

CIRCULAR

**AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF CIRCULARS
PRESCRIBING LICENSING, BUSINESS NETWORK AND FOREIGN EXCHANGE
OPERATIONS OF CREDIT INSTITUTIONS AND FOREIGN BANK BRANCHES**

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

Pursuant to the Law on Credit Institutions dated June 16, 2010 and the Law on Amending and Supplementing certain Articles of the Law on Credit Institutions dated November 20, 2017;

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;

Upon the request of the Director of the Department of Legal Affairs;

The State Bank's Governor hereby issues the Circular amending and supplementing a number of Articles of Circulars prescribing licensing, business network and foreign exchange operations of credit institutions and foreign bank branches.

Article 1. Amending, supplementing and repealing certain Articles of the Circular No. 40/2011/TT-NHNN dated December 15, 2011 of the State Bank's Governor prescribing licensing, organization and operation of commercial banks, foreign bank branches and representative offices of foreign credit institutions and other foreign organizations involved in banking operations in Vietnam.

1. Point dd clause 2 Article 9 shall be amended and supplemented as follows:

“dd) All founding shareholders shall be required to own at least 50% of the charter capital when establishing a joint-stock commercial bank, and all of those who are legal persons shall own at least 50% of total shares of founding shareholders;”.

2. Point e clause 2 Article 9 shall be amended and supplemented as follows:

“e) Notwithstanding the conditions prescribed in point c and dd of this clause, a founding shareholder who is an individual person must satisfy the following conditions:

(i) Hold the Vietnamese citizenship;

(ii) Not a prohibited person as provided in the Enterprise Law;

(iii) Not eligible to use mobilized funding sources and funds borrowed from any organization or individual as the contributed capital;

(iv) Be a manager of the enterprise earning profits within a minimum period of 03 consecutive years preceding the year of submission of the application for a business license, or holding a undergraduate or postgraduate degree in economics or law;”.

3. Point g (ii) clause 2 Article 9 shall be amended and supplemented as follows:

“(ii) Not allowed to use mobilized funding sources and funds borrowed from any other organization or individual as the contributed capital;”.

4. Point a, b and d clause 2 Article 9 shall be repealed; the words "a, b" specified in point g clause 2 Article 9, clause 3 Article 10 shall be eliminated.

Article 2. Repealing certain articles of the Circular No. 21/2013/TT-NHNN dated September 9, 2013 of the State Bank’s Governor prescribing business networks of commercial banks

Repealing point I clause 1 Article 6.

Article 3. Repealing certain articles of the Circular No. 21/2014/TT-NHNN dated August 14, 2014 of the State Bank’s Governor providing guidance on the scope of foreign exchange operations, conditions, procedures and processes for approval of foreign exchange operations of credit institutions and foreign bank branches

Repealing point a clause 2 Article 10 (which has been amended and supplemented by clause 10 Article 1 of the Circular No. 28/2016/TT-NHNN dated October 5, 2016 amending and supplementing certain articles of the Circular No. 21/2014/TT-NHNN dated August 14, 2014 of the State Bank’s Governor providing guidance on the scope of foreign exchange operations, conditions, procedures and processes for approval of foreign exchange operations of credit institutions and foreign bank branches).

Article 4. Amending, supplementing and repealing certain Articles of the Circular No. 30/2015/TT-NHNN dated December 25, 2015 of the State Bank’s Governor prescribing the licensing, organizational structure and operation of non-banking credit institutions

1. Clause 5 Article 11 (which has been amended and supplemented by clause 2 Article 1 of the Circular No. 15/2016/TT-NHNN dated June 30, 2016 amending and supplementing certain articles of the Circular No. 30/2015/TT-NHNN dated December 25, 2015 of the State Bank’s Governor prescribing the licensing, organizational structure and operation of non-banking credit institutions) shall be amended and supplemented as follows:

“5. Not allowed to use mobilized funding sources and funds borrowed from any other organization or individual as the contributed capital;”.

2. Point a clause 6 Article 11 (which has been amended and supplemented by clause 2 Article 1 of the Circular No. 15/2016/TT-NHNN dated June 30, 2016 amending and supplementing certain articles of the Circular No. 30/2015/TT-NHNN dated December 25, 2015 of the State Bank’s Governor prescribing the licensing, organizational structure and operation of non-banking credit institutions) shall be amended and supplemented as follows:

“a) Hold the Vietnamese citizenship;”.

3. Repealing point 1, 2 and 3 Article 11.

Article 5. Repealing certain articles of the Circular No. 31/2012/TT-NHNN dated November 26, 2012 of the State Bank's Governor prescribing cooperative banks

Repealing point 6 Article 8, point 1 Article 25.

Article 6. Repealing certain articles of the Circular No. 04/2015/TT-NHNN dated March 31, 2015 of the State Bank's Governor prescribing people's credit funds

Repealing point d clause 1 Article 31 (which has been amended and supplemented by clause 3 Article 2 of the Circular No. 06/2017/TT-NHNN dated July 5, 2017 amending and supplementing certain articles of the Circular No. 03/2014/TT-NHNN dated January 23, 2014 of the State Bank's Governor prescribing the fund for maintenance of prudence for the system of people's credit funds and the Circular No. 04/2015/TT-NHNN dated March 31, 2015 of the State Bank's Governor regarding people's credit funds).

Article 7. Implementation responsibilities

The Office's Chief, the Director of the Department of Legal Affairs, the Heads of the State Bank's affiliates, the Directors of the State Bank Branches of centrally-affiliated cities and provinces, the Chairs of Management Boards, the Chairs of Members Boards, and the General Directors (Directors) of credit institutions and foreign bank branches shall be responsible for implementing this Circular.

Article 8. Implementary provision

This Circular shall enter into force from October 1, 2018./.

**THE GOVERNOR
THE DEPUTY GOVERNOR
Dao Minh Tu**