

**STATE BANK OF
VIETNAM**

No.19/2018/TT-NHNN

**SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness**

Hanoi, August 28, 2018

CIRCULAR

GUIDING FOREIGN EXCHANGE MANAGEMENT FOR BORDER TRADE BETWEEN VIETNAM AND CHINA

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

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

Pursuant to the Law dated November 20, 2017 on amendments to certain articles of the Law on Credit Institutions;

Pursuant to the Foreign Exchange Ordinance dated December 13, 2005 and the Ordinance on amendments to the aforesaid Ordinance dated March 18, 2013;

Pursuant to Decree No.14/2018/ND-CP dated January 23, 2018 of the Government stipulating border trade;

Pursuant to Decree No.16/2017/ND-CP dated February 17, 2017 of the Government on functions, duties, rights and organizational structure of the State Bank of Vietnam;

Pursuant to the Agreement on border trade signed on September 12, 2016 between the Government of the Socialist Republic of Vietnam and the Government of the People's Republic of China and Agreement on payment and collaboration signed on May 26, 1993, which is amended on October 16, 2003 between the State Bank of Vietnam and the People's Bank of China;

At the request of Director General of Department of Foreign Exchange Management;

The Governor of the State bank of Vietnam promulgates a Circular guiding foreign exchange management for border trade between Vietnam and China.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

1. This Circular provides for matters relating to foreign exchange management for border trade between Vietnam and China, including:

- a) Payment in cross-border trade by traders;
- b) Payment in trade activities by the borderers;
- c) Payment in trade activities in bordering markets;
- d) Other activities related to foreign exchange prescribed in Chapter IV herein

2. Any individual carries foreign currency, Vietnam dong (VND) and China Renminbi (CNY) in the form of cash when entering and exiting through border checkpoint between Vietnam and China must comply with provisions of the Vietnamese law on carrying foreign currency and VND in the form of cash when exiting and entering another country.

Article 2. Regulated entities

- 1. Vietnamese and Chinese traders conducting border trade between Vietnam and China
- 2. Vietnamese and China borders conducting border trade between Vietnam and China
- 3. Commercial banks and branches of foreign banks that are licensed for foreign exchange trading in Vietnam (herein after referred to as "licensed banks")
- 4. Branches of licensed banks located in bordering areas and checkpoint economic zone between Vietnam and China (hereinafter referred to as “bordering branches”)
- 5. Sellers of duty-free goods or service providers in the isolated areas of internal border checkpoint or bonded warehouse providers in bordering areas and checkpoint economic zone between Vietnam and China.
- 6. Other relevant organizations and individuals involved in payment in border trade between Vietnam and China

Chapter II

PAYMENT IN CROSS-BORDER TRADE BETWEEN VIETNAM AND CHINA BY TRADERS

Article 3. Currencies

The currencies used for cross-border trade between Vietnam and China conducted by traders are convertible foreign currencies, VND or CNY.

Article 4. Payment methods

1. Bank transfer, including:

- a) Payment in convertible currency through licensed banks as per provisions of the law in force regarding foreign exchange management;
- b) Transfer of CNY through bordering branches;
- c) Transfer of VND through bordering branches

2. Payment in VND or CNY

3. Payment for the difference in value between exports and imports (bank transfer as prescribed in Clause 1 this Article)

Article 5. Cash payment in VND or CNY

1. Vietnamese traders may collect VND and CNY in cash from export through auxiliary border checkpoints and border crossings as per provisions of the law on border trade and deposit such money into a payment account opened at bordering branches.

