

Hanoi, 2 November 2007

**DECISION
ISSUING
REGULATIONS ON ISSUANCE OF LICENCES FOR ESTABLISHMENT AND
OPERATION OF SHAREHOLDING NON-BANKING CREDIT INSTITUTIONS**

The Governor of the State Bank

- Pursuant to the *Law on State Bank of Vietnam* dated 12 December 1997 as amended on 17 June 2003;
- Pursuant to the *Law on Credit Institutions* dated 12 December 1997 as amended on 15 June 2004;
- Pursuant to the 2005 *Law on Enterprises*;
- Pursuant to Decree 52-2003-ND-CP of the Government dated 19 May 2003 on duties, powers and organizational structure of the State Bank of Vietnam;
- Pursuant to Decree 79-2002-ND-CP of the Government dated 4 October 2002 on organization and operation of finance companies ["*Decree 79*"];
- Pursuant to Decree 16-2001-ND-CP of the Government dated 2 May 2001 on organization and operation of finance leasing companies ["*Decree 16*"];
- Pursuant to Decree 65-2005-ND-CP of the Government dated 19 May 2005 amending Decree 16-2001-ND-CP ["*Decree 65*"];
- On the proposal of the Director of the Department for Banks and Non-Banking Credit Institutions ("*The Department for Banks*");

Decides:

Article 1

To issue with this Decision the *Regulations on issuance of licences for establishment and operation of shareholding non-banking credit institutions*.

Article 2

This Decision shall be of full force and effect fifteen (15) days after the date of its publication in the Official Gazette.

This Decision shall replace the contents of provisions on issuance of licences and on the form of charter capital contribution applicable to shareholding non-banking credit institutions stipulated in Circular 06-2002-TT-NHNN of the State Bank dated 23 December 2002 providing guidelines on Decree 79; and in Circular 06-2005-TT-NHNN of the State Bank dated 12 October 2005 providing guidelines on Decree 16 (as amended by Decree 65).

Article 3

The Head of the Office, the Director of the Department for Banks, heads of units of the State Bank, directors of provincial and municipal State Bank branches, and chairmen of boards and general directors (directors) of shareholding non-banking credit institutions shall be responsible for implementation of this Decision.

For the Governor of the State Bank
Deputy Governor
TRAN MINH TUAN

**REGULATIONS
ON
ISSUANCE OF LICENCES FOR ESTABLISHMENT AND
OPERATION OF SHAREHOLDING NON-BANKING CREDIT INSTITUTIONS**
(Issued with Decision 40-2007-QD-NHNN of the State Bank dated 2 November 2007)

CHAPTER I
General Provisions

Article 1 *Governing scope*

These Regulations govern issuance of licences for establishment and operation (hereinafter abbreviated to *licences*) of shareholding finance companies and shareholding finance leasing companies (hereinafter both referred to as *shareholding non-banking credit institutions or SNBCIs*)¹.

Article 2 *Applicable entities*

1. SNBCIs.
2. Organizations and individuals involved in the issuance of licences.

Article 3 *Authority to issue licences*

The Governor of the State Bank of Vietnam shall, on the basis of ensuring safety of the Vietnamese credit institution system, issue decisions on issuance of licences to SNBCIs in accordance with these Regulations and other relevant laws.

Article 4 *Interpretation of terms*

In these Regulations, the following terms shall be construed as follows:

1. *Preparatory Committee for the establishment of a SNBCI* (hereinafter abbreviated to *Preparatory Committee*) means an organization comprising members elected by the founding shareholders to represent them in commencing the work of applying for the issuance of a licence. A preparatory committee shall have at least five (5) members, one of whom shall act as head of the committee.

2. *Initial general meeting of shareholders* means the initial meeting of founding shareholders and other shareholders participating in capital contribution and the decision to establish the SNBCI. The initial general meeting of shareholders shall have the duty of passing the charter on organization and operation and the plan on establishment of the SNBCI, of electing members of the board of management and of the inspection committee for the initial term of office, and of passing decisions on other issues relevant to establishing the SNBCI.

3. *Shareholder* means any organization or individual holding at least one share issued by the SNBCI.

4. *Founding shareholder* means a shareholder actively participating in formulating, signing and passing the initial charter of the SNBCI. A founding shareholder must satisfy the criteria stipulated in regulations of the State Bank.

5. *Classes of shares:*

(a) A SNBCI must have ordinary shares, owners of which shall be ordinary shareholders and founding shareholders. Ordinary shares shall not be convertible into preference shares.

