated in Government regulations.
 - (c) Temporary imports for re-export and temporary exports for re-import within the period when import or export duty is not payable pursuant to the law on import and export.
 - (d) Personal belongings of foreign organizations and individuals within the standards on diplomatic immunity status; goods carried within the limits of permitted duty-free baggage; and goods imported for duty-free sale pursuant to law.
- 3.⁵ Aircraft and yachts used for business purposes being transportation of cargo, passengers and tourists and aircraft used for purposes being national security and defence.

⁴ Allens footnote: As amended by Law 70.

⁵ Allens footnote: As amended by Law 70.

4. Ambulances; vehicles transporting prisoners; hearses; vehicles designed with both seating and standing room for 24 or more passengers; and vehicles operating in entertainment and sporting areas which are not registered for circulation and which do not enter road traffic.
5. Goods imported from abroad into a non-tariff zone, goods from within Vietnam sold to a non-tariff zone and only used within such zone, and goods purchased and sold as between non-tariff zones, except for passenger vehicles of less than 24 seats.

Article 4 *Taxpayers*

Special sales taxpayers shall be organizations and individuals engaged in manufacturing and importing special sales taxable goods and conducting business in special sales taxable services.

If any organization or individual engaged in export business purchases special sales taxable goods from the manufacturing establishment in order to export them but instead of exporting them uses them in Vietnam, then such organization or individual engaged in export business shall be deemed to be a special sales taxpayer.

CHAPTER II

Bases for Tax Assessment

Article 5 *Bases for tax assessment*

The basis for assessing special sales tax shall be the taxable price of the goods or services subject to special sales tax. The amount of special sales tax payable shall equal the special sales taxable price multiplied by the special sales tax rate.

Article 6⁶ *Taxable prices*

The special sales taxable price of goods and services shall be the selling price or the service supply price without special sales tax, without environmental protection tax and without value added tax, and shall be regulated as follows:

- 1.⁷ In the case of domestically manufactured goods and imported goods, [the SST taxable price] shall be the selling price of the manufacturing or importing establishment.
If the goods subject to SST are sold to a commercial business establishment in the relationship of parent-subsidiary company with the seller, or in the relationship of another subsidiary company of the same parent of the manufacturing or importing establishment, or if the commercial business establishment has an associated relationship with the seller, then the SST taxable price shall not be less than a percentage (%) compared to [of] the average price at which commercial business establishments purchase directly from the manufacturing or importing establishment which sells to them in accordance with Government regulations.
2. In the case of imported goods at the import stage [the SST taxable price shall be] the price used for calculating import duties plus the import duty. If imported goods are subject to exemption or reduction

⁶ Allens footnote: The first paragraph is as amended by Law 70. Law 71 dated 26 November 2014 also repealed "items in provisions on conversion of exchange rates when determining turnover, expenses, taxable prices, assessable income, taxable income and taxes payable to the State budget in article 6 of this *Law on SST*."

⁷ Allens footnote: Clauses 1 and 2 are as amended by Law 106 dated 6 April 2016.

of import duty, then their taxable price shall exclude the amount of exempt or reduced import duty. In the case of imported goods subject to SST, the amount of SST paid at the import stage shall be credited when determining the amount of SST payable when the goods are sold.

3. In the case of processed goods, the taxable price of goods sold by the establishment which ordered the processing or the selling price of goods of the same or equivalent type at the time of sale.
4. In the case of goods sold on payment by instalment or with deferred payment, the selling price of such goods as if sold on a lump sum payment excluding interest on instalments or deferred payment.
5. In the case of services, the service supply price by the business establishment. Service supply price shall be regulated in a number of cases as follows:
 - (a) In the case of golf business, the selling price of membership cards [and] the selling price of tickets to play golf including both monetary fees to play golf and any deposit.
 - (b) In the case of casinos, electronic games with prizes and betting business, turnover from such operation excluding prize-money paid to customers.
 - (c) In the case of dancehalls, massage lounges and karaoke, turnover from the business operation of such dancehall, massage lounge or karaoke.
6. In the case of goods and services used for the purposes of exchange or internal consumption or as gifts, the price used for assessing special sales tax of such goods and services of the same or equivalent type at the time such activity arises.

The special sales taxable price of the goods and services prescribed in this article shall include any additional charges which the business establishment is permitted to collect.

The special sales taxable price shall be calculated in Vietnamese dong. When taxpayers have turnover in foreign currency they must it into Vietnamese dong at the average trading exchange rate on the inter-bank foreign currency market as published by the State Bank of Vietnam at the time when such turnover arises, for the purpose of determining the special sales taxable price.

The Government shall provide detailed regulations for implementation of this article.

Article 7⁸ *Tax rates*

Special sales tax rates shall apply to goods and services in accordance with the following Special Sales Tax Tariff:

SPECIAL SALES TAX TARIFF

No.	Goods and Services	Tax Rate (%)
I.	Goods:	
1.	Cigarettes, cigars and other products processed from tobacco	
	From 1 January 2016 up until the end of 31 December 2018	70

⁸ Allens footnote: As amended by Law 70. Item 4 is as amended by Law 106 dated 6 April 2016.

	From 1 January 2019	75
2.	Spirits	
	(a) Spirits from 20° or above	
	From 1 January 2016 until the end of 31 December 2016	55
	From 1 January 2017 until the end of 31 December 2017	60
	From 1 January 2018	65
	(b) Spirits below 20°	
	From 1 January 2016 until the end of 31 December 2017	30
	From 1 January 2018	35
3.	Beer	
	From 1 January 2016 until the end of 31 December 2016	55
	From 1 January 2017 until the end of 31 December 2017	60
	From 1 January 2018	65
4.	Vehicles of less than 24 seats:	
	(a) Passenger vehicles of 9 or less seats except for 4(dd), 4(e) and 4(g) in this Tariff:	
	- Type with cylinder capacity of 1,500cm³ or less:	
	+ From 1/07/2016 to the end of 31/12/2017	40
	+ From 1/01/2018	35
	- Type with cylinder capacity above 1,500cm³ up to 2,000cm³	
	+ From 1/07/2016 to the end of 31/12/2017	45
	+ From 1/01/2018	40
	- Type with cylinder capacity above 2,000cm³ up to 2,500cm³	50
	- Type with cylinder capacity above 2,500cm³ up to 3,000cm³	
	+ From 1/07/2016 to the end of 31/12/2017	55
	+ From 1/01/2018	60
	- Type with cylinder capacity above 3,000cm³ up to 4,000cm³	90
	- Type with cylinder capacity above 4,000cm³ up to 5,000cm³	110
	- Type with cylinder capacity above 5,000cm³ up to 6,000cm³	130
	- Type with cylinder capacity above 6,000cm³	150
	(b) Passenger vehicles of 10 to less than 16 seats except for 4(dd), 4(e) and 4(g) in this Tariff;	15
	(c) Passenger vehicles of 16 to less than 24 seats except for 4(dd), 4(e) and 4(g) in this Tariff;	10
	(d) Passenger vehicles carrying both passengers and cargo except for 4(dd), 4(e) and 4(g) in this Tariff:	
	- Type with cylinder capacity up to 2,000cm³	15
	- Type with cylinder capacity above 2,500cm³ up to 3,000cm³	20
	- Type with cylinder capacity above 3,000cm³	25
	(dd) Vehicles run on petrol combined with electrical power [or] bio-energy, in which the density of petrol used does not exceed 70% of the energy used	70% of the rate applicable to a vehicle of the same type as stipulated in sub-clauses 4(a), 4(b), 4(c) and 4(d).

