

**THE STATE BANK OF  
VIETNAM**

-----

No.: 13/2017/TT-NHNN

**THE SOCIALIST REPUBLIC OF VIETNAM  
Independence – Freedom – Happiness**

-----

*Hanoi, September 29, 2017*

**CIRCULAR**

**AMENDMENTS TO THE CIRCULAR NO. 07/2015/TT-NHNN DATED JUNE 25, 2015 BY  
THE GOVERNOR OF THE STATE BANK OF VIETNAM ON BANK GUARANTEE**

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

*Pursuant to the Law on Credits Institutions dated June 16, 2010;*

*Pursuant to the Government's Decree No. 16/2017/ND-CP dated February 17, 2017 defining the  
functions, tasks, powers and organizational structure of the State Bank of Vietnam;*

*At the request of Director of the Department of Credits for Economies;*

*The Governor of the State Bank of Vietnam promulgates a Circular to provide amendments to  
the Circular No. 07/2015/TT-NHNN dated June 25, 2015 by the Governor of the State Bank of  
Vietnam on Bank Guarantee.*

**Article 1. Amendments to the Circular No. 07/2015/TT-NHNN dated June 25, 2015 by the  
Governor of the State Bank of Vietnam on Bank Guarantee**

1. Amendments to Article 2:

a) Amendments to Clause 3:

“3. Organizations and individuals engaged in guarantee transactions, including individuals and  
juridical persons who are residents or non-residents;”

b) Addition of Clause 4 to Article 2:

“4. If non-juridical persons engage in guarantee relations, the entities establishing and  
performing guarantee transactions shall conform to regulations in Article 101 of the Civil Code.”

2. Amendments to Clause 2 Article 10:

“2. Guaranteed financial obligations must be legal, except guaranteed payment obligations for  
bonds issued by enterprises for debt restructuring purpose and those issued by subsidiaries or  
affiliates of other credit institutions.”

### 3. Amendments to Article 12:

#### **“Article 12. Guarantee for sale or hire-purchase of off-plan houses**

1. A guarantee for sale or hire-purchase of off-plan houses (hereinafter referred to as the “guarantee for off-plan houses”) is considered as a bank guarantee whereby the commercial bank undertakes to act on behalf of the investor to fulfill their financial obligations to the purchaser or the hire-purchaser (hereinafter referred to as the “purchaser”) in the event the investor fails to transfer the house to the purchaser on the agreed-upon schedule without returning or insufficiently returning payment sums and others paid according to the signed contract for purchase or hire-purchase of house to the purchaser. The investor must take on their debt obligations and repay the commercial bank.

2. Announcement of the list of commercial banks capable of giving guarantees for off-plan houses:

a) A commercial bank is capable of giving guarantees for off-plan houses if:

(i) its license for establishment and operation, or the document stating any amendment or modification to this license includes bank guarantee operations; and

(ii) it is not prohibited from giving guarantees for off-plan house while it is under a special control.

b) The State Bank of Vietnam shall publish the list of commercial banks capable of giving guarantees for off-plan houses in each period on its website. A commercial bank that fails to maintain its satisfaction of the requirements mentioned in Point a Clause 2 of this Article and thus is removed from the list of eligible commercial banks must still perform the signed agreements or commitments on guarantees for off-plan houses until guarantee obligations are terminated.

3. A commercial bank shall consider issuing guarantee to the investor when:

a) The investor has satisfied all of requirements stated in Article 10 herein (excluding the cases where a commercial bank issues guarantee for the investor on the basis of counter guarantee);

b) The investor's project has satisfied all of requirements for off-plan property to be put on the market as prescribed in Article 55 of the Law on Real Estate Business.