(b) A SNBCI may have preference shares, owners of which shall be preference shareholders. Preference shares may be converted into ordinary shares.

(c) Classes of preference share:

(i) *Voting preference shares*: Only founding shareholders shall be permitted to hold voting preference shares. Voting preference shares of founding shareholders shall only be valid for a period of three (3) years from the date on which the State Bank issues the licence to the SNBCI.

(ii) *Dividend preference shares* means shares for which a dividend is paid higher than the dividend paid on ordinary shares or higher than the annual fixed level. Dividends payable annually shall comprise a fixed dividend and a bonus dividend. The fixed dividend shall not depend on the business results of the SNBCI. The specific amount of the fixed dividend and the method of fixing the amount of the bonus dividend shall be stipulated in the dividend preference share certificate. Dividend preference shareholders shall not have the right to vote at or attend the general meeting of shareholders, nor to elect members to the board of management or inspection committee.

6. *Executive* means the general director (or director if the SNBCI does not have the position of general director), deputy general director (deputy director) and other executive positions as stipulated in the charter on organization of the SNBCI.

7. *Manager of a SNBCI* means the chairman and members of the board of management; and the general director (director) and other [managerial] positions as stipulated in the charter on organization of the SNBCI.

8. *Subsidiary company of a SNBCI*: a company shall be deemed to be a subsidiary company of a SNBCI if it falls into one of the following cases:

(a) One hundred (100) per cent of the charter capital of the company is owned by the SNBCI;

(b) Above fifty (50) per cent of the charter capital of the company is owned by the SNBCI;

(c) The SNBCI has the right to appoint the majority or all members of the board of management and the general director (director) of the company;

(d) The SNBCI has the right to make decisions on amendments of and additions to the charter of the company

9. *Affiliate* means any organization or individual with a direct or indirect relationship with the NBCI, comprising:

(a) Parent company, manager of the parent company and any person with the authority to appoint the manager of the parent company of the SNBCI;

(b) Subsidiary of the SNBCI;

(c) Any organization or individual, or group of organizations or individuals, with the ability to control the issuing of decisions by or activities of the SNBCI via an entity which manages the SNBCI;

(d) A manager or member of the inspection committee of the SNBCI;

(dd) A spouse, parent or foster parent, child or adopted child, or sibling of a manger of the SNBCI or of a shareholder of the SNBCI owning more than ten (10) per cent of the shareholding;

(e) An individual authorized to act as representative of any entity stipulated in sub-clauses (a) to (dd) inclusive above;

(g) A SNBCI in which any entity stipulated in sub-clauses (a) to (e) inclusive or in sub-clause (h) of this article owns [shares] at a level entitling it to control issuance of decisions by a manager or executive of such SNBCI;

(h) A group comprising organizations or individuals who reach an agreement to co-operate amongst themselves to takeover or acquire an interest in the SNBCI or to control issuance of decisions by such SNBCI.

10. *Dividend means* a net benefit paid to all shareholders in cash or other assets from residual profit of the SNBCI after discharge of its financial obligations.

11. *Authorized representative* means an individual granted a written power of attorney by a shareholder being an organization to represent the latter's capital contribution portion in the SNBCI.

Article 5 Charter capital

1. Charter capital shall be contributed in Vietnamese dong, freely convertible foreign currency, or gold. Freely convertible foreign currency or gold must be converted into Vietnamese dong in order to be set out in the licence and charter of the SNBCI.

2. Charter capital must be contributed from legal monetary sources, and must not be sourced from loan monies in any form. A shareholder being an enterprise shall only be permitted to use funding from its charter capital and reserve funds in order to contribute to the charter capital of a SNBCI, but such contribution must not impact on the compulsory capital sources which such enterprise must have in order to conduct its operation. Shareholders must make an undertaking to be legally liable for the legality of their contributions to charter capital.

Article 6 Shareholders

1. An SNBCI must have at least fifty (50) shareholders, of whom a minimum of three (3) founding shareholders must be organizations with legal entity status which satisfy all the conditions stipulated in article 8.3(b) of these Regulations.

2. Shareholders being organizations must be established in accordance with the law of Vietnam, and shareholders being individuals must have Vietnamese nationality. Shareholders must not be within the category of entities prohibited by article 13.4 of the *Law on Enterprises*.

3. Shareholders being organizations must have operated for a minimum period of one year; and ordinary shareholders who contribute capital from five (5) per cent or more of the charter capital must have operated for a minimum of two years and their business operation must be profitable.