	(e) Vehicles run on bio-energy	50% of the rate applicable to a vehicle of the same type as stipulated in sub-clauses 4(a), 4(b), 4(c) and 4(d).
	(g) Vehicles run on electrical power:	
	Passenger vehicles of 9 or less seats	15
	Passenger vehicles of 10 to less than 16 seats	10
	Passenger vehicles of 16 to less than 24 seats	5
	Vehicles designed to carry both passengers and cargo	10
	(h) Motorhome vehicles, irrespective of their cylinder capacity:	
	+ From 1/07/2016 to the end of 31/12/2017	70
	+ From 1/01/2018	75
5.	Two-wheel and three-wheel motor vehicles with cylinder capacity above 125cm ³	20
6.	Aircraft	30
7.	Yachts	30
8.	Various types of petrol	
	(a) Petrol	10
	(b) E5 Petrol	8
	(c) E10 Petrol	7
9.	Air-conditioners with a capacity of 90,000 BTU or less	10
10.	Playing cards	40
11.	Votive paper	70
II.	Services:	
1.	Business of operating dancehalls	40
2.	Massage and karaoke business	30
3.	Business of operating casinos and electronic games with prizes	35
4.	Betting business	30
5.	Golf business	20
6.	Business of operating lotteries	15

CHAPTER III

Tax Refund, Tax Credit and Tax Reduction

Article 8 *Tax refund and tax credit*

1. Special sales taxpayers shall be refunded special sales tax already paid in the following cases:
 - (a) Their goods are temporarily imported for re-export;
 - (b) Their goods are raw materials imported to manufacture or process goods for export;
 - (c) They are found to have paid tax in excess upon tax finalization in the case of merger, consolidation, division, demerger, dissolution, bankruptcy, conversion of ownership or enterprise form, or termination of operation;

- (d) There is a decision on tax refund issued by an authorized body in accordance with law, or they are entitled to tax refund pursuant to an international treaty of which Vietnam is a member.

A tax refund pursuant to sub-clauses (a) or (b) above shall only be granted for goods actually exported.

2. Taxpayers being manufacturers of goods subject to special sales tax and manufactured from raw materials on which special sales tax has already been paid shall, if they have legal vouchers, be entitled to a credit of such tax already paid on the raw materials when fixing the amount of special sales tax payable at the manufacturing stage.

The Government shall provide detailed regulations for implementation of this article.

Article 9 *Reduction of tax*

Any establishment manufacturing goods subject to special sales tax which meets difficulties due to a natural disaster or unexpected accident shall be entitled to a reduction of tax.

The amount of the reduction shall be fixed on the basis of the actual loss and damage caused by the natural disaster or unexpected accident, but shall not exceed thirty per cent (30%) of the amount of tax payable in the year in which the loss and damage was suffered and shall not exceed the value of the lost or damaged assets after any compensation was paid.

CHAPTER IV

Implementing Provisions

Article 10 *Effectiveness*

1. This Law shall be of full force and effect as from 1 April 2009. The provisions on spirits and beer shall be of full force and effect as from 1 January 2010.
2. This Law hereby repeals the following legal instruments: *Law 05 on Special Sales Tax 1998*; *Law 08 on Amendments to the Law on Special Sales Tax 2003*; and article 1 of *Law 57 on Amendments to the Law on Special Sales Tax and the Law on Value Added Tax 2005* except for the provisions on spirits and beer which shall continue to be effective until the end of 31 December 2009.

Article 11 *Implementing guidelines*

The Government shall provide detailed regulations for implementation of the articles as assigned, and shall provide guidelines on other necessary contents of this Law for purposes of State administration.

This Law was passed by Legislature XII of the National Assembly of the Socialist Republic of Vietnam at its 4th Session on 14 November 2008.

Chairman of the National Assembly
NGUYEN PHU TRONG

[26 November 2014]¹

LAW AMENDING A NUMBER OF ARTICLES IN TAX LAWS

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly hereby promulgates a Law amending a number of articles of Law 14-2008-QH12 on Corporate Income Tax as amended by Law 32-2013-QH13; Law 04-2007-QH12 on Personal Income Tax as amended by Law 26-2012-QH13; Law 13-2008-QH12 on Value Added Tax as amended by Law 31-2013-QH13; Law 27-2008-QH12 on Special Sales Tax; Law 45-2009-QH12 on Royalties [Natural Resources Tax]; Law 78-2006-QH11 on Tax Management as amended by Law 21-2013-QH13; Law 45-2005-QH11 on Import and Export Duty; and Law 54-2013-QH13 on Customs.

Article 1 *Amendments and additions to Law 14-2008-QH12 on Corporate Income Tax ["CIT"] as amended by Law 32-2013-QH13*

1. To amend article 3.2 as follows:

"2. Other taxable income comprises income from capital transfers, and transfers of the right to contribute to capital; from real property transfers, from transfers of investment projects, from transfers of the right to participate in investment projects, and from transfers of the right to explore, mine and process minerals; income from the ownership of or right to use assets, including income from intellectual property rights in accordance with law; income from transfer, leasing out or liquidation of assets including valuable papers; income being interest on deposits, loans or sales of foreign currency; income earned from bad debts which were written-off and are now recoverable; income being debts payable to unidentifiable creditors; income from business omitted in previous years, and other income.

When a Vietnamese enterprise which has invested offshore remits back to Vietnam that part of its income on which it has already paid CIT offshore and Vietnam has signed a Double Taxation Avoidance Agreement with such offshore country, then the provisions of such Agreement shall apply; if Vietnam has not signed such an Agreement with such country whose CIT rate is lower [than Vietnam's], then the payable amount of CIT is the difference between such [lower] tax rate and the tax rate prescribed in the *Law on CIT* of Vietnam."

2. To amend article 4.1 as follows:

"1. Income earned by co-operatives from cultivation [growing crops], husbandry [livestock breeding], agricultural and aquaculture processing, and salt production; and income earned by co-operatives from activities in the sectors of agriculture, forestry, fisheries and salt production in geographical areas with difficult or specially difficult socio-economic conditions; income earned by enterprises from cultivation, husbandry, and agricultural and aquaculture processing in geographical areas with

¹ Allens footnote: Square brackets contain translator's comments only.

specially difficult socio-economic conditions, and income earned from fisheries and aquaculture activities."

