THE GOVERNMENT -------	SOCIALIST REPUBLIC OF VIETNAM Independence - Freedom - Happiness ---------------
No. 93/2017/ND-CP	*Hanoi, August 07, 2017*

DECREE

ON THE FINANCIAL REGIME APPLICABLE TO CREDIT INSTITUTIONS, BRANCHES OF FOREIGN BANKS AND FINANCIAL SUPERVISION, ASSESSMENT OF EFFECTIVENESS OF STATE CAPITAL INVESTMENT IN WHOLLY STATE-OWNED CREDIT INSTITUTIONS AND PARTIALLY STATE-OWNED CREDIT INSTITUTIONS

Pursuant to the Law on organization of Government dated June 19, 2015;

Pursuant to the Law on credit institutions dated June 16, 2010;

Pursuant to the Law on Enterprises dated November 26, 2014;

Pursuant to the Law on cooperatives dated November 20, 2012;

Pursuant to the Law on Management and Use of State Investments in operating activities of enterprises dated November 26, 2014;

At the request of the Minister of Finance;

The Government promulgates the Decree on the financial regime applicable to credit institutions, branches of foreign banks and financial supervision, assessment of effectiveness of state capital investment in wholly state-owned credit institutions and partially state-owned credit institutions.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Decree provides for:

1. Financial regime applicable to credit institutions and branches of foreign banks.

2. Financial supervision, assessment of effectiveness of state capital investment in wholly state-owned credit institutions and partially state-owned credit institutions.

3. Regarding credit institutions implementing restructuring plans under the decisions of competent bodies, if there is discrepancy between the law related to the restructuring of credit institutions and the contents prescribed in this Decree, the restructuring credit institutions shall comply with the provisions of law related to the restructuring of credit institutions, regarding contents that are not prescribed by law related to the restructuring of credit institutions, the provisions of this Decree shall prevail.

Article 2. Regulated entities

1. Credit institutions and branches of foreign banks established, organized and operated in accordance with the provisions of the Law on credit institutions, not including social policy bank.

2. Owners' representative organizations.

3. Finance authorities.

4. Other relevant organizations and individuals.

Article 3. Principles of financial management

1. Credit institutions and branches of foreign banks exercising financial autonomy are responsible for their own operation, the fulfillment of their obligations and commitments as prescribed by law.

2. Credit institutions and branches of foreign banks shall conduct financial disclosures as prescribed by the Law on credit institutions and other related regulations.

Chapter II

CAPITAL, ASSET MANAGEMENT AND USE

Article 4. Capital of credit institutions, branches of foreign banks

1. Equity:

a) Charter capital or financed capital;

b) Differences from re-assessment of assets and differences due to the foreign exchange rate;

c) Share premium;

d) Funds: Reserve fund for charter capital addition, fund for investment in development, financial reserve fund;

dd) Undistributed accumulated profits, unrealized accumulated losses;

e) Other capital owned by credit institutions, branches of foreign banks.

2. Raised capital:

a) Capital from deposit of organizations and individuals; Capital from the issuance of valuable papers;

b) Capital from investment authorization;

c) Loan from domestic and foreign credit institutions and financial institutions;

d) Loan from the State bank of Vietnam.

3. Other kinds of capitals as prescribed by law.

Article 5. Actual value of charter capital and provided capital

1. The actual value of charter capital or provided capital is calculated by the charter capital or provided capital and share premium plus (minus) the undistributed accumulated profits (unrealized accumulated losses) recorded in accounting books.

2. During the operation, branches of foreign banks and credit institutions must sustain the actual value of the charter capital or the provided capital at least equal to the legal capital prescribed by the Government.

3. Branches of foreign banks and credit institutions must publicly announce the new charter capital or provided capital when the charter capital or provided capital is changed.

Article 6. Utilization of capital and assets

1. Branches of foreign banks and credit institutions are entitled to use their capital for business according to the Law on credit institutions and other related regulations on the principles of capital growth and adequacy.

2. Branches of foreign banks and credit institutions are entitled to change the structure of their capital and assets serving the business development according to the provisions of law.

3. Credit institutions are entitled to buy and invest on fixed assets in direct serve of business operation in the principle that the remaining value of the fixed assets does not exceed 50% of the charter capital and reserve fund for charter capital addition. Credit institutions must comply with the regulations on construction investment management and other related regulations. The procurement and investment of fixed assets of wholly state-owned credit institutions and partially state-owned credit institutions shall comply with the regulations applied to state-owned enterprises and stated-invested enterprises.

The asset and capital mobilization among the branches or among the independent associate companies of a credit institution must comply with the Charter of the credit institution.