4. Any one individual or organization or persons affiliated to them shall not be permitted to contribute capital to more than two SNBCIs applicable to each type of SNBCI; and they shall only be permitted to contribute capital to one SNBCI applicable to each type of SNBCI, if:

(a) The individual or the individual jointly with affiliate/s already owned from ten (10) per cent or more of the charter capital in one SNBCI.

(b) The organization or the organization jointly with affiliate/s already owned from twenty (20) per cent or more of the charter capital in one SNBCI.

Article 7 Level of ownership of shareholding

1. Any one shareholder being an individual shall be permitted to own a maximum of ten (10) per cent of the charter capital in one SNBCI.

2. Any one shareholder being an organization shall be permitted to own a maximum of twenty (20) per cent of the charter capital in one SNBCI.

3. Any one shareholder with its affiliates shall be permitted to own a maximum of twenty (20) per cent of the charter capital in one SNBCI.

4. Any one Group or Corporation (with charter capital above one thousand billion dong) and their affiliates shall be permitted to participate as founding shareholders and to own a maximum of forty (40) per cent of the charter capital in a SNBCI if such Group or Corporation has permission from the Prime Minister of the Government to contribute capital to establish a SNBCI and such Group or Corporation provides an undertaking to provide assistance across the board, and to be jointly liable with such SNBCI for risks during operation after establishment.

5. Founding shareholders must jointly own a minimum of fifty (50) per cent of the charter capital of an SNBCI, of which founding shareholders being organizations must jointly own a minimum of fifty (50) per cent of the total shares owned by founding shareholders.

CHAPTER II

Conditions, Procedures and Application Files for Issuance of a Licence

Article 8 *Conditions for issuance of a licence:*

1. There is a need for the establishment and operation of a SNBCI.

2. The SNBCI has adequate legal capital in accordance with the current regulations of the Government on minimum legal capital requirements.

3. Founding shareholders:

(a) Applicable to individuals:

- They must have a good understanding of banking activities, have good professional ethics, and not be in breach of law.

- They must have sufficient financial capability to contribute capital and they must make an undertaking to assist the SNBCI if it meets difficulties regarding its capital or if it becomes insolvent (the board of management shall make a decision in each specific case on the level of such assistance).

(b) Applicable to organizations:

- They must prove they have sufficient financial capability and they must make an undertaking to assist the SNBCI if it meets difficulties regarding its capital or if it becomes insolvent (the board of management shall make a decision in each specific case on the level of such assistance).

- An organization must be an enterprise with a minimum equity of two hundred billion dong and total assets of five hundred billion dong; and its business operation must have been profitable for the five (5) consecutive years prior to the year of the application to establish the SNBCI.

In the case of an organization being a credit institution, its total assets must be a minimum of three thousand billion dong, and its ratio of bad debts over outstanding loans must be less than three (3) per cent as at the time of applying to contribute capital to establish the SNBCI; it must not be in breach of the regulations on banking operational safety as issued by the State Bank; and its business results must have been profitable for the five (5) consecutive years prior to the year of the application to establish the SNBCI.

4. Managers and executives:

(a) Must have full civil legal capacity:

(b) Must satisfy the criteria stipulated in article 12 of these Regulations.

5. There must be a charter on organization and operation of the SNBCI which complies with current regulations.

6. There must be a draft plan on establishment and operation which is feasible.

Article 9 *Persons ineligible to accept a position in a SNBCI*

The following shall be ineligible to accept a position in a SNBCI as a member of the board of management or of the inspection committee, as the general director (director) or deputy general director (deputy director):

1. A minor; or a person whose capacity for civil acts is restricted or has been lost.
2. A person currently subject to criminal prosecution.
3. Any person who has been convicted of a crime in the sector of national security, or a serious crime infringing socialist property or property of the citizens; or a person convicted of any serious economic crime.
4. State officials and employees as defined in the law on state officials and employees; leaders and managers of one hundred (100) per cent State owned enterprises, except for any person elected to act as representative to manage the capital contribution portion of the State in another enterprise.
5. Officers and non-commissioned officers, career servicemen and national defence workers in bodies and units of the people's army of Vietnam; and officers and career non-commissioned officers in bodies and units of the people's police force except for any person elected to act as representative to manage the capital contribution portion in another enterprise.
6. Any person who was the owner of a private enterprise, a partner in a partnership, or the general director (director) or chairman or member of the board of management, of the members' council, or of the inspection committee of an enterprise at the time such enterprise was declared bankrupt except where the declaration of bankruptcy was made for reasons of force majeure.
7. Any person who was legal representative of an enterprise at the time the operation of such enterprise was suspended or the enterprise was compulsorily dissolved due to a serious breach of law, unless the person was the representative at the request of a competent State body in order to strengthen or reorganize such enterprise.
8. Any person who was a member of the board of management or of the inspection committee or who was the general director (director) of a credit institution which a competent State body or legal body certified had made errors leading to withdrawal of the licence for establishment and operation of such credit institution.
9. A spouse, parent, child or sibling of a member of the board of management, or of the general director (director) of a SNBCI shall not be permitted to be a member of the inspection committee or the chief accountant of such SNBCI.