3. To amend and add to article 9.1(a) as follows:

"(a) The expense actually arose and relates to the activities of production [and/or] business of the enterprise; the expense was for occupational education; [or] the expense was incurred when carrying out a task of national defence and security by the enterprise in accordance with law;"

4. To repeal article 9.2(m).

5. To add the following sub-clauses (dd) and (e) at the end of article 13.1:

"(dd) Income of enterprises from implementing new investment projects for manufacture of a product on the List of supporting industrial products for which development is prioritized [and which product] satisfies one of the following criteria:

- It is an industrial product which supports high-tech as defined in the *Law on High-Tech*;
- It is an industrial product which supports the manufacture of products in the following industries namely garments and textiles; leather products and footwear; electronics and informatics; automobile production and assembly; and engineering manufacture [and being] a product which, as at 1 January 2015, is unable to be produced domestically or is able to be produced domestically but is required to satisfy technical specifications of the European Union or equivalent specifications;

The Government regulates the List of supporting industrial products for which development is prioritized as prescribed in this clause.

(e) Income of enterprises from implementing investment projects in the manufacturing sector (except for manufacture of lines of goods subject to special sales tax and except for mineral exploitation [mining] projects) with a minimum investment capital of 12,000 billion VND and using technology which must be evaluated in accordance with the *Law on High-Tech* [and/or] the *Law on Science and Technology*, and drawing down total registered investment capital no later than five (5) years after the date of investment licensing in accordance with the law on investment."

6. To amend and add to article 13.2(d) as follows:

"(d) Income of enterprises from planting, caring for and protecting forests; from agricultural and aquaculture cultivation and processing in geographical areas with difficult socio-economic conditions; from cultivation of forestry products in geographical areas with difficult socio-economic conditions; from producing, multiplying and hybridizing crop seeds and livestock breeds; from producing, exploiting and refining salt except for salt production prescribed in article 4.1; and from investment in preservation of post-harvest agricultural products and preservation of agricultural, aquaculture and food products;"

7. To add the following sub-clause 3a at the end of article 13.3:

"3a. The tax rate of 15% applies to income of enterprises from cultivation, husbandry and processing in agricultural and aquaculture sectors not located in geographical areas with difficult or specially difficult socio-economic conditions."

8. To amend and add to article 13.5 as follows:

"5. Extension of the duration of applicability of preferential tax rates is regulated as follows:

- (a) The duration of applicability of preferential tax rates may be extended for large scale and high-tech projects which particularly need to attract investment, but the duration of such extension shall not exceed fifteen (15) years;
- (b) A project prescribed in clause 1(e) of this article must satisfy one of the following criteria:
 - It manufactures products and goods capable of being competitive on a worldwide basis, and has turnover above 20,000 billion dong per year no later than five years after the first occasion on which the investment project has turnover;
 - It employs more than 6,000 employees on a regular basis;
 - The investment project is in the eco-technical infrastructure sector, comprising investment in development of a water plant, power plant, water supply or discharge system; a bridge, road or railway; an airport, sea port or river port; an airport terminal or railway station; new energy or clean [renewable] energy; an energy saving industry; or an oil refining project.

The Prime Minister shall make a decision on extending the duration of applicability of preferential tax rates as prescribed in this clause but the duration of an extension shall not exceed fifteen (15) years."

9. To amend and add to article 2.3 of *Law 32-2013-QH13* as follows:

"3. [Regarding] an enterprise with an investment project entitled to CIT incentives pursuant to the provisions of the law on CIT as at the time of issuance of its licence or investment certificate in accordance with the law on investment. If the law on CIT changes and the enterprise satisfies the conditions for tax incentives prescribed in the newly amended law, then the enterprise has the right to choose the incentives in terms of tax rate period of tax exemption or reduction in accordance with law at the time of such licensing or as prescribed in the new amendment for the residual duration as from the time when the new law takes effect.

If as at the end of the 2015 tax assessment year an enterprise has an investment project currently entitled to the CIT incentive rate of 20% as prescribed in article 13.3 of *Law 14-2008-QH12* as amended by *Law 32-2013-QH13*, then as from 1 January 2016 it shall be entitled to the tax rate of 17% for the residual term."

Article 2 *Amendments and additions to Law 04-2007-QH11 on Personal Income Tax as amended by Law 26-2012-QH13*

1. To amend and add to article 3.1 as follows:

"1. Business income, comprising:

- (a) Income from activities of production and business in goods and services;
- (b) Income from independent professional activities of individuals with a licence or practising certificate pursuant to law.

Business income prescribed in this clause does not include income of a business individual with a turnover of 100 million or less dong per year."

2. To amend article 3.6(c) as follows:

"(c) [Income being] winnings from all forms of betting."

3. To add clauses 15 and 16 to article 4 as follows:

"15. Income being salary and wages of Vietnamese crew working for foreign shipping firms or Vietnamese shipping firms engaged in international carriage.

16. Income of individuals being ship owners, of individuals having the ship use right, and of individuals working on ships from the supply of goods and services directly serving deep-sea aquaculture and fisheries activities."

4. To amend article 10 as follows:

"Article 10 *Tax applicable to business individuals*

1. Business individuals shall pay personal income tax as a ratio of turnover applicable to each sector or line of production or business.

2. *Turnover* means the entire monetary receipts from sale of goods, processing fees, commission, and providing services and arising within the tax assessment period from activities of production and business in goods and services.

If a business individual is unable to determine his or her turnover, then the competent tax agency shall fix the amount of turnover in accordance with the law on tax management.

3. Tax rates:

(a) Distribution and supply of goods: zero point five per cent (5%);

(b) Services and construction where the tender did not include supply of raw materials: two per cent (2%);

In the case of leasing out assets, insurance agency, lotteries agency, and multi-level sales agency: five per cent (5%);

(c) Production, transportation, services attached to goods, and construction where the tender included supply of raw materials: one point five per cent (1.5%);

(d) Other business activities: one per cent (1%)".

5. To amend article 13 as follows:

"Article 13 *Taxable income from capital transfers*

1. Taxable income from a capital transfer shall be determined [fixed] as equal to the selling price, less the purchase price and reasonable expenses related to creation of income from such transfer.

Applicable to transfers of securities, taxable income shall be fixed as the price of the transfer on each occasion.

2. The time for fixing taxable income from a capital transfer shall be the time when the transfer transaction was completed as stipulated by law.

The Government shall provide detailed regulations and guidelines for implementation of this article".

6. To amend article 14 as follows:

"Article 14 *Taxable income from real property transfers*

1. Taxable income from a real property transfer shall be fixed as the price of the transfer on each occasion.
2. The Government shall issue regulations on the principles and methods for fixing the transfer price of real property.
3. The time for determination of taxable income from a real property transfer is the time at which the contract or transfer takes effect pursuant to law."