4. Branches of foreign banks are entitled to buy and invest on fixed assets in direct serve of business operation in the principle that the remaining value of the fixed assets does not exceed 50% of the provided capital and reserve fund for provided capital addition. Branches of foreign banks must comply with the regulations of Vietnam on construction investment management and other related regulations.

Article 7. Capital contribution, purchase of shares and transfer of stakes by credit institutions

1. The capital contribution, purchase of shares and transfer of stakes by credit institutions shall comply with the Law on credit institutions and other related regulations.

2. Credit institutions are only allowed to use their charter capital and reserve funds for contributing capital to and purchasing shares of other credit institutions or enterprises as prescribed by the Law on credit institutions and other related regulations.

3. The competence to decide on plans on contribution and purchase of shares of other enterprises or credit institutions; The plan on transfer of the invested capital portions shall comply with the Law on credit institutions, related regulations and the charters of the credit institutions. Wholly state-owned credit institutions and partially state-owned credit institutions must comply with regulations and law on management and utilization of state capital invested in the enterprise's manufacturing and business activities.

4. A credit institution must not contribute to or purchase shares of other enterprises or credit institutions which are its contributors.

Article 8. Capital adequacy assurance

Branches of foreign banks and credit institutions are responsible for implementing the provisions on capital adequacy assurance as follows:

1. Manage, use capital and assets, distribute profits, and perform financial management and accounting policy in accordance with the provisions in this Decree and other related law provisions.

2. Implement the provisions on operational safety under the Law on credit institutions and other relevant law provisions. In case a credit institution or foreign bank branch fails to reach or likely fails to reach the minimum capital safety ratio according to the Law on credit institutions and the guidelines of the State bank of Vietnam, within a maximum duration of 01 month, it shall report to the State bank of Vietnam the remedies to reach the minimum capital safety ratio as follows:

a) The plan on transfer of the invested capital portions;

a) Plans on increasing charter capital; provided capital;

c) Other plans.

3. Purchase mandatory asset insurance.

4. Participate in deposit insurance and preservation as prescribed by the Law on credit institutions, the Law on deposit insurance and other relevant regulations and announce the participation in deposit insurance and preservation at the head office and branches.

5. Take actions against the losses according to Article 12 this Decree.

6. Record to the expense of loan loss reserve according to the Law on credit institutions, Law on enterprises and other related regulations.

7. Other measures for assuring the capital adequacy as prescribed by law.

Article 9. Stocktaking

1. Branches of foreign banks and credit institutions must carry out stocktaking in the following cases:

a) At the end of the fiscal year;

b) Division, partial division, acquisition, consolidation and transform of legal form;

c) Stocktaking to determine asset losses due to natural disaster, enemy sabotage or other events according to management request of the credit institution and foreign bank branch;

d) At the request of competent authorities.

2. The reasons for and people in charge of the lack or the excess of assets must be identified and settled.

Article 10. Asset re-assessment

1. Branches of foreign banks and credit institutions must re-evaluate their assets in the following cases:

a) The reassessment is requested by a competent authority;

b) It changes its legal form and diversifies the forms of ownership;

c) It makes external investment from assets, recalls the assets after the suspension of the external investment, in which case the assets used for external investment must be reassessed;

d) Other cases as prescribed by law.

2. The re-assessment of assets and accounting of the increased or decreased value due to the asset re-assessment specified in Clause 1 this Article must comply with law provisions depending on each specific case.

Article 11. Fixed asset depreciation

1. Branches of foreign banks and credit institutions must calculate the fixed asset depreciation as specified by law provisions on enterprises.

2. Branches of foreign banks and credit institutions are entitled to use the capital from the fixed asset depreciation for re-investing in the replacement of fixed assets and in other business purposes as prescribed by law.

Article 12. Asset loss settlement

Branches of foreign banks and credit institutions must identify the reasons and responsibilities for the loss of assets as follows:

1. The person that causes the asset loss must pay compensation if the reason is subjective. The authority to decide the amount of compensation shall comply with the Charter of credit institutions and branches of foreign banks. The handling of responsibilities of the person caused the asset loss shall comply with the provisions of law.

2. Settle the loss in accordance with the insurance contract for insured assets.

3. Use the reserve fund extracted from the expenses to cover the loss as prescribed by law.

4. The deficient value of the loss after covered by the compensation from individuals, organizations the insurer and the provisions extracted from the expenses shall be covered by the financial reserve funds of branches of foreign banks and credit institutions. If the financial reserve fund cannot cover, the deficient amount shall be recorded as other expenses in the period.

Article 13. Leasing assets

Branches of foreign banks and credit institutions are entitled to lease out their assets according to the Law, ensuring the capital adequacy, efficiency and capital growth.

