

# Circular No. 19/2014/TT-NHNN of August 11, 2014

THE STATE BANK  
OF VIETNAM

THE SOCIALIST REPUBLIC OF VIETNAM  
Independence - Freedom - Happiness

No. 19/2014/TT-NHNN

Hanoi, August 11, 2014

## CIRCULAR

### Guiding the foreign exchange management of foreign direct investment in Vietnam

*Pursuant to June 16, 2010 Law No. 46/2010/QH12 on the State Bank of Vietnam;*

*Pursuant to June 16, 2010 Law No. 47/2010/QH12 on Credit Institutions;*

*Pursuant to December 13, 2005 Ordinance No. 28/2005/PL-UBTVQH11 on Foreign Exchange; and March 18, 2013 Ordinance No. 06/2013/UBTVQH13 Amending and Supplementing a Number of Articles of December 13, 2005 Ordinance No. 28/2005/PL-UBTVQH11;*

*Pursuant to the Government's Decree No. 70/2014/ND-CP of July 17, 2014, detailing a number of articles of the Ordinance on Foreign Exchange and the Ordinance Amending and Supplementing a Number of Articles of the Ordinance on Foreign Exchange;*

*Pursuant to the Government's Decree No. 156/2013/ND-CP of November 11, 2013, defining the functions, tasks, powers and organizational structure of the State Bank of Vietnam (below referred to as the State Bank);*

*At the proposal of the Director of the Foreign Exchange Management Department;*

*The State Bank Governor promulgates the Circular guiding the foreign exchange management of foreign direct investment in Vietnam.*

#### Chapter I

#### GENERAL PROVISIONS

**Article 1.** Scope of regulation

This Circular guides the foreign exchange management of foreign direct investment activities in Vietnam, including contribution of investment capital; opening and use of foreign-currency and Vietnam-dong direct investment capital accounts; transfer of capital, profits and lawful incomes abroad; and transfer of investment capital in the stage of investment preparation.

## **Article 2.** Subjects of application

This Circular applies to:

1. Residents that are foreign-invested enterprises;
2. Non-residents that are parties to business cooperation contracts in Vietnam;
3. Non-residents that are foreign investors in foreign-invested enterprises;
4. Organizations and individuals that are involved in foreign direct investment in Vietnam.

## **Article 3.** Interpretation of terms

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

1. "Foreign investor" means a non-resident that is an organization or individual conducting foreign direct investment activities in Vietnam in a form of direct investment under the current regulations on investment.
2. "Foreign-invested enterprise" means an enterprise to which a foreign investor contributes capital for its establishment and management and which conducts investment activities in Vietnam.
3. "Licensed bank" means a commercial bank or foreign bank branch licensed to do foreign exchange business and provide foreign exchange services in accordance with law.
4. "Licensed credit institution" means a licensed bank or non-bank credit institution licensed to do foreign exchange business and provide foreign exchange services in accordance with law.
5. "Direct investment capital account" means a foreign-currency or Vietnam-dong payment account opened by a foreign-invested enterprise or foreign party to a business cooperation contract at a licensed bank to conduct transactions related to foreign direct investment in Vietnam under Articles 6, 7 and 8 of this Circular.

## **Article 4.** General principles

1. Foreign-invested enterprises and foreign investors shall comply with the investment law, current regulations on foreign exchange management and this Circular.

2. The contribution of investment capital in cash by foreign and Vietnamese investors to foreign-invested enterprises must be made in the form of transfer of money into direct investment capital accounts.
3. The use of profits divided to foreign investors in the Vietnamese territory must comply with current regulations on foreign exchange management and other relevant provisions of Vietnamese law.
4. The transfer of investment capital within foreign-invested enterprises and investment projects of foreign investors must comply with the Investment Law, the Enterprise Law, the Personal Income Tax Law, the Enterprise Income Tax Law, legal documents guiding these Laws, current regulations on foreign exchange management and relevant laws.
5. The transfer of payments for the transfer value of investment capital and projects must comply with current regulations on foreign exchange management and relevant laws.
6. Foreign investors may use their lawful Vietnam-dong or foreign-currency incomes from foreign direct investment activities in Vietnam for reinvestment in Vietnam.