7. To amend and add to article 23.2 as follows:

"2. The scale of tariff on total income is as follows:

Assessable Income	Tax Rate (%)
(a) Income from capital investments	5
(b) Income from royalties and franchises	5
(c) Income from winnings and prizes	10
(d) Income from inheritances and gifts	10
(dd) Income from capital transfers stipulated in article 13.1	20
Income from real property transfers stipulated in article 13.1	0.1
(e) Income from real property transfers	2

Article 3 *Amendments and additions to Law 13-2008-QH11 on Value Added Tax as amended by Law 31-2013-QH13*

1. To add clause 3(a) after article 5.3 as follows:

"3(a) Fertilizers; specialized machinery and equipment servicing agricultural production; deep-sea fishing vessels; and feed for cattle, poultry and other livestock".

2. To amend article 8.2(b) as follows:

"(b) Ore used for production of fertilizers; pesticides and growth stimulants for livestock and crops;"

3. To repeal sub-clauses (c) and (k) of article 8.2(b).

Article 4 *Amendments and additions to Law 45-2009-QH12 on Royalties [Natural Resources Tax]*

1. To amend article 2.7 as follows:

"7. Natural water, comprising surface and underground water; excluding natural water used for agriculture, aquaculture [fisheries] and salt production".

2. To amend article 9.5 as follows:

"5. Natural water exploited by family households and individuals for their daily living requirements is exempt from royalties".

Article 5 *Amendments and additions to Law 78-2006-QH11 on Tax Management as amended by Law 21-2012-QH13*

1. To amend and add to clauses 1, 1a and 6 of article 31 as follows:

"1. The tax declaration file for the various types of taxes which are declared and paid monthly is the monthly tax declaration.

1(a) The tax declaration file for taxes which are declared and paid monthly is the monthly tax declaration.

6. The Government shall stipulate what taxes are subject to monthly, quarterly or annual declaration, quarterly provisional tax declaration, declaration upon a tax obligation arising, or tax finalization declaration; and the criteria to determine which taxpayers make quarterly tax declarations and the tax declaration files applicable to each specific case".

2. To amend and add to article 43 as follows:

"Article 43 *Currency for determining turnover, expenses, taxable prices and the amount of taxes to be paid to the State budget*

Taxpayers shall determine their turnover, expenses, taxable prices and amount of tax to be paid to the State budget in Vietnamese dong, except for a tax payment in a foreign currency pursuant to Government regulations. If any turnover, expense or taxable price arises in a foreign currency or if the taxpayer is obliged [required by law] to make a payment in foreign currency but the competent State agency has permitted payment of the tax in Vietnamese dong, then such amount must be converted into Vietnamese dong at the actual trading exchange rate at the time such item arises.

The Government shall provide detailed regulations and guidelines for implementation of this article".

3. To add a new clause 11 to article 7 as follows:

"11. Depending on the actual situation and the information technology available, the Government shall issue detailed regulations on the non-necessity for taxpayers to lodge source vouchers in their tax declaration files, tax payment files or tax refund and other tax files when the State authority concerned already has such source vouchers."

4. To amend and add to article 106.1 as follows:

"1. Any taxpayer making a late payment of tax in comparison with the stipulated period [deadline] or extended period for tax payment, or the deadline stated in a notice of the tax management agency or in a decision [dealing with a breach] of the tax management agency, must pay in full the amount of tax payable plus a late payment charge at the rate of 0.05% per day calculated on the amount of the tax debt [overdue tax].

If the taxpayer supplied goods or services for which the State budget funds payment but the payment has not yet been made and accordingly the taxpayer was unable to make due payment of taxes resulting in a tax debt, then the taxpayer is not required to pay a late payment charge calculated on the amount of the tax debt not exceeding the amount of money unpaid by the State budget and arising within the period during which the State budget has not yet made payment".

Article 6 *Implementing provision*

1. This Law shall be of full force and effect as from 1 January 2015.

2. The items in provisions on conversion of exchange rates when determining turnover, expenses, taxable prices, assessable income, taxable income and taxes payable to the State budget in the following articles are hereby repealed:
 - (a) Articles 8 and 9.3 of *Law 14-2008-QH12 on Corporate Income Tax as amended by Law 32-2013-QH13*;
 - (b) Article 6.1 of *Law 04-2007-QH11 on Personal Income Tax as amended by Law 26-2012-QH13*;
 - (c) Article 7.3 of *Law 13-2008-QH11 on Value Added Tax as amended by Law 31-2013-QH13*;
 - (d) Article 6 of *Law 27-2008-QH12 on Special Sales Tax*;
 - (dd) Articles 9.3 and 14 of *Law 45-2005-QH11 on Import and Export Duty*;
 - (e) Article 86.4 of *Law 54-2013-QH13 on Customs*.
3. Article 49.1(c) of *Law 78-2006-QH11 on Tax Management as amended by Law 21-2012-QH13* is hereby repealed.
4. The provisions relevant to determination of tax payable by business individuals in articles 19.1, 20.1 and 21.1 of *Law 04-2007-QH11 on Personal Income Tax as amended by Law 26-2012-QH13* are hereby repealed.
5. The Government shall issue detailed regulations for implementation of this Law.

This Law was passed by Legislature XIII of the National Assembly of the Socialist Republic of Vietnam in its 8th session on 26 November 2014.

CHAIRMAN OF THE NATIONAL ASSEMBLY
Nguyen Sinh Hung

LAW

AMENDING THE LAW ON VALUE ADDED TAX, LAW ON SPECIAL SALES TAX, AND LAW ON TAX MANAGEMENT

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly hereby promulgates a Law amending *Law 13 on Value Added Tax* of 2008 (as amended by Law 31 of 2013), *Law 27 on Special Sales Tax* of 2008 (as amended by Law 70 of 2014), and *Law 78 on Tax Management* of 2006 (as amended by Law 71 of 2014).

Article 1

To amend and add to a number of articles of Law 13 on Value Added Tax [VAT] as amended by Law 31 of 2013:

1 *To amend clauses 1, 9 and 23 of article 5 as follows:*

[Good and services not subject to VAT:]

- "1. Products of cultivation, husbandry, aquaculture, seafood and fisheries which have not been processed into other products or which have only been subject to conventional preliminary treatment by the organizations and individuals producing, catching or selling them and/or at the import stage;

An enterprise or co-operative which purchases products of cultivation, husbandry, aquaculture, seafood and fisheries which have not been processed into other products or which have only been subject to conventional preliminary treatment and then sells them to another enterprise or co-operative is not required to declare and pay VAT but [and] is entitled to a credit of input VAT.
9. Medical health services and veterinary services including medical examination and treatment and disease prevention for humans and for animals; and services of caring for seniors and disabled people.
23. Export products being exploited natural resources and [mined] minerals which have not been processed into other products and export products being goods which have been processed from natural resources and minerals with a total value of natural resources or minerals plus energy expenses accounting for 51% of the cost price of the product."