2. Principles for depositing cash to the account:

a) Revenues in cash from each contract of export through auxiliary border checkpoint and bordering crossing shall be credited to a single payment account (VND or CNY account) opened at a bordering branch.

b) Vietnamese traders are required to present the following documents to the bordering branch and take legal responsibility for their authenticity:

(i) The original export contract or sales statement;

(ii) Customs declaration of goods exported through auxiliary border checkpoint or bordering crossing which is verified on the system that the goods have undergone inspection at the customs controlled area and printed out from the automatic clearance system. In case the goods of Vietnamese traders are exported by the border residents, the declaration of export by borderers verified by the checkpoint Customs Sub-department is required;

(iii) Entrance and exit declaration certified by the checkpoint Customs Sub-department regarding the amount of cash in CNY carried into Vietnam within 7 days from the entrance date specified in such declaration (in case of payment in CNY)

3. On the basis of checking documents prescribed in Point b Clause 2 this Article, the bordering branch shall stamp the original export contract or sales statement in order to certify the amount deposited to the account by the Vietnamese trader.

Article 6. Use of CNY payment account opened at bordering branches by Vietnamese traders

The Vietnamese trader conducting cross-border trade between Vietnam and China may use a CNY payment account opened at the bordering branch to make collections and payments as follows:

1. Collections:

- a) Revenue in CNY from cross-border sales through transfer;
- b) Collection of CNY in cash from export through the auxiliary border checkpoint or bordering crossing between Vietnam and China as prescribed in Article 5 herein;
- c) Revenue in CNY from payment for the difference in value between exports and imports through transfer;
- d) Transfer of CNY to payment account of the same trader opened in another bordering branch;
- dd) Depositing of CNY in cash by the employee working in China to the account opened at the bordering branch from which cash was withdrawn. When depositing the cash to the account, the trader must present the documents relating to the money withdrawal and the entrance-exit declaration on which the amount of CNY in cash is certified by the checkpoint customs. CNY in cash must be deposited to the account within 60 days from the entrance date specified in the entrance-exit declaration;
- e) Revenue from purchase of CNY transferred through a bordering branch

2. Payments:

- a) Payment in CNY by transfer for goods and services purchased across the Vietnam – China border;
- b) Payment in CNY by transfer for the difference in value between the exports and imports;
- c) Transfer of CNY cash to a CNY payment account opened by the same trader at another bordering branch;
- d) Withdrawal of CNY in cash by a Vietnamese trader's employee working in China;
- dd) Sale of CNY to a bordering branch

Article 7. Use of VND payment account opened at bordering branches by Chinese traders

The Chinese trader conducting cross-border trade between Vietnam and China may use a VND payment account opened at the bordering branch to make the following collections and payments:

1. Collections:

- a) Revenue in VND from cross-border sales through transfer;
- b) Revenue in VND from payment for the difference in value between exports and imports through transfer;
- c) Revenue from purchase of VND transferred through a bordering branch;
- d) Transfer of VND to payment account of the same trader opened at another licensed bank.

2. Payments:

- a) Payment in VND by transfer for goods and services purchased across the Vietnam – China border;
- b) Payment in VND by transfer for the difference in value between exports and imports;
- c) Payment in VND by transfer for other legal payment purposes as per provisions of the Vietnamese law;
- d) Withdrawal of VND in cash for spending in Vietnam
- dd) Transfer of VND to a VND payment account opened by the same trader at another bordering branch;
- e) Payment in VND by transfer for CNY or another foreign currency purchased through a bordering branch to carry it back to China

Chapter III

PAYMENT IN TRADING CONDUCTED BY BORDERERS AND TRADING IN BORDERING MARKETS

Article 8. Currencies

The currencies used for trade by borderers and trade in bordering markets are VND or CNY.

Article 9. Payment methods

1. Bank transfer, including:

a) Transfer of CNY through bordering branches;

b) Transfer of VND through bordering branches

2. Payment in VND or CNY cash

3. Payment for the difference in value between exports and imports traded by borderers (bank transfer as prescribed in Clause 1 this Article)

Article 10. Use of CNY payment account opened at bordering branches by Vietnamese traders conducting trade in bordering markets and by Vietnamese borderers

1. The Vietnamese trader conducting trade in bordering markets may use a payment account in CNY opened at a bordering branch to make the following collections and payments:

a) Collections:

(i) Revenue in CNY from sale of goods and services in bordering markets through transfer;