## **Chapter II**

### **SPECIFIC PROVISIONS**

#### **Article 5.** Contribution of investment capital

1. Foreign investors and Vietnamese investors in foreign-invested enterprises may make foreign-currency or Vietnam-dong investment capital contributions at levels stated in investment certificates.
2. Residents that are Vietnamese investors in foreign-invested enterprises may make investment capital contributions with their lawful self-acquired foreign-currency sources.

#### **Article 6.** Opening of foreign-currency and Vietnam-dong direct investment capital accounts

1. To conduct foreign direct investment activities in Vietnam, a foreign-invested enterprise or foreign investor to a business cooperation contract may open a foreign-currency or Vietnam-dong direct investment capital account at 1 (one) licensed bank to conduct collection and payment transactions specified in Articles 7 and 8 of this Circular.
2. A foreign-invested enterprise or foreign investor to a business cooperation contract may open a direct investment capital account in a foreign currency which it has chosen for making investment capital contribution.

For the foreign currency it has chosen for making investment capital contribution, a foreign-invested enterprise or foreign investor to a business cooperation contract may open only 1 (one) direct investment capital account in such foreign currency for making investment capital contribution.

3. In case a foreign-invested enterprise borrows foreign loans in foreign currencies other than the currency of its direct investment capital account, it may open additional direct investment capital accounts in these loans' currencies at the licensed bank where it opens the first direct investment capital account for conducting lawful collection and payment transactions related to those foreign loans and collection and payment transactions specified in Article 7 of this Circular.

4. In case a foreign-invested enterprise or foreign investor to a business cooperation contract needs to open a direct investment capital account at another licensed bank, it shall close the current direct investment capital account and transfer the whole balance on such account to the new account. The procedures for opening and closing direct investment capital accounts must comply with regulations of licensed banks.

Foreign-invested enterprises and foreign investors to business cooperation contracts may conduct collection and payment transactions on newly opened direct investment capital accounts only after closing and liquidating previously opened ones.

**Article 7.** Use of foreign-currency direct investment capital accounts

Foreign-currency direct investment capital accounts may be used to conduct the following collection and payment transactions related to direct investment activities:

1. Collection transactions:

a/ Collection of foreign-currency direct investment capital contributions of foreign investors and Vietnamese investors in foreign-invested enterprises;

b/ Collection of foreign-currency withdrawals from short-, medium- and long-term domestic and foreign loans of foreign-invested enterprises;

c/ Collection of payments for the transfer value of investment capital and projects;

d/ Collection of foreign-currency amounts from foreign-currency payment accounts opened at licensed banks by foreign-invested enterprises and foreign investors;

dd/ Other lawful foreign-currency revenues from foreign direct investment activities in Vietnam.

2. Payment transactions:

a/ Payment of principals, interests and charges in foreign currencies of short-, medium- and long-term domestic and overseas loans of foreign-invested enterprises;

b/ Transfer of foreign-currency amounts into foreign-currency payment accounts opened at licensed banks by foreign-invested enterprises and foreign investors;

c/ Sale of foreign-currency amounts to licensed credit institutions for transfer into Vietnam-dong payment accounts of foreign-invested enterprises and foreign investors;

d/ Transfer of payments for the value of transferred investment capital and projects;

dd/ Transfer out of Vietnam of foreign-currency profits and other lawful incomes of foreign investors from foreign direct investment activities in Vietnam;

e/ Transfer out of Vietnam of foreign-currency direct investment capital of foreign investors in case of dissolution or termination of operation of foreign-invested enterprises, transfer of investment capital and projects, reduction of investment capital or expiration, liquidation or termination of operation of investment projects in accordance with the investment law;

g/ Other lawful foreign-currency payments related to foreign direct investment activities in Vietnam.