2 *To amend clause 1(g) of Article 8 as follows:*

[Tax rates: The tax rate of zero (0) per cent applies to exported goods and services, international transportation, and to goods and services which are not subject to VAT in accordance with article 5 of this Law, except for the following:]

"(g) Exported products as stipulated in article 5.23 of this Law.

Exported goods and services being goods and services consumed outside Vietnam [or] in non-tariff zones; and goods and services supplied to foreign customers in accordance with Government regulations."

3 *To amend clauses 1 and 2 of article 13 as follows:*

[Cases in which VAT will be refunded:]

- "1. Any business establishment paying VAT in accordance with the tax credit method and which has [creditable] input VAT which has not been fully credited in a month or quarter is entitled to a credit in the following period.

Any business establishment which has registered to pay VAT in accordance with the tax credit method, which has a new investment project and is in the investment phase, and which has VAT on goods and services purchased for use in the investment which has not yet been credited and the remaining amount of tax is three hundred (300) million dong or more, is entitled to a VAT refund.

A business establishment is not entitled to a VAT refund but is permitted to carry forward the amount not yet credited of the investment project in accordance with the law on investment to the next period in the following cases:

- An investment project of a business establishment which has not yet contributed the full amount of charter capital as registered; a business in a conditional industry or trade when all conditions as prescribed in the *Law on Investment* have not been satisfied or have not been maintained during the operational process;
- An investment project for exploitation of natural resources or for mining minerals which is licensed on or after 1 July 2016 or an investment project for the manufacture of products and goods with the total value of natural resources or minerals plus energy expenses accounting for 51% or more of the cost price of the product in accordance with the investment project.

The Government shall provide detailed regulations on this clause.

2. Any business establishment which within one month or quarter has exported goods and services and input VAT which has not yet been fully credited of three hundred (300) million dong or more, is entitled to a VAT refund for the month or quarter, except for goods imported for export or exported goods which are not exported within the geographical area of customs operations as prescribed in the *Law on Customs*. A refund shall be made on the principle of refund first and check after, in the case of a taxpayer manufacturing export goods who has not committed a breach of the law on tax and customs for a two (2) year consecutive period; and in the case of a taxpayer not within the high risk category as prescribed in the *Law on Tax Management*."

Article 2

To amend and add to a number of articles of Law 27 on Special Sales Tax [SST] as amended by Law 70 of 2014:

1 To amend and add to clauses 1 and 2 of article 6 as follows:

[SST taxable prices shall be:]

- "1. In the case of domestically manufactured goods and imported goods, [the SST taxable price] shall be the selling price of the manufacturing or importing establishment.

If the goods subject to SST are sold to a commercial business establishment in the relationship of parent-subsidiary company with the seller, or in the relationship of another subsidiary company of the same parent of the manufacturing or importing establishment, or if the commercial business establishment has an associated relationship with the seller, then the SST taxable price shall not be less than a percentage (%) compared to [of] the average price at which commercial business establishments purchase directly from the manufacturing or importing establishment which sells to them in accordance with Government regulations.

2. In the case of imported goods at the import stage [the SST taxable price shall be] the price used for calculating import duties plus the import duty. If imported goods are subject to exemption or reduction of import duty, then their taxable price shall exclude the amount of exempt or reduced import duty. In the case of imported goods subject to SST, the amount of SST paid at the import stage shall be credited when determining the amount of SST payable when the goods are sold."

2 To amend item 4 in the Special Sales Tax Tariff set out in article 7 as follows:

No.	Goods and Services	Amended Tax Rate (%)
4.	Vehicles of less than 24 seats:	
	(a) Passenger vehicles of 9 or less seats except for 4(dd), 4(e) and 4(g) in this Tariff:	
	- Type with cylinder capacity of 1,500cm³ or less:	
	+ From 1/07/2016 to the end of 31/12/2017	40
	+ From 1/01/2018	35
	- Type with cylinder capacity above 1,500cm³ up to 2,000cm³	
	+ From 1/07/2016 to the end of 31/12/2017	45
	+ From 1/01/2018	40
	- Type with cylinder capacity above 2,000cm³ up to 2,500cm³	50
	- Type with cylinder capacity above 2,500cm³ up to 3,000cm³	
	+ From 1/07/2016 to the end of 31/12/2017	55
	+ From 1/01/2018	60
	- Type with cylinder capacity above 3,000cm³ up to 4,000cm³	90
	- Type with cylinder capacity above 4,000cm³ up to 5,000cm³	110
	- Type with cylinder capacity above 5,000cm³ up to 6,000cm³	130
	- Type with cylinder capacity above 6,000cm³	150
	(b) Passenger vehicles of 10 to less than 16 seats except for 4(dd), 4(e) and 4(g) in this Tariff;	15
	(c) Passenger vehicles of 16 to less than 24 seats except for 4(dd), 4(e) and 4(g) in this Tariff;	10

No.	Goods and Services	Amended Tax Rate (%)
	(d) Passenger vehicles carrying both passengers and cargo except for 4(dd), 4(e) and 4(g) in this Tariff:	
	- Type with cylinder capacity up to 2,000cm³	15
	- Type with cylinder capacity above 2,500cm³ up to 3,000cm³	20
	- Type with cylinder capacity above 3,000cm³	25
	(dd) Vehicles run on petrol combined with electrical power [or] bio-energy, in which the density of petrol used does not exceed 70% of the energy used	70% of the rate applicable to a vehicle of the same type as stipulated in sub-clauses 4(a), 4(b), 4(c) and 4(d).
	(e) Vehicles run on bio-energy	50% of the rate applicable to a vehicle of the same type as stipulated in sub-clauses 4(a), 4(b), 4(c) and 4(d).
	(g) Vehicles run on electrical power:	
	Passenger vehicles of 9 or less seats	15
	Passenger vehicles of 10 to less than 16 seats	10
	Passenger vehicles of 16 to less than 24 seats	5
	Vehicles designed to carry both passengers and cargo	10
	(h) Motorhome vehicles, irrespective of their cylinder capacity:	
	+ From 1/07/2016 to the end of 31/12/2017	70
	+ From 1/01/2018	75

Article 3

To amend and add to a number of articles of Law 78 on Tax Management of 2006 (as amended by Law 71 of 2014):

1 *To amend and add to article 61 as follows:*

[Tax exemption and reduction]

"1. Tax management agencies shall grant tax exemption or reduction to the cases eligible for tax exemption or reduction as stipulated in legal instruments on tax, and shall grant tax exemption for family households and individuals with non-agricultural land use tax payable annually of fifty thousand (50,000) dong or less."