Article 14. Selling and transfer of assets

1. Branches of foreign banks and credit institutions are entitled to sell or transfer their assets in order to recover the capital and ensure the business efficiency.

2. The asset sale and transfer of branches of foreign banks and credit institutions must comply with the Law on credit institutions, other related provisions of law and their Charter. Wholly

state-owned credit institutions must comply with regulations and law on sale of assets in state-owned enterprises.

Article 15. Asset liquidation

1. Branches of foreign banks and credit institutions are entitled to liquidate low-quality assets, damaged assets unable to be restored; technologically backward assets not being used or not being efficiently used that cannot be sold as intact items; assets unable to be used after their use terms expire.

2. The authority to decide on liquidation of assets must comply with the Law on credit institutions, other related provisions of law and the Charter of credit institutions and branches of foreign banks. Wholly state-owned credit institutions must comply with regulations and law on liquidation of assets in state-owned enterprises.

3. The Liquidation council must be established when liquidating assets of branches of foreign banks and credit institutions. For assets required to be put up for auction when liquidated, branches of foreign banks and credit institutions must hold auctions as prescribed by law.

Chapter III

REVENUE, COSTS

Article 16. Revenue

1. The amounts receivable of credit institutions and branches of foreign banks must be determined in accordance with accounting standards and relevant law provisions with eligible documentary evidence and be included in revenues.

2. Revenues from the business of branches of foreign banks and credit institutions include:

a) Interest income and similar income: deposit interest, loan interest, business interest, interest receivable from securities investment, income from guarantee operations, interest from finance lease, interest from debt trading, other income from credit activities;

b) Income from service activities: income from payment services; income from treasury operations; income from entrustment and agent operations; income from other services;

c) Incomes from trading foreign currency and gold: Income from foreign currency trading; income from foreign exchange differences; income from gold trading; income from currency derivatives;

d) Income from securities trading activities (excluding stocks);

dd) Income from capital contribution, transfer of stake and shares;

e) Incomes from other activities: income from the loans handled by risk reserve (including the debts that have been written off, now recovered); income from other derivative financial instruments; income from debt trading; income from transfer, liquidation of assets; income from reversal of provision for fall of long-term investment; income from other activities as prescribed by law;

g) Other incomes as prescribed by law.

3. The Ministry of Finance shall take charge and cooperate with the State bank of Vietnam on providing instructions on incomes of credit institutions, branches of foreign banks as specified in Clause 2 this Article.

Article 17. Costs

1. The costs of branches of foreign banks and credit institutions are the actual expenses on the business of branches of foreign banks and credit institutions; compliance with principles of conformity between revenues and expenditure with valid invoice and document as prescribed by law. Credit institutions and branches of foreign banks shall not record costs covered by other funding sources. The determination and accounting of costs shall be made in accordance with accounting standards and relevant law provisions.

2. Costs of branches of foreign banks and credit institutions include:

a) Interest cost and its equivalents: costs on interest on deposits, interest on loans, interest from issuance of valuable papers and other costs from credit activities;

b) Costs of service activities: Costs of payment services; costs of treasury services; costs of telecommunication services; costs of entrustment services; costs of consulting services; costs of commissions for agents, brokers, entrustment to authorized agency, brokerage and commissioning activities permitted by law.

c) Costs for trading foreign currency and gold: Cost for foreign currency trading; cost for foreign exchange differences; cost for gold trading; cost for currency derivatives;

d) Costs for trading of securities permitted to trade as prescribed in the Law on credit institutions;

dd) Costs for capital contribution, transfer of stake and shares;

e) Costs for other activities: Cost for interest rate swap transactions; cost for debt trading; costs related to financial leasing; cost for other derivative financial instruments; cost for other business activities;

g) Costs for taxes, fees and charges;

h) Costs for employees: salaries, remunerations, bonuses, allowances; other contributed by salary: social insurance, medical insurance, labor insurance, unemployment insurance, accident insurance, cost for the union; cost for workplace uniform and labor protection equipment; cost for benefits; expenses on meals, medical cost; other payment to staffs and employees as prescribed by law;

i) Costs for management: Costs for materials, papers; costs for business trips; costs for operation training; costs for research and application of technological science; rewards for initiatives that improve productivity, rewards for cost reduction; costs for postage and telephone bills; costs for publishing of materials, dissemination, advertisement, marketing, sale promotion; costs for subscribing materials and journals; costs for union activities; cost for electricity, water and hygiene at workplace; costs for conventions, reception, transactions, foreign affairs; costs for consulting and audit; costs for hiring local and foreign experts; costs for fire protection and fighting; costs for environment protection and other costs;

k) Costs for assets include: fixed asset depreciation, costs for asset repair and maintenance; purchase of tools and devices; purchase of asset insurance; costs for asset lease;

l) Costs for provision:

Costs for risk prevention as prescribed in Article 131 of the Law on credit institutions.