(ii) Transfer of CNY to payment account opened by the same trader at another bordering branch;

(iii) Depositing of CNY in cash by the employee working in China to the account opened at the bordering branch from which cash was withdrawn. When crediting the cash to the account, the trader must present the documents relating to the money withdrawal and the entrance-exit declaration on which the amount of CNY in cash is certified by the checkpoint customs to the bordering branch. CNY in cash must be deposited to the account within 60 days from the entrance date specified in the entrance-exit declaration;

(iv) Revenue from purchase of CNY transferred through a bordering branch

b) Payments:

(i) Payment in CNY by transfer for goods and services purchased in bordering markets;

(ii) Transfer of CNY to CNY payment account opened by the same trader at another bordering branch;

(iii) Withdrawal of CNY in cash by a Vietnamese trader's employee working in China;

(iv) Sale of CNY to a bordering branch

2. The Vietnamese trader conducting trade in bordering markets who is involved in cross-border trade between Vietnam and China may use a payment account in CNY as prescribed in Article herein to make collections and payments specified in Clause 1 this Article.

3. The Vietnamese borderer involved in the trading with the Chinese borderer and trading in bordering markets may use a payment account in CNY opened at the bordering branch to make the following collections and payments:

a) Collections:

(i) Revenue in CNY from sale or exchange of goods and services with Chinese borderers and trading in bordering markets through transfer;

(ii) Revenue in CNY from payment for the difference in value between exports and imports through transfer;

(iii) Transfer of CNY to payment account opened by the same borderer at another bordering branch;

(iv) Revenue from purchase of CNY transferred through a bordering branch

b) Payments:

(i) Payment in CNY by transfer for goods and services purchased or exchanged with Chinese borderers and trading in bordering markets through transfer;

(ii) Payment in CNY by transfer for the difference in value between exports and imports traded by borderers;

(iii) Transfer of CNY to payment account opened by the same borderer at another bordering branch;

(iv) Sale of CNY to a bordering branch

Article 11. Use of VND payment account opened at bordering branches by Chinese traders conducting trading in bordering markets and by Chinese borderers

1. The Chinese trader conducting trade in bordering markets may use a VND payment account opened at a bordering branch to make collections and payments as follows:

a) Collections:

(i) Revenue in VND from sale or exchange of goods and services in bordering markets through transfer;

(ii) Collection of VND in cash from sale or exchange of goods and services in bordering markets;

(iii) Revenue from purchase of VND transferred through a bordering branch;

(iv) Transfer of VND to payment account opened at another licensed bank by the same trader

b) Payments:

(i) Payment in VND by transfer for goods and services purchased in bordering markets;

(ii) Payment in VND by transfer for other legal payment purposes as per provisions of the Vietnamese law;

(iii) Withdrawal of VND in cash for spending in Vietnam

(iv) Transfer of VND to payment account opened by the same trader at another bordering branch;

(v) Payment in VND by transfer for CNY or another foreign currency purchased through a bordering branch to carry it back to China

2. The Chinese trader conducting trade in bordering markets who is involved in cross-border trade between Vietnam and China may use a payment account in VND as prescribed in Article 7 herein to make collections and payments specified in Clause 1 this Article.

3. The Chinese borderer involved in the trading with the Chinese borderer and trading in bordering markets may use a payment account in VND opened at the bordering branch to make the following collections and payments:

a) Collections:

(i) Revenue in VND from sale or exchange of goods and services with Vietnamese borderers and trading in bordering markets through transfer;

(ii) Revenue in VND from payment for the difference in value between exports and imports through transfer;

(iii) Revenue in VND from sale of CNY or another foreign currency transferred through a bordering branch;

(iv) Collection of VND in cash from sale or exchange of goods and services in bordering markets and cross-border sales;

(v) Transfer of VND to payment account opened at another licensed bank by the same borderer

b) Payments:

(i) Payment in VND by transfer for goods and service purchased or exchanged with Vietnamese borderers and in bordering markets;