#### **Article 8. Use of Vietnam-dong direct investment capital accounts**

Vietnam-dong direct investment capital accounts may be used to conduct the following collection and payment transactions related to direct investment activities:

##### 1. Collection transactions:

a/ Collection of Vietnam-dong direct investment capital contributions of foreign investors and Vietnamese investors in foreign-invested enterprises;

b/ Collection of Vietnam-dong after-tax profits divided to foreign investors and Vietnamese investors in foreign-invested enterprises for reinvestment in Vietnam;

c/ Collection of Vietnam-dong withdrawals from short-, medium- and long-term domestic loans of foreign-invested enterprises for conducting investment activities in Vietnam;

d/ Collection of Vietnam-dong withdrawals from foreign loans of foreign-invested enterprises permitted to borrow foreign loans in Vietnam dong under current regulations on borrowing and repayment of foreign loans by enterprises without government guarantee;

dd/ Collection of payments for the transfer value of investment capital and projects;

e/ Collection of Vietnam-dong amounts from Vietnam-dong payment accounts opened at licensed banks by foreign-invested enterprises and foreign investors.

##### 2. Payment transactions:

a/ Transfer of Vietnam-dong amounts into Vietnam-dong payment accounts opened at licensed banks by foreign-invested enterprises and foreign investors;

b/ Transfer of Vietnam-dong profits to foreign investors and Vietnamese investors in foreign-invested enterprises;

c/ Payment of principals, interests and charges of short-, medium- and long-term domestic Vietnam-dong loans for implementation of investment projects of foreign-invested enterprises;

d/ Payment of principals, interests and charges in Vietnam dong of foreign loans of foreign-invested enterprises permitted to borrow foreign loans in Vietnam dong under current regulations on borrowing and repayment of foreign loans by enterprises without government guarantee;

dd/ Transfer of payments for the value of transferred investment capital and projects;

e/ Return of Vietnam-dong investment capital to foreign investors and Vietnamese investors in foreign-invested enterprises in case of their dissolution or operation termination, transfer of investment capital and projects, reduction of investment capital or expiration, liquidation or operation termination of investment projects in accordance with the investment law.

**Article 9.** Transfer of capital, profits and lawful incomes abroad

1. Foreign investors may transfer abroad their direct investment capital upon dissolution or operation termination of foreign-invested enterprises, reduction of investment capital or expiration, liquidation or operation termination of investment projects and business cooperation contracts in accordance with the investment law; principals, interests and charges of foreign loans; profits and other lawful incomes related to direct investment activities in Vietnam via their direct investment capital accounts, except the cases specified in Clause 2 of this Article and Clauses 2 and 3, Article 10 of this Circular.

2. In case foreign-invested enterprises shall close direct investment capital accounts due to their dissolution or operation termination or transfer of investment capital which leads to change of the initial legal entities of these enterprises, foreign investors may use their foreign-currency and Vietnam-dong payment accounts opened at licensed banks to purchase foreign-currency amounts and transfer abroad direct investment capital and lawful incomes.

3. Foreign investors may use their lawful Vietnam-dong incomes from direct investment activities in Vietnam to purchase foreign-currency amounts from licensed credit institutions and transfer them abroad within 30 working days from the date of purchase.

**Article 10.** Transfer of capital in the stage of investment preparation

1. Transfer of investment capital into Vietnam before grant of investment certificates:

a/ Before being granted investment certificates, foreign investors may transfer investment capital into Vietnam to pay lawful expenses in the stage of investment preparation in Vietnam according to

written agreements between involved parties via their foreign-currency payment accounts opened at licensed banks;

b/ Foreign investors may use investment capital amounts already transferred into Vietnam as mentioned at Point a of this Clause to pay lawful expenses in the stage of investment preparation in Vietnam in compliance with current regulations on use of foreign exchange in the Vietnamese territory and other relevant Vietnamese regulations.