Costs for risk provision for special bonds issued by the Asset Management Company of Vietnamese credit institutions as prescribed in Point a Clause 2 Article 21 of the Government's Decree No. 53/2013/ND-CP dated May 18, 2013 on the establishment and operation of asset management companies of Vietnamese credit institutions and Clause 12 Article 1 of the Government's Decree No. 34/2015/ND-CP dated March 31, 2015 providing amendments to a number of articles of the Decree No. 53/2013/ND-CP; guidelines of the State bank of Vietnam and other amendment documents (if any).

Costs for provision for decline of inventory price, provision for loss of financial investments, provision for bad debts and other provisions (if any) according to the general provisions applicable to enterprises.

The costs for risk provision that are deducted when determining the corporate income tax shall comply with the law on corporate income tax.

m) Costs for preservation and insurance for customers' deposits;

n) Other costs: costs for professional association fees that branches of foreign banks and credit institutions participate in; costs for the Communist activities in branches of foreign banks and credit institutions (the costs outside the budget of the Communist organizations); costs for the sale and liquidation of assets or the remaining value of the sold or liquidated fixed assets (if any); costs for the recovery of the debts written off, costs for the collection of bad debts; costs for the asset loss remaining after being covered by the sources specified in Clause 4 Article 12 of this Decree; costs for the recorded incomes unable to be collected actually; costs for social activities as prescribed by law; costs for administrative violations except for the amount of fines payable by individuals under the provisions of law; other expenses.

3. The Ministry of Finance shall take charge and cooperate with the State bank of Vietnam on providing instructions on costs of credit institutions and branches of foreign banks as specified in Clause 2 this Article.

Article 18. Accounting currency

1. The economic and financial transactions shall be recorded into accounting books, financial statements and settlement reports in Vietnam dong, its Vietnamese symbol is "D" and international symbol is "VND".

2. Accounting units primarily spending and receiving in foreign currencies are allowed to select one foreign currency to record into accounting books and take responsibilities. The accounting units shall convert foreign currency into Vietnam dong when preparing the financial statements used in Vietnam.

Article 19. Branches of foreign banks and credit institutions must record the incomes and costs in accordance with law and take responsibilities for their accuracy, honesty and comply with the regulations on accounting invoices and receipts.

Chapter IV

PROFITS DISTRIBUTION

Article 20. Incomes subject to corporate income tax

The incomes subject to enterprise income tax of branches of foreign banks and credit institutions must comply with laws on enterprise income tax.

Article 21. Distribution of profits applicable to wholly state-owned credit institutions

The profits of credit institutions after deducting losses of previous year as prescribed in the Law on corporate income tax and paying corporate income tax shall be distributed as follows:

1. Distribute profits to the contributors under the signed contract (if any).

2. Deduct the expired loss recovery in the previous year from the profits before corporate income tax according to regulations.

3. The remaining profit after deducting the amount prescribed in Clauses 1 and 2 of this Article shall be distributed in the following order:

a) Add 5% of the profit to the charter capital addition reserve fund, the maximum amount of this fund must not exceed the charter capital of the credit institution;

b) Add 10% of the profit to the financial reserve fund;

c) Add not more than 25% of the profit to the development investment fund;

d) Set aside the reward and welfare fund for the employees of the credit institution:

Credit institutions rated A according to the law may set aside an amount equivalent to 3 months' earned income of employees for two reward and welfare funds;

Credit institutions rated B according to the law may set aside an amount equivalent to 1.5 months' earned income of employees for two reward and welfare funds;

Credit institutions rated C according to the law may set aside an amount equivalent to 01 months' earned income of employees for two reward and welfare funds;

Unrated credit institutions rated may not set aside for two reward and welfare funds.

dd) Set aside the reward fund for credit institution managers and controllers:

Credit institutions rated A according to the law may set aside an amount equivalent to 1.5 months' earned income of managers and controllers for this funds;

Credit institutions rated B according to the law may set aside an amount equivalent to 01 months' earned income of managers and controllers for this funds;

Credit institutions rated C according to the law or unrated enterprises may not set aside the reward fund for their managers and controllers.

e) The remaining amount of profits after being set aside for funds stipulated in Point a, b, c, d and dd of this Clause shall be paid to the state budget.

Article 22. Distribution of profits after corporate income tax applicable to credit institutions being cooperatives

The profits of credit institutions being cooperatives after deducting losses of previous year as prescribed in the Law on corporate income tax and paying corporate income tax shall be distributed as follows:

1. Add 5% of the profit to the charter capital addition reserve fund, the maximum amount of this fund must not exceed the charter capital of the credit institution.