- (ii) Payment in VND by transfer for the difference in value between exports and imports;
- (iii) Transfer of VND to payment account opened by the same borderer at another bordering branch;
- (iv) Payment in VND by transfer for other legal payment purposes as per provisions of the Vietnamese law;
- (v) Withdrawal of VND in cash for spending in Vietnam
- (vi) Purchase of CNY or another foreign currency transferred through a bordering branch to carry it back to China

Chapter IV

OTHER ACTIVITIES RELATED TO FOREIGN EXCHANGE CONNECTING WITH PAYMENT IN BORDER TRADE BETWEEN VIETNAM AND CHINA

Article 12. Authorization for payment in CNY

1. Authorization for payment in CNY means the act in which the licensed bank (hereinafter referred to as “the authorizer”) authorizes the licensed bank having a bordering branch (hereinafter referred to as “the authorized person”) to make payment in CNY through the bordering branch for cross-border trade by traders in compliance with regulations herein.

2. Principles for authorization for payment in CNY

- a) In case of authorization for import payment in CNY the authorizer shall pay in VND to the authorized person. In case of authorization for export payment in CNY, the authorizer shall receive payment in CNY by the authorized person;
- b) The authorization must be made into a contract between the authorizer and authorized person, including the following information: name and address of the authorizer and authorized person, authorization matters and scope, authorization purpose, beneficiary of the authorization, authorization duration, rights and obligations of the authorizer and authorized person and other contents agreed by both parties in compliance with law provisions;
- c) The authorized person is not permitted to give authorization to a third party.

Article 13. Payment in CNY by system of licensed banks having bordering branches

Payment in CNY by the system of licensed banks for cross-border trade conducted by the traders shall be made through the bordering branch in accordance with internal regulations of the licensed bank.

Article 14. Agreement on payment cooperation between licensed banks having bordering branches and Chinese banks

The licensed bank having bordering branches may enter into a written agreement with the commercial bank of China in bordering areas on opening of VND or CNY account, payment method, account management method and other matters in compliance with law provisions of each country.

Article 15. Export and import of CNY cash and VND cash

1. The licensed bank having bordering branches may import and export CNY cash and VND cash in order to regulate the cash amount for business operation of its bordering branches.
2. CNY cash and VND cash shall be imported or exported through the international border checkpoint and main border checkpoint and the checkpoint economic zone between Vietnam and China.
3. When importing or exporting CNY cash and VND cash, the licensed bank having bordering branches shall take responsibility to:
 - a) make a customs declaration at the border checkpoint as per law provisions;
 - b) work out methods for management, supervision and assurance of safety for delivery, receiving, maintenance and transport of CNY cash and VND cash;
 - c) face risks related to cash import and export on its own

Article 16. Use of CNY payment account opened at bordering branches by other providers

Any provider specified in Clause 5 Article 2 herein may use a payment account in CNY opened at a bordering branch to make the following collections and payments:

1. Collections:
 - a) Revenue in CNY from provision of goods and services in consistent with relevant law provisions through transfer
 - b) Collection of CNY in cash from provision of goods and services in consistent with relevant law provisions;
 - c) Depositing of CNY in cash by the employee working in China to the account opened at the bordering branch from which cash was withdrawn. When depositing the cash to the account, the provider must present the documents relating to the money withdrawal and the entrance-exit declaration on which the amount of CNY in cash is certified by the checkpoint customs to the bordering branch. CNY in cash must be deposited to the account within 60 days from the entrance date specified in the entrance-exit declaration;

2. Payments:

- a) Payment in CNY by transfer for imports from China;
- b) Withdrawal of CNY in cash by a Vietnamese trader's employee working in China;
- c) Sale of CNY through transfer to a bordering branch

Article 17. Purchase of CNY in cash for the purpose of carrying it back to China

1. The Chinese trader whose revenues in VND are generated from trading in bordering markets is entitled to purchase CNY in cash from a bordering branch in order to carry it back to China.
2. The Chinese border whose revenues in VND are generated from trading in Vietnam and from wages, bonuses and allowances is entitled to purchase CNY in cash from a bordering branch to carry it back to China.
3. When purchasing CNY in cash to carry it back to China, the Chinese border and trader shall present papers and documents required by the licensed bank and take legal responsibility for their authenticity