4. Procedures for issuing guarantee for off-plan houses:

a) Based on the request of the investor or the counter-guarantee issuing party, the commercial bank shall consider, appraise and decide to issue guarantee to the investor;

b) The commercial bank and the investor shall conclude a contract for guarantee for off-plan houses in accordance with regulations in Article 56 of the Law on Real Estate Business. To be specific:

(i) A contract for guarantee for off-plan houses shall be made in the form of a guarantee agreement as prescribed in Clause 11 Article 3 and Article 14 of this Circular and include contents in conformity with regulations in Article 56 of the Law on Real Estate Business;

(ii) The guarantee sum for an off-plan housing project shall not exceed the sum of total amount which the investor is allowed to receive from the purchaser in accordance with regulations in Article 57 of the Law on Real Estate Business and others which the investor is obliged to return to the purchaser under provisions of the signed contract for purchase or hire-purchase of house in the event the investor fails to transfer the house to the purchaser on the agreed-upon schedule;

(iii) A guarantee agreement shall come into force from the date on which it is signed to the date on which the validity of guarantee obligations is terminated as regulated in Article 23 of this Circular.

c) The commercial bank shall give guarantee commitment to each purchaser. To be specific:

(i) Within 10 working days from the signing date of the contract for purchase or hire-purchase of house which stipulates the investor's obligations to return payment sums and others received from the purchaser to the purchaser in the event the investor fails to transfer the house to the purchaser on the agreed-upon schedule, the investor must send such contract for purchase or hire-purchase of house to the commercial bank;

(ii) within 5 working days from the receipt of the contract for purchase or hire-purchase of house, the commercial bank shall base on the received contract for purchase or hire-purchase of house and the guarantee agreement to make and send the guarantee commitment to the purchaser's address;

(iii) The guarantee commitment is given in the form of a letter of guarantee in accordance with regulations in Point a Clause 12 Article 3 and Article 15 of this Circular to each purchaser;

(iv) A guarantee commitment shall be valid from the issued date and remain valid at least 30 days after the date of house being transferred to the purchaser as agreed upon in the contract for purchase or hire-purchase of house.

5. Determination of the balance of guarantee:

a) The balance of guarantee for the investor is total amount which the investor has received from purchasers according to the agreed-upon schedule before the date of houses being transferred to purchasers and gradually reduced until guarantee obligations to purchasers are terminated as regulated in Article 23 of this Circular. The balance of guarantee for the investor shall be determined at the time when the investor informs the commercial bank of total amount which the investor has received from purchasers as prescribed in Point b of this Clause;

b) The commercial bank and the investor shall agree upon on the time of notification of total amount paid by purchasers provided that at least a notification must be given at the ending date of each month so as to determine the balance of guarantee. The investor shall assume responsibility to inform the commercial bank of the accurate amount received from purchasers on the agreed-upon schedule.

6. In addition to regulations of this Article, other contents about the guarantee for off-plan houses shall conform to relevant regulations in this Circular.”

4. Amendments to Article 34:

a) Amendments to Point b Clause 1:

“b) Cooperate with the Bank Supervision and Inspection Agency to announce the list of eligible commercial banks as mentioned in Point b Clause 2 of this Article;”

b) Amendments to Point b Clause 2:

“b) Act as the focal point in aggregating and requesting the Governor of the State Bank of Vietnam to make decision on announcement of the list of commercial banks capable of giving guarantees for off-plan houses in accordance with regulations in Clause 2 Article 12 of this Circular as well as timely making amendments to such list in accordance with regulations in Point b Clause 2 Article 12 of this Circular.”

**Article 2.**

Article 22 of the Circular No. 07/2015/TT-NHNN dated June 25, 2015 on bank guarantee is abrogated.

**Article 3. Implementation responsibility**

The Chief of the Ministry Office, the Director of the Department of Credits for Economies, the Heads of relevant affiliates of the State Bank of Vietnam, the Directors of the State Bank Branches of provinces or central-affiliated cities, the Presidents of the Boards of Directors, the Presidents of the Boards of Members and the General Directors (Directors) of credit institutions or foreign bank branches shall enforce this Circular.

**Article 4. Entry into force**

This Circular shall come into force as from November 15, 2017.

**PP. THE GOVERNOR**  
**DEPUTY GOVERNOR**  
**Nguyen Dong Tien**