2. Add 10% of the profit to the financial reserve fund.

3. Add not more than 20% of the profit to the development investment fund.

4. The remaining profit after deducting the amount prescribed in Clauses 1, 2 and 3 of this Article shall be distributed in the following order:

a) Cooperative banks:

At least 30 days before the general members' meeting, the representative of a portion of state capital at the bank must obtain the approval of the State bank of Vietnam on the distribution of profit after tax before voting at the general meeting.

Within 15 working days from the receipt of all documents, the State bank of Vietnam must consult with the Ministry of Finance on the distribution of the remaining profit to instruct the representative of a portion of state capital at the bank to vote at the general members' meeting.

Within 15 working days from the receipt of all documents, the Ministry of Finance shall send the State bank of Vietnam an official written opinion.

The profits distributed to members being the State shall be used to supplement the charter capital (the State's support capital).

b) People's credit funds: the distribution of remaining profit shall comply with the Law on cooperatives and the Charter of people's credit funds.

Article 23. Distribution of profits after corporate income tax applicable to other credit institutions and branches of foreign banks

The profits of credit institutions and branches of foreign banks after deducting losses of previous year as prescribed in the Law on corporate income tax and paying corporate income tax shall be distributed as follows:

1. Distribute profits to the contributors under the signed contract (if any).

2. Deduct the expired loss recovery in the previous year from the profits before corporate income tax.

3. Add 5% of the profit to the charter capital addition reserve fund of the credit institution or to the provided capital accumulation reserve fund of the foreign bank branch. These funds must not exceed the charter capital of the credit institution or the provided capital of the foreign bank branch.

4. Add 10% of the profit to the financial reserve fund.

5. The distribution of the remaining profit shall be decided independently by branches of foreign banks and credit institutions. For credit institutions being joint-stock commercial banks of which 50% of the charter capital is owned by the State, at least 30 days before the general meeting of shareholders, the representative of a portion of state capital at the bank must obtain the opinion

from the State bank of Vietnam on the distribution of the remaining profits before voting at the general meeting of shareholders.

Within 15 working days from the receipt of all documents, the State bank of Vietnam must consult with the Ministry of Finance on the distribution of the remaining profit to instruct the representative of a portion of state capital at the bank to vote at the general meeting of shareholders.

Within 15 working days from the receipt of all documents, the Ministry of Finance shall send the State bank of Vietnam an official written opinion.

Article 24. Management and use of funds

1. The addition reserve funds of the charter capital and provided capital are used for accumulating the charter capital and provided capital.

2. The financial reserve fund is used for covering the remaining loss and damage of assets during the business of after being covered by compensation from the organizations and individuals that causes such loss, from the indemnity from the insurer, from the reserve fund extracted from the expenses and used for other purposes as prescribed by law.

3. The development investment fund is used for investing in expanding the business scale and improving the technology, work conditions and amending the charter of the credit institution. Depending on the demand for investment and capability of the fund, the credit institution shall decide the form and method of investment on the principles of efficiency, safety and capital growth.

4. The reward fund for credit institution managers and controllers shall be used for:

a) Rewards for the chairman and members of the board of director/members' council, general director, director, deputy general director, deputy director, supervisor, chief accountant;

b) The level of reward shall be determined by the General Meeting of Shareholders/Owner's Representative on the basis of the business performance of the credit institution and the level of accomplishment of the assigned tasks, at the proposal of the Chairman of the Board of directors/board of members of the credit institution

5. The reward fund is used to:

a) Give annual rewards or periodic rewards to officers and employees of the credit institution. The reward levels are decided by the Board of directors/Board of members of the credit institution at the proposal of the General Director (or Director) and the Union of the credit institution consistently with the productivity and work results of their employees;

b) Give irregular rewards to individuals or collectives in the credit institution that introduce initiatives to improve the techniques and professional process that enhance business efficiency.

The reward levels are decided by the Board of directors/Board of members of the credit institution;

c) Give rewards to individuals and units outside the credit institution economically involved that completely fulfill the contractual conditions and efficiently contribute to the business of the credit institution. The reward levels are decided by the Board of directors/Board of members of the credit institution.

6. The welfare fund is used to:

a) Invest in building or repair, supplement funds for welfare constructions of the credit institution, contribute to the investment in the common welfare constructions of the industry or of other units according to contract;

b) Spend on cultural, sport activities and public welfare of the staffs and employees of the credit institution;

c) Spend on the regular or irregular support for staffs and employees in difficulties of the credit institution, including retired or disabled ones;

d) Spend on other welfare activities.

The Board of directors/ Board of members, General Director (Director) of the credit institution shall cooperate with the Executive board of the Union of the credit institution in managing and using this fund.