Chapter V

RESPONSIBILITIES OF ORGANIZATIONS AND INDIVIDUALS

Article 18. Responsibilities of the State Bank's branch in bordering provinces

1. Instruct relevant organizations and individuals to comply with regulations herein.
2. Carry out inspection and supervision of payment in cross-border trade between Vietnam and China as per regulations herein. In case any violation against regulations herein is found, the State Bank's branch in bordering provinces shall take legally accepted actions as authorized.
3. Cooperate with relevant organizations and individuals in managing payment in cross-border trade between Vietnam and China in accordance with law provisions.

Article 19. Responsibilities of the licensed bank

1. The licensed bank shall:
 - a) comply with and instruct its clients to strictly comply with regulations herein;
 - b) consider, check and store all papers and documents suitable for real transactions in order to ensure foreign exchange services are provided for right purposes in compliance with law provisions.

2. In addition to responsibilities specified in Clause 1 this Article, the licensed bank having bordering branches shall:

- a) quote and publish CNY/VND buying rate and selling rate at the bordering branch according to regulations issued by the State Bank of Vietnam;
- b) issue internal documents on authorization for payment in CNY and payment in CNY by the system of licensed bank in consistent with regulations herein and relevant law provisions;
- c) comply with Vietnamese law provisions and International Practice to which Vietnam is signatory when entering in to an agreement on payment cooperation with Chinese banks.

Article 20. Responsibilities of other individuals, traders and organizations

- 1. Present papers and documents as per regulations of the licensed bank when carrying out foreign exchange transactions and take legal responsibility for the authenticity of the papers and documents presented to the licensed bank.
- 2. Strictly comply with regulations herein and relevant law provisions.

Chapter VI

IMPLEMENTATION

Article 21. Reporting regime

- 1. The presented bank involved in payment in border trade between Vietnam and China shall make reports as per regulations of the State Bank of Vietnam on statistical reports applied to credit institutions and branches of foreign banks (excluding data on authorization for payment in CNY).
- 2. The presented bank having bordering branches shall send quarterly reports made according to Appendix 1, 2, 3 and 4 issued thereto to the State Bank of Vietnam (Foreign Exchange Management Department) and State Bank's branch in bordering provinces where the bordering branch is located before the 20th of the first month of the following quarter.

Article 22. Implementation provisions

- 1. This Circular comes into force from October 12, 2018.
- 2. Decision No.689/2004/QĐ-NHNN dated June 07, 2004 of Governor of the State bank of Vietnam which promulgate regulations on payment in trading in bordering areas and checkpoint economic zone between Vietnam and China will expire from the effective date of this Circular.

3. This Circular amends Article 1 of Circular No.33/2013/TT-NHNN dated December 26, 2013 of the State Bank of Vietnam which provide guidelines on procedures for approving import and export of foreign currency in the form of cash by licensed banks. To be specific:

“Article 1. Scope and regulated entities

1. This Circular deals with the procedure for approving import and export of foreign currency in the form of cash (excluding currency of the country sharing the same border with ours) by commercial banks and branches of foreign banks licensed for foreign exchange trading (hereinafter referred to as “licensed banks”).

2. Foreign currency in the form of cash that is the currency of the country sharing the same border as ours shall be imported and exported in accordance with special regulations issued by the State Bank of Vietnam.”

4. Chief Office, Director General of Foreign Exchange Management Department, Directors of relevant entities affiliated to the State Bank of Vietnam, Directors of the State Bank's branches in provinces and centrally-affiliated cities, Chairman of Board of Directors, Member Councils, Directors General (Director) of credit institutions and branches of foreign banks shall take responsibility to implement this Circular./.

**PP. GOVERNOR
DEPUTY GOVERNOR**

Nguyen Thi Hong