2 *To amend and add to article 92.4 as follows:*

[Tax exemption and reduction]

"4. [Administrative tax decisions] shall not be compulsorily enforced where a taxpayer is permitted by the tax management agency to pay the amount of tax debt in instalments within a time-limit not exceeding 12 months from the first day of the tax enforcement time-limit. The payment of tax debt in instalments shall be considered based on the request of the taxpayer and must be guaranteed by a credit institution. The taxpayer must pay a late payment charge of 0.03% per day calculated on the amount of late tax payment".

3 *To amend and add to article 106.1 as follows:*

[Dealing with late payment of tax]

"1. Any taxpayer making a late payment of tax in comparison with the stipulated deadline or extended deadline, or with the deadline prescribed in a notice of the tax management agency or the deadline prescribed in a decision of the tax management agency dealing with a breach, must pay the amount of tax payable in full plus a late payment charge of 0.03% per day calculated on the amount of late tax payment.

Tax debts which arose prior to 1 July 2016 and which the taxpayer has not yet paid to the [State] budget, including tax arrears collectable as the result of an inspection by the tax management agency, shall be carried forward and the rate of late payment charge prescribed in this provision shall apply as from 1 July 2016.

In the case of a taxpayer supplying goods and services for which the State budget [is liable] to pay but for which payment has not yet been made and therefore the taxpayer is unable to pay tax on time resulting in a tax debt, such taxpayer is not required to pay a late payment charge calculated on the amount of such tax debt but not exceeding the amount which the State budget has not yet paid arising within the period of time for which such budget has not yet paid."

3 Article 42.3 [time-limit for duty payment on import and export goods] is hereby repealed.

Article 4 *Implementing provision*

1 This Law is of full force and effect as from 1 July 2016, except for clause 2 below.

2 Article 3.4 of this Law shall be of full force and effect as from 1 September 2016.

3 The Government shall issue detailed regulations on the articles assigned in this Law.

This Law was passed by Legislature XIII of the National Assembly of the Socialist Republic of Vietnam at its 11th session on 6 April 2016

Chairman of the National Assembly

NGUYEN THI KIM NGAN

LAW ON VALUE ADDED TAX

TABLE OF CONTENTS

CHAPTER I	1
GENERAL PROVISIONS.....	1
Article 1 <i>Governing scope</i>	<i>1</i>
Article 2 <i>Value added tax.....</i>	<i>1</i>
Article 3 <i>Taxable objects.....</i>	<i>1</i>
Article 4 <i>Taxpayers.....</i>	<i>1</i>
Article 5 <i>Non-taxable objects</i>	<i>2</i>
CHAPTER II	4
BASES FOR AND METHODS OF TAX CALCULATION.....	4
Article 6 <i>Bases for tax calculation</i>	<i>4</i>
Article 7 <i>Taxable prices.....</i>	<i>4</i>
Article 8 <i>Tax rates.....</i>	<i>5</i>
Article 9 <i>Method of calculating tax.....</i>	<i>6</i>
Article 10 <i>Tax credit method.....</i>	<i>6</i>
Article 11 <i>Calculation of tax directly on the basis of added value.....</i>	<i>7</i>
CHAPTER III	7
TAX CREDIT AND TAX REFUND.....	7
Article 12 <i>Credit of input value added tax.....</i>	<i>7</i>
Article 13 <i>Cases in which tax shall be refunded.....</i>	<i>8</i>
Article 14 <i>Invoices and source documents.....</i>	<i>9</i>
CHAPTER IV.....	9
IMPLEMENTING PROVISIONS.....	9
Article 15 <i>Effectiveness.....</i>	<i>9</i>
Article 16 <i>Implementing guidelines.....</i>	<i>9</i>

**LAW
ON
VALUE ADDED TAX**

**National Assembly of the
Socialist Republic of Vietnam
Legislature XII, 3rd Session
(May 2008)**

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by Resolution 51-2001-QH10;

The National Assembly hereby promulgates the *Law on Value Added Tax*.

CHAPTER I

General Provisions

Article 1 *Governing scope*

This Law regulates taxable objects, non-taxable objects, taxpayers, the basis for and method of calculating tax, tax credit and refund of value added tax.

Article 2 *Value added tax*

Value added tax means tax imposed on the added value of goods or services arising during the process from manufacture and circulation up to consumption.

Article 3 *Taxable objects*

Goods and services used for manufacturing, business and consumption in Vietnam shall be the objects subject to value added tax, except for the objects stipulated in article 5 of this Law.

Article 4 *Taxpayers*

Value added taxpayers shall be organizations and individuals engaging in manufacturing and conducting business in value added taxable goods and services (hereinafter all referred to as *business establishments*) and organizations and individuals importing value added taxable goods (hereinafter all referred to as *importers*).

Article 5 *Non-taxable objects*

[The following goods and services shall not be subject to value added tax:]

1. Products of cultivation, husbandry, aquaculture, seafood and fisheries which have not yet been processed into other products or which have only been subject to conventional preliminary treatment by organizations and individuals in the stages of production, catching, sale and import.
2. Products being animal breeding stock and plant varieties including breeding eggs, young animals, seedlings, seeds, sperm, embryos and genetic materials.
3. Water supply and drainage; ploughing and harrowing land; dredging canals and ditches inside fields for agricultural production; services being harvesting agricultural products.
4. Salt products produced from seawater or natural salt mines; pure salt and iodine salt.
5. State owned residential houses sold by the State to existing tenants.
6. Transfer of land use rights.
7. Life insurance, student insurance, insurance of domestic animals and plants varieties, crop insurance and re-insurance.
8. Credit services; securities business activities; assignment of capital; and derivative financial services including interest rate swaps, forward contracts, futures contracts, options, foreign currency sales and other derivative financial services as stipulated by law.
9. Medical health services and veterinary services including medical examination and treatment and disease prevention for humans and for animals.
10. Public postal and telecommunications services and internet services globalized pursuant to the program of the Government.
11. Public hygiene services and water drainage in urban streets and residential areas; maintenance of zoos, public gardens, parks, trees in streets and public lighting systems; and funeral services.
12. Maintenance, repair and construction of cultural, artistic and public buildings and of infrastructure and welfare housing, funded by public contributions and humanitarian aid.
13. Education and vocational training as stipulated by law.
14. Radio and television broadcasting funded by the State Budget.
15. Publication, importation and distribution of newspapers, magazines, specialized newsletters, political books, textbooks, teaching materials, law books, technical and scientific books, books printed in languages of ethnic minorities, propaganda pictures, photos and posters, including in the form of disks, tapes and electronic databases; and printing of money.
16. Public passenger transportation by bus and electrical vehicles.

17. Machinery, equipment and materials which are not yet able to be produced domestically and which are required to be imported for direct use in scientific research and technological development activities; machinery, equipment, replacement parts, specialized means of transportation and materials which are not yet able to be produced domestically and which are required to be imported to carry out prospecting, exploration and development of petroleum and natural gas fields; aircraft, drilling platforms and watercraft which are not yet able to be produced domestically and which are required to be imported to form fixed assets of enterprises or which are leased from foreign parties for use in production and business and in order to be sub-leased.
18. Specialized arms and weaponry required for national defence and security.
19. Imported goods in the following cases: humanitarian aid and non-refundable aid; gifts to State bodies, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations and units of the people's armed forces; donations and gifts to individuals in Vietnam at the level stipulated by the Government; personal effects of foreign organizations and individuals under diplomatic immunity regulations; and hand luggage within duty-free limits.