Chapter V

FINANCIAL PLANS, REPORT, AUDIT REGIME AND FINANCIAL SUPERVISION, ASSESSMENT OF EFFECTIVENESS OF STATE CAPITAL INVESTMENT IN ENTERPRISES BEING WHOLLY STATE-OWNED CREDIT INSTITUTIONS AND PARTIALLY STATE-OWNED CREDIT INSTITUTIONS

Article 25. Financial plans

1. Annual financial plans of branches of foreign banks and credit institutions include:

a) The plan on financing use of finances;

b) The plan on incomes, costs, business results and the state budget payment;

c) The plan on labor and salaries.

2. Making financial plans

a) Wholly state-owned credit institutions

Before July 31 annually, the credit institution shall prepare the financial plan for the following year and send it to the Ministry of Finance and the State bank of Vietnam for the preparation of state budget estimate.

Before March 01 of the planning year, based on the business results of the previous year, the credit institution shall review and finalize the financial plan and send it to the State Bank of Vietnam and the Ministry of Finance for the financial supervision and assessment of effectiveness of business operation of the credit institution.

The State Bank of Vietnam shall take responsibilities and coordinate with the Ministry of Finance in reviewing financial plans prepared by credit institutions for official written comments and assignment of assessment criteria and ratings to the credit institution before 30 April of the planning year.

b) Credit institutions with more than 50% state owned charter capital

Before July 31 annually, the credit institution shall prepare the financial plan for the following year and send it to the Ministry of Finance and the State bank of Vietnam for the preparation of state budget estimate.

Before March 01 of the planning year, based on the business results of the previous year, the credit institution shall review and finalize the financial plan and send it to the State Bank of Vietnam and the Ministry of Finance for the financial supervision and assessment of effectiveness of state capital investment in the credit institution.

The State Bank of Vietnam shall take responsibilities and coordinate with the Ministry of Finance in reviewing financial plans prepared by credit institutions and determining specific assessment criteria for assignment of tasks to the representative of state capital at the credit institution before 30 April of the planning year.

c) The preparation of financial plans of other credit institutions and branches of foreign banks shall comply with the charter of such branches of foreign banks and credit institutions.

Article 26. Report regime

1. At the end of the accounting period, credit institutions and branches of foreign banks shall prepare and send financial statements as prescribed by the law.

2. The Ministry of Finance shall provide specific guidance on the content, format, reporting period, time limit for report submission, the writing method of report, the electronic method of report, reporting units and report receiving units.

3. The Board of directors or the President of the Board of directors, the Board of members or the President of the Board of members or the General Director (Director) of branches of foreign banks and credit institutions must be responsible for the accuracy of those reports.

Article 27. Audit

1. Credit institutions must organize internal audits as prescribed in Article 41 of the Law on credit institutions and other relevant laws.

2. The financial statement audit of branches of foreign banks and credit institutions shall comply with effective law provisions on accounting and audit. The financial statement audit results of credit institutions must be sent to the Ministry of Finance and the State bank of Vietnam.

Article 28. Financial regulation

Based on the documents guiding the financial regulations, credit institutions and branches of foreign banks shall formulate and submit their financial regulations to the General meeting of shareholders or the Board of Directors (if they are authorized by the General meeting of shareholders) and the Board of members for approval.

Article 29. Financial supervision of enterprises being wholly state-owned credit institutions and partially state-owned credit institutions

1. Finance supervision of enterprises being wholly state-owned credit institutions, financial supervision of subsidiaries, affiliated companies and capital supervision of foreign investment credit institutions. Special financial supervision of enterprise being wholly state-owned credit institutions shall comply with the general provisions applicable to state-owned enterprises and the provisions of this Decree.

2. The content, methods and regimes for financial supervision of enterprises being state-invested credit institution shall comply with the regulations on financial supervision applicable to state-invested enterprises and the provisions of this Decree.

Article 30. Criteria for assessment of effectiveness of state capital investment in wholly state-owned credit institutions and partially state-owned credit institutions

1. Criteria for assessment of effectiveness of state capital investment in wholly state-owned credit institutions and partially state-owned credit institutions include:

a) Criterion 1. Revenue;

b) Criterion 2. Net income and net income ratio;

c) Criterion 3. Bad debt ratio and loss debt ratio;

d) Criterion 4. Compliance with laws application to credit institutions on investment, management and utilization of state capital invested in credit institutions, legislation on taxes and other collections paid to the state budget, and legal regulations on financial reporting regime for the purpose of carrying out the financial supervision;

dd) Criterion 5. Current state of public products and services (if any).

2. Criteria stipulated in Clause 1 this Article shall be defined and measured with reference to data provided in audited annual financial statements and periodic statistical reports according to effective regulations.