## 2. Transfer of investment capital abroad after grant of investment certificates:

a/ After being granted investment certificates by competent agencies, foreign investors and Vietnamese investors in foreign-invested enterprises and foreign investors to business cooperation contracts shall liquidate investment capital amounts already transferred into Vietnam before the date of grant of investment certificates;

b/ The conversion of capital amounts transferred by foreign investors into Vietnam to pay expenses in the stage of investment preparation in Vietnam into contributed capital or foreign loan capital shall be based on agreements between involved parties and compliant with the current regulations on investment and accounting and relevant regulations of Vietnam.

In case capital amounts transferred by foreign investors into Vietnam have been used to pay investment preparation expenses and converted into medium- or long-term foreign loans of foreign-invested enterprises, these enterprises shall carry out procedures to register these medium- or long-term foreign loans under regulations of the State Bank;

c/ In case foreign investors do not use up investment capital amounts transferred into Vietnam to pay investment preparation expenses, they may transfer abroad remaining foreign-currency investment capital amounts or purchase foreign-currency amounts for transfer abroad with investment capital amounts already converted into Vietnam dong but not used up in Vietnam, provided they can produce dossiers and documents proving investment capital amounts transferred into Vietnam and expenses incurred by investment projects in Vietnam. The transfer of capital abroad shall be completed within 30 working days from the date of purchase of foreign-currency amounts.

## 3. Transfer of investment capital abroad by foreign investors that have their applications for investment certificates rejected or stop implementing direct investment projects in Vietnam:

a/ In case foreign investors that have transferred investment capital into Vietnam to pay lawful expenses for investment preparation in Vietnam have their applications for investment certificates rejected by competent agencies or stop implementing direct investment projects in Vietnam, they may transfer abroad investment capital amounts which they have transferred into Vietnam and demand deposit interests (if any) after paying expenses for the preparation for direct investment in

Vietnam, provided they can produce valid documents proving investment capital amounts transferred into Vietnam and lawful expenses for the preparation for investment projects in Vietnam;

b/ Foreign investors may purchase and transfer abroad foreign currency amounts with investment capital amounts already converted into Vietnam dong but not used up in Vietnam, provided they can produce dossiers and documents proving investment capital amounts transferred into Vietnam and expenses incurred by investment projects in Vietnam. The transfer of capital abroad shall be completed within 30 working days from the date of purchase of foreign-currency amounts.

4. The transfer of remaining investment capital amounts abroad under Clauses 2 and 3 of this Article shall be conducted via foreign-currency payment accounts opened at licensed banks and used by foreign investors for transfer of investment capital into Vietnam under Point a, Clause 1 of this Article.

#### **Article 11.** Implementation of direct investment in the form of capital contribution or share purchase

Foreign investors that make direct investment in Vietnam in the form of share purchase or capital contribution for participation in the management of investment activities in Vietnam shall comply with regulations on opening of accounts as follows:

1. In case Vietnamese enterprises are granted investment certificates by competent agencies in accordance with the current investment law, these enterprises shall open direct investment capital accounts and comply with the provisions of this Circular.

2. Cases other than those specified at Point a of this Clause must comply with the State Bank's Circular No. 05/2014/TT-NHNN of March 12, 2014, guiding the opening and use of indirect investment capital accounts for implementation of foreign indirect investment activities in Vietnam, and documents amending and supplementing this Circular (if any).

### **Chapter III**

#### **RIGHTS AND OBLIGATIONS OF LICENSED CREDIT INSTITUTIONS, FOREIGN-INVESTED ENTERPRISES AND FOREIGN INVESTORS**

#### **Article 12.** Rights and obligations of licensed credit institutions

1. When opening direct investment capital accounts and conducting collection and payment transactions related to foreign direct investment activities in Vietnam for foreign-invested enterprises and foreign investors, licensed credit institutions may request foreign-invested enterprises and foreign investors to produce documents related to their direct investment activities in Vietnam.