Goods and services sold to international organizations and foreign individuals for humanitarian aid and non-refundable aid for Vietnam.

20. Goods in bordergate transit or transit via the territory of Vietnam; goods temporarily imported and re-exported and goods temporarily exported and re-imported; raw materials imported for manufacture or processing of goods for export in accordance with manufacturing or processing for export contracts with foreign parties; goods and services purchased and sold as between foreign parties and non-tariff zones, and purchased and sold as between non-tariff zones.
21. Technology transfers pursuant to the *Law on Technology Transfer*; intellectual property transfers pursuant to the *Law on Intellectual Property*; and computer software.
22. Gold imported in bar and foil which has not yet been processed into fine art articles, jewellery and other products.
23. Export products being exploited natural resources and [mined] minerals which have not yet been processed as stipulated in regulations of the Government.
24. Artificial body parts for ill people; crutches, wheelchairs and other specialized apparatus used by disabled people.
25. Goods and services of business individuals being people with an average monthly income lower than the minimum wage applicable to domestic organizations and enterprises.

Business establishments shall not be entitled to a credit and refund of input value added tax in respect of goods and services used in manufacturing and business of goods or services which are not subject to value added tax as stipulated in this article, except where the tax rate of zero (0) per cent applies as stipulated in article 8.1 of this Law.

CHAPTER II

Bases for and Methods of Tax Calculation

Article 6 *Bases for tax calculation*

The bases for calculation of value added tax shall be taxable prices and tax rates.

Article 7 *Taxable prices*

1. Value added taxable prices¹ shall be regulated as follows:

- (a) The VAT taxable price of goods and services sold or supplied by production or business establishments shall be the sale price excluding VAT. In respect of goods and services subject to special sales tax, the VAT taxable price shall be the sale price including SST but excluding VAT.
- (b) The VAT taxable price of imported goods shall be the import price at the bordergate plus import duties (if any) plus SST (if any). The import price at the bordergate shall be determined in accordance with the provisions on dutiable prices of imported goods.
- (c) The VAT taxable price of goods and services used for the purposes of exchange, internal consumption, gift or donation shall be the taxable price of goods and services of the same or equivalent category at the time of such use or activity.
- (d) The VAT taxable price of asset leasing activities shall be the rent excluding VAT.

In the case of leases for which rent is receivable in periodic instalments or received in advance for a period of the lease, the VAT taxable price shall be the amount of rent received in each periodic instalment or received in advance for a period of the lease, excluding VAT.

In the case of leases of machinery, equipment and means of transportation which are not yet able to be produced domestically and which are leased from foreign parties in order to be sub-leased, the VAT taxable price shall not include the value of the rent payable to the foreign parties.

- (dd) The VAT taxable price of goods sold by instalments or on deferred payment shall be the lump sum price of the goods excluding VAT on one occasion, and excluding interest on instalments or on deferred payment.
- (e) The VAT taxable price of goods processing activities shall be the processing price, excluding VAT.
- (g) The VAT taxable price of construction and installation activities shall be the value of the works, items of works or part of the works completed and delivered, excluding VAT. In respect of construction and installation in which the supply of raw materials, machinery and equipment is not included in the contract, the VAT taxable price shall be the value of the construction and installation not including the value of the raw materials, machinery and equipment.

¹ Allens Arthur Robinson footnote: For ease of reference, "value added tax" is hereinafter abbreviated to "VAT", and "special sales tax" to SST.

- (h) The VAT taxable price of real estate business activities shall be the selling price of the real estate, excluding VAT and excluding the price of the transfer of the land use right or lease rent payable to the State budget.
- (i) The VAT taxable price of agency and broking activities for the purchase and sale of goods and services for which commission is received shall be the commission receivable from such activities, excluding VAT.
- (k) In respect of goods or services which use payment vouchers recording the payment price as VAT inclusive, the VAT taxable price shall be determined in accordance with the following formula:

$$\text{Pre-VAT price} = \frac{\text{Payment price}}{1 + \text{applicable VAT rate for such goods or services (\%)}}$$

- 2. Value added taxable prices of goods and services regulated in clause 1 of this article shall include any additional charges or fees to which a business establishment is entitled.
- 3. Taxable price shall be calculated in Vietnamese dong. Any taxpayer with turnover in foreign currency must convert it into Vietnamese dong at the average trading exchange rate on the inter-bank foreign currency market as published by the State Bank of Vietnam at the time when the turnover in foreign currency is generated, for the purpose of calculating the taxable price.

Article 8 *Tax rates*

- 1. The tax rate of zero (0) per cent shall apply to exported goods and services, international transportation, and to goods and services which are not subject to VAT and which are exported, except for the following: technology transfers and intellectual property transfers to foreign countries; services being reinsurance offshore; credit services, assignment of capital and derivative financial services; post and telecommunications services; and export products being exploited natural resources and mined minerals which have not yet been processed as prescribed in article 5.23 of this Law.
- 2. The tax rate of five (5) per cent shall apply to the following goods and services:
 - (a) Clean water for manufacturing and for living purposes.
 - (b) Fertilizers; ore used for production of fertilizers; pesticides and growth stimulants for animals and crops.
 - (c) Feed for cattle, poultry and other animals.
 - (d) Services of digging and ploughing, and dredging canals, ditches, ponds and lakes for agricultural production; planting, raising and pest control of crops; semi-processing and preserving agricultural products.
 - (dd) Products of cultivation, husbandry and aquaculture which have not yet been processed, except for the products prescribed in article 5.1 of this Law.
 - (e) Semi-processed latex; semi-processed resin; and netting, cord and fibre used for weaving into fishing nets.

- (g) Fresh food produce; and forestry products which have not yet been processed except for wood, bamboo shoots and the products prescribed in article 5.1 of this Law.
 - (h) Sugar; and by-products obtained in manufacture of sugar comprising sugar-cane dregs, bagasse and sugar dregs.
 - (i) Products made from jute, sedge, bamboo, rattan, thatch, coconut fibre, coconut shell, water hyacinth, and other handmade products produced by using agricultural raw materials; semi-processed cotton; and newsprint.
 - (k) Specialized machinery and equipment for agricultural production including ploughs, harrows, sowing machines, seeding machines, rice plucking machines, reaping machines, combined reaping and threshing machines, harvesters for agricultural produce, and insecticide spraying machines and pumps.
 - (l) Medical equipment and instruments; medical sanitary cotton and bandages; preventive and curative medicines; and pharmaceutical products and pharmaceutical materials which are the raw materials for producing preventive and curative medicines.
 - (m) Teaching and study aids used for teaching and studying including various types of models, drawings, blackboards, chalk, rulers, compasses and various types of specialized equipment and tools for teaching, research and scientific experiments.
 - (n) Cultural activities; exhibitions; physical training and sports activities; artistic performances; film production; and importation, distribution and screening of films.
 - (o) Children's games; books of all types, except for the books prescribed in article 5.1 of this Law.
 - (p) Scientific and technological services as stipulated in the *Law on Science and Technology*.
3. The tax rate of ten (10) per cent shall apply to goods and services not prescribed in clauses 1 and 2 of this article.