Criteria 1, 2, 4, and 5 stipulated in Clause 1 this Article shall be taken into consideration and eliminated the impact factors:

a) Natural disasters, fire, epidemic diseases, wars and other force majeure;

b) Credit institutions invest in business expansion as planned, increase in amortization for cost recovery approved by competent authorities and implement the social welfare program in accordance with the regulations of the Government.

c) The state's price adjustment (applicable to products and services priced by the state) causing impacts on credit institution's revenue, or obligations to fulfillment of socio-economic objectives under the directions of the Government and the Prime Minister.

3. The assessment of operating results of credit institution's managers shall be governed under the Government's regulations and according to the following criteria:

a) The level of conformity with objectives assigned by the State bank of Vietnam in terms of net income and net income-to-equity ratio;

b) Credit institution rating results;

c) The level of complete implementation of the plan to supply public products or services (applicable to credit institutions providing public products and services).

4. The Ministry of Finance shall take charge and cooperate with the State bank of Vietnam on providing instructions on the formulation of assessment criteria in conformity with the particular characteristics of credit institutions.

Article 31. Assessment of business operation and rating of enterprises being wholly state-owned credit institutions

1. The assessment of business operation and rating of enterprises being wholly state-owned credit institutions shall comply with the regulations on financial supervision applicable to state-invested enterprises and the specific provisions of this Decree.

2. The State Bank of Vietnam shall take responsibilities and coordinate with the Ministry of Finance in reviewing financial plans prepared by credit institutions for assignment of assessment criteria and ratings to the wholly state-owned credit institution that suit the characteristics of the credit institution. These criteria must be sent to the credit institution in written before April 30 of

the planning year and shall not be amended during the implementation period, except for force majeure events.

3. The Ministry of Finance shall take charge and cooperate with the State bank of Vietnam on providing instructions on the method of assessment of effectiveness and rating of credit institutions in conformity with the provisions in this Decree that suit the particular characteristics of credit institutions.

Article 32. Assessment of effectiveness of state capital investment of enterprises being credit institutions with more than 50% state owned charter capital

1. The assessment of effectiveness of state capital investment of enterprises being credit institutions with more than 50% state owned charter capital shall comply with the regulations applicable to wholly state-owned credit institutions as specified in this Decree.

2. Before the general meeting of shareholders, the State Bank of Vietnam shall take charge and coordinate with the Ministry of Finance in reviewing financial plans to determine assessment criteria applicable to the credit institution with more than 50% state owned charter capital to assign tasks to the representative of state capital at the credit institution before 30 April of the planning year. These criteria shall not be amended during the implementation period, except for force majeure events.

3. The State Bank of Vietnam shall use the results of the assessment of effectiveness of state capital investment and business operation of enterprises being credit institutions with more than 50% state owned charter capital to assess and reward representatives of state capital at credit institutions and serve as a ground for formulating plans and assigning tasks to the representatives of state capital at credit institutions in the following year; at the same time, report to the Prime Minister for consideration and decision on the continuation of investment, expansion of investment or divestment of state capital at these credit institutions.

Chapter VI

RESPONSIBILITIES OF THE BOARDS OF DIRECTORS, THE BOARDS OF MEMBERS, THE GENERAL DIRECTORS, THE DIRECTORS AND REPRESENTATIVES OF BRANCHES OF FOREIGN BANKS AND CREDIT INSTITUTIONS

Article 33. Responsibilities of the Board of directors and the Board of members of the credit institution

1. Inspect and supervise the financial activities of the credit institution as prescribed by the Law on credit institutions and other related regulations.

2. Receive capital, land, natural resources and other resources provided by the State, the owner and the contributors.

3. Make decisions or approvals within the authority as prescribed by the Law on credit institutions, other related regulations and the charter of the credit institution:

a) The plan on capital mobilization;

b) The plan on using, preserving and growing capital, the projects of investment and asset trading of the credit institution; the Plan on contribution and purchase of shares of other enterprises or credit institutions; the plan on transfer of the invested capital portions;

c) Annual financial statements and long-term financial plans, annual financial plans of the credit institution;

d) Annual financial statements of independent associate companies affiliated to the credit institution;

dd) The appointment of representatives of the capital invested in other enterprises.

4. Disclose the financial statements as prescribed by the Law on credit institutions.

5. Inspect, supervise the General Director (Director) of the credit institution, the Directors of the independent associate companies in the capital use, preservation and growth; the implementation of the approve business plans; the fulfillment of the State budget obligations.