2. When conducting collection and payment transactions related to the foreign direct investment activities of foreign-invested enterprises and foreign investors in Vietnam, licensed credit institutions shall:

a/ Guide foreign-invested enterprises and foreign investors in the procedures for opening and closing direct investment capital accounts;

b/ Prescribe, examine and keep documents appropriate to collection and payment transactions on direct investment capital accounts of foreign investors in order to ensure that such transactions are conducted in compliance with this Circular and other relevant laws of Vietnam;

c/ Sell foreign currencies to foreign investors for transfer abroad, provided they have sufficient foreign-currency sources and comply with law.

**Article 13.** Rights and obligations of foreign-invested enterprises and foreign investors

1. Foreign-invested enterprises and foreign investors may conduct direct investment activities in Vietnam in compliance with this Circular and other relevant laws of Vietnam.

2. When conducting collection and payment transactions related to foreign direct investment activities in Vietnam, foreign-invested enterprises and foreign investors shall:

a/ Declare contents of collection and payment transactions related to foreign direct investment activities in Vietnam as requested and guided by licensed credit institutions;

b/ Produce and add dossiers and documents at the request of licensed credit institutions.

## **Chapter IV**

### **REPORTING REGIME**

**Article 14.** Reporting regime applicable to licensed credit institutions

Licensed credit institutions shall report to the State Bank on the situation of foreign direct investment by foreign investors in Vietnam under current regulations of the State Bank on reporting and statistical regime.

**Article 15.** Requests for extraordinary reports

In unexpected cases or when necessary, foreign-invested enterprises and licensed credit institutions shall report on arising issues at the request of the State Bank.

## **Chapter V**

## **INSPECTION, EXAMINATION, AND HANDLING OF VIOLATIONS**

### **Article 16. Examination, inspection and supervision**

The State Bank and its provincial-level branches shall inspect, examine and supervise the observance of the regulations on foreign exchange management related to foreign direct investment in Vietnam by foreign-invested enterprises, foreign investors and licensed credit institutions under this Circular and other relevant laws.

Related organizations and individuals shall provide all necessary dossiers and documents for prompt and effective inspection, examination and supervision.

### **Article 17. Handling of violations**

Foreign-invested enterprises, foreign investors and licensed credit institutions that violate the provisions of this Circular shall, depending on the severity of their violations, be handled in accordance with law.

## **Chapter VI**

### **ORGANIZATION OF IMPLEMENTATION**

#### **Article 18. Effect**

1. This Circular takes effect on September 22, 2014.
2. To annul Article 9 of the State Bank's Circular No. 05/2014/TT-NHNN of March 12, 2014, guiding the opening and use of indirect investment capital accounts for conducting foreign indirect investment activities in Vietnam.

#### **Article 19. Transitional provisions**

1. From the effective date of this Circular, foreign-invested enterprises and foreign investors to business cooperation contracts shall convert special-use foreign-currency deposit accounts into foreign-currency direct investment capital accounts.

The conversion of special-use foreign-currency deposit accounts into foreign-currency direct investment capital accounts of foreign-invested enterprises and foreign investors to business cooperation contracts shall be conducted within 6 months from the effective date of this Circular.

2. Licensed credit institutions shall convert special-use foreign-currency deposit accounts into foreign-currency direct investment capital accounts under Clause 1 of this Article for foreign-invested enterprises and foreign investors to business cooperation contracts.

3. After 6 months from the effective date of this Circular, foreign-invested enterprises and foreign investors to business cooperation contracts may no longer use their special-use foreign-currency deposit accounts for conducting direct investment activities in Vietnam.

**Article 20.** Organization of implementation

The Director of the Office, the Director of the Foreign Exchange Management Department and heads of related units of the State Bank, directors of the State Bank's provincial-level branches, chairpersons of Boards of Directors and Members' Councils and directors general (directors) of credit institutions and foreign bank branches shall implement this Circular.-

*For the Governor of the State Bank*

Deputy Governor

LE MINH HUNG