Article 9 *Method of calculating tax*

VAT payable shall be calculated by the tax credit method or by calculating tax directly on the basis of added value.

Article 10 *Tax credit method*

1. The tax credit method shall be regulated as follows:
 - (a) The amount of VAT payable pursuant to the tax credit method shall equal the amount of output VAT less the amount of creditable input VAT.
 - (b) The amount of output VAT shall equal the total VAT of the goods or services sold as recorded on the added value invoice.
 - (c) The amount of creditable input VAT shall equal the total VAT as recorded on the added value invoice for the purchase of such goods or services [or] on the receipt for payment of VAT on

the goods when imported goods which satisfy the conditions prescribed in article 12 of this Law.

2. The tax credit method shall apply to business establishments which fully implement the regime on accounting, invoices and source vouchers as stipulated by the law on accounting, invoices and source vouchers, and which register to pay VAT by the tax credit method.

Article 11 *Calculation of tax directly on the basis of added value*

1. The method of calculating tax directly on the basis of added value shall be regulated as follows:
 - (a) The amount of value added tax payable shall equal the added value of the goods or services sold, multiplied by the value added tax rate.
 - (b) The added value shall equal the output sale price of the goods or services less their input purchase price.
2. The method of tax calculation based directly on added value shall only apply to the following:
 - (a) Business establishments and foreign organizations and individuals conducting business without a resident establishment in Vietnam which have income arising in Vietnam and which do not yet implement the regime on accounting, invoices and source documents
 - (b) Activities of purchasing and selling gold, silver and precious stones.

CHAPTER III

Tax Credit and Tax Refund

Article 12 *Credit of input value added tax*

1. Business establishments which pay VAT in accordance with the tax credit method shall be permitted a credit of input VAT as follows:
 - (a) Input VAT levied on goods and services used in manufacturing of and business in value added taxable goods and services shall be fully credited.
 - (b) In the case of input VAT levied on goods and services used in manufacturing of and business in both value added taxable goods and services and non-taxable goods and services, only the amount of input VAT levied on the goods and services used in manufacturing of and business in taxable goods and services shall be credited. Input VAT levied on fixed assets used in manufacturing of and business in both value added taxable goods and services and non-taxable goods and services shall be fully credited.
 - (c) Input VAT levied on goods and services sold to organizations and individuals for use as the source of humanitarian aid and non-refundable aid shall be fully credited.
 - (d) Upon determination of the tax payable for a month, creditable input VAT arising during such month shall be declared and credited. Any business establishment which discovers that an amount of input VAT declared and credited was erroneous shall be permitted to conduct a

supplementary declaration and credit within a time-limit of a maximum of six (6) months after the date of discovery of the error.

2. The following conditions must be satisfied for entitlement to a credit of input VAT:
 - (a) There is an added value invoice for purchase of the goods and services or a receipt for payment of VAT at the import stage.
 - (b) There is evidence of payment via a bank for the input purchased goods and services, except in the case of purchase of goods and services on each occasion with a value below twenty (20) million dong.
 - (c) Exported goods or services must, in addition to satisfying the conditions in sub-clauses (a) and (b) above, have a contract signed with the foreign party regarding the sale [or] processing of the goods [or] for provision of the services; an invoice for the sale of the goods and services; proof of payment via a bank; and a customs declaration in the case of exported goods.

Payment for the sale of exported goods and services by set off with imported goods or services [and/or] by payment of a debt on behalf of the State shall also be deemed to be payment via a bank.

Article 13 *Cases in which tax shall be refunded*

1. Any business establishment paying tax in accordance with the tax credit method and which has creditable input tax which has not been fully credited in three or more consecutive months shall be entitled to a VAT refund.

Any business establishment which has registered to pay tax in accordance with the tax credit method, which has a new investment project and is in the investment phase, and which has VAT on goods and services purchased for use for the investment which has not yet been fully credited and the remaining amount of tax is two hundred (200) million dong or more, shall be entitled to a VAT refund.

2. Any business establishment which within one month has exported goods and services, and creditable input tax which has not yet been fully credited of two hundred (200) million dong or more, shall be entitled to a VAT refund for the month.
3. Any business establishment paying tax in accordance with the tax credit method shall be entitled to a refund if on its conversion of ownership, conversion of [form of] enterprise, merger, consolidation, division, demerger, dissolution, bankruptcy or termination of operation, it has an excess amount of VAT already paid or an amount of input tax which has not been fully credited.
4. Tax refunds shall be made pursuant to a decision of the competent body in accordance with law, and pursuant to cases entitled to a refund of VAT as stipulated in any international treaty of which the Socialist Republic of Vietnam is a member.

Article 14 *Invoices and source documents*

1. The purchase and sale of goods and services must be recorded in invoices and source vouchers in accordance with law and the following provisions:
 - (a) Business establishments paying tax in accordance with the tax credit method must use added value invoices recording fully and correctly the stipulated items including additional charges and fees (if any). If goods and services subject to value added tax are sold with an invoice which does not record the amount of value added tax, then output value added tax shall be calculated by multiplying the payment price recorded on the invoice by the tax rate, except for the cases stipulated in clause 2 of this article.
 - (b) Business establishments paying tax directly on the basis of added value shall use sales invoices.
2. In the case of stamps and tickets deemed to be payment source vouchers with pre-printed payment prices, the payment price on the stamp or ticket shall include value added tax.

CHAPTER IV

Implementing Provisions

Article 15 *Effectiveness*

1. This Law shall be of full force and effect as from 1 January 2009.
2. This Law replaces the following legal instruments:
 - (a) *Law on Value Added Tax 1997*.
 - (b) *Law 07-2003-QH11 on Amendments to the Law on Value Added Tax*.
3. Article 2 of *Law 57-2005-QH11 on Amendments to the Law on Special Sales Tax and the Law on Value Added Tax* is hereby repealed.

Article 16 *Implementing guidelines*

The Government shall provide detailed regulations and guidelines for implementation of articles 5, 7, 8, 12 and 13 of this Law and of other necessary items as required for management purposes.

This Law was passed by Legislature XII of the National Assembly of the Socialist Republic of Vietnam at its 3rd Session on 3 June 2008.

Chairman of the National Assembly
NGUYEN PHU TRONG