6. Take responsibilities for the accuracy of the financial statements of the credit institution.

7. Perform other responsibilities as prescribed by laws and the charter of the credit institution.

Article 34. Responsibilities of the General Director (Director) of the credit institution

1. Operate the credit institution and take responsibilities before the Board of Directors, Board of Members and before law for the operation of the credit institution.

2. Operate the capital use in business consistently with the plans on using, preserving and growing capital approved by Board of Directors and Board of Members; implement the plans on profit distribution after fulfilling the tax liability and other financial obligations.

3. Be responsible for the mobilization and use of capital in business; the damage caused by subjective mistakes.

4. Formulate cost standards correspond to the business condition of the credit institution.

5. Make and submit the financial statements to Board of Directors and Board of Members for approval, be responsible for the accuracy of the financial statements, statistics and other financial information.

6. Formulate and submit annual financial plans in accordance with the business plan to the Board of Directors and Board of Members for approval.

7. Make decisions on the projects of investment, contribution, purchases of shares from other credit institutions and enterprises, transfer of invested capital portions according to the decentralization and authorization of the Board of Directors and Board of Members of the credit institution.

8. Perform other responsibilities as prescribed by laws and the charter of the credit institution.

Article 35. Responsibilities of the General Director (Director) of branches of foreign banks

1. Represent the foreign bank branch; take responsibilities before law for every activity and daily operation of the foreign bank branch within the rights and obligations in accordance with effective law provisions.

2. In case one foreign bank has two or more branches in Vietnam and exercise the uniform report, accounting and financial regulations, the foreign bank must authorize a General Director (Director) of the branch to be responsible before law for every activity of the branches of the foreign bank in Vietnam.

Article 36. Responsibilities of the representative of state capital of the credit institution

The representative of state capital at the credit institution shall perform rights and responsibilities of the representative in connection with financial management, financial supervision and assessment of effectiveness of state capital investment at the credit institution according to the provisions of this Decree, the law on management and utilization of state capital invested in the enterprise’s manufacturing and business activities and other related regulations.

Chapter VII

RESPONSIBILITIES OF MANAGEMENT AUTHORITIES

Article 37. Responsibilities of the Ministry of Finance

1. The Ministry of Finance shall take charge and provide guidance on the assigned contents in Article 16, 17, 26, 30 and 31 hereof and other necessary contents related to financial management of credit institutions and branches of foreign banks for compliance.

2. Review the assessment of the implementation of this Decree and submit it to the Government for amendment, supplement or replacement in case of necessity.

3. Coordinate with the State Bank of Vietnam in preparing and implementing plans on supervision of wholly state-owned credit institutions and state-invested credit institutions; supervise thematically or at the request of the Government or the Prime Minister.

4. Coordinate with the State Bank of Vietnam in handling financial issues of wholly state-owned credit institutions and credit institutions with more than 50% state owned charter capital.

Article 38. Responsibilities of the State bank of Vietnam

1. Cooperate with the Ministry of Finance to provide guidance for this Decree.

2. Inspect, supervise the operation of the branches of foreign banks and credit institutions; semi-annually and annually send reports on the financial status and violations of financial regulations of branches of foreign banks and credit institutions to the Ministry of Finance for handling.

3. Perform the functions of the representatives of state capital at credit institutions of which the capital is provided by the State.

a) Make decisions and take responsibilities for the decisions within the authority of the representative of state capital;

b) Take charge and coordinate with the Ministry of Finance in preparing and implementing plans on supervision of wholly state-owned credit institutions, assess the effectiveness of state capital investment in state-invested credit institutions as prescribed by the provisions of this Decree and other related regulations;

c) Send the report on the financial supervision results and rating results of wholly state-owned credit institutions; the report on the financial supervision results of state-invested credit institutions to the Ministry of Finance.

Chapter VIII

IMPLEMENTATION

Article 39. Transitional clause

If the Government's Decree No. 57/2012/ND-CP dated July 20, 2012 on the financial regime applicable to credit institutions, branches of foreign banks is different from the provisions of this Decree, the financial activities arising before the effective date of this Decree shall comply with the provisions of Decree No. 57/2012/ND-CP.

Article 40. Effect

1. This Decree takes effect in September 25, 2017. The contents of financial supervision, assessment of effectiveness of state capital investment in wholly state-owned credit institutions and partially state-owned credit institutions take effect from 2018.

2. This Decree supersedes the Government's Decree No. 57/2012/ND-CP dated July 20, 2012 on the financial regime applicable to credit institutions, branches of foreign banks.

Article 41. Organization of implementation

Ministers, Heads of ministerial agencies, Heads of Governmental agencies, Presidents of provincial People's Committees, credit institutions, branches of foreign banks and other related organizations and individuals are responsible for the implementation of this Decree./.

PP THE GOVERNMENT
PRIME MINISTER

Nguyen Xuan Phuc