Article 10 *Persons ineligible to hold concurrent positions in a SNBCI*

1. Members of the board of management:

(a) The chairman of the board of management may not concurrently be the general director (director) or deputy general director (deputy director) of the SNBCI.

(b) The chairman of the board of management may not be on the board of management or be an executive of another SNBCI unless such other SNBCI is a subsidiary of the SNBCI in question.

2. Members of the inspection committee:

(a) They may not concurrently be an executive or staff member of the SNBCI or of a subsidiary of the SNBCI.

(b) The head of the inspection committee may not be on the inspection committee or be an executive of another SNBCI;

3. The general director (director) may not concurrently be an executive of or chairman of the board of management of another SNBCI unless such other SNBCI is a subsidiary of the SNBCI in question.

Article 11 *Obligations of members of the board of management and of the inspection committee, and of executives:*

1. To comply with the law and with the charter of the SNBCI in exercising assigned rights and discharging assigned obligations.

2. To exercise assigned rights and to discharge assigned obligations honestly, diligently, and in the best interests of the SNBCI.

3. To be loyal to the interests of the SNBCI; not to use information, know-how or business opportunities of the SNBCI, and not to abuse his or her position or the assets of the SNBCI to obtain an individual benefit or to advance the benefits of other organizations or individuals or to cause loss to the interests of the SNBCI.

4. To promptly, fully and accurately notify the SNBCI of any interest which they have in another economic organization, in any transaction, or with any other individual which may cause a conflict of interest and only to use such opportunity after the board of management has considered and approved [the interest].

5. Not to facilitate any third party to cause loss to the interests of the SNBCI.

6. Not to create favourable conditions for himself or herself or for an affiliate to provide loans on preferential or more favourable conditions than those stipulated in articles 77 and 78 of the *Law on Credit Institutions*.

7. Not to receive an increase in salary, any bonus or remuneration when the SNBCI suffers losses.

8. Other obligations stipulated in the charter of the SNBCI.

Article 12 *Criteria applicable to managers and executives of a SNBCI*

1. Any person elected to act as a member of the board of management must satisfy all the following criteria and conditions:

(a) Not belong to the categories stipulated in articles 9 and 10.1 of these Regulations.

(b) Have good professional ethics and to comply with the provisions in article 11 of these Regulations.

(c) Have the ability to operate a SNBCI and an understanding about the operation of a SNBCI:

(i) Have a university or post-university degree in one of the faculties of economics, business management or law; or

(ii) Have at least three years' work experience as an office manager or higher level manager in a credit institution or other enterprise; or

(iii) Have at least 5 years' work experience directly working in a professional section in the banking, finance, accounting or auditing sectors; or

(iv) Be an individual shareholder owning, or an authorized representative of an owner of at least 5% of the total shareholding capital in a SNBCI.

(d) The number of members of the board of management of the SNBCI without the university degree stipulated in sub-clause (i) above must not exceed one-third of the total number of members of the board.

(dd) They must reside in Vietnam during the period for which they hold such position (applicable to full time members of the board).

2. Any person elected to act as a member of the inspection committee must satisfy all the following criteria and conditions:

(a) Not belong to the categories stipulated in articles 9 and 10.2 of these Regulations.

(b) Have good professional ethics and to comply with the provisions in article 11 of these Regulations.

(c) Have a university or post-university degree in one of the faculties of economics, business management or law or in the specialized sector for which he or she will assume responsibility.

(d) Not be an affiliate of a manager of the SNBCI.

(dd) Reside in Vietnam during the period for which they hold such position (applicable to full time members of the board).

3. Any person elected to act as the general director (director) must satisfy all the following criteria and conditions:

(a) Not belong to the categories stipulated in articles 9 and 10.3 of these Regulations.

(b) Have good professional ethics and to comply with the provisions in article 11 of these Regulations.

(c) Have a university or post-university degree in one of the faculties of economics, business management or law; have at least three years' work experience as an office manager or higher level manager in a credit institution or other enterprise with minimum total asset value of 300 billion dong.

(dd) Reside in Vietnam during the term of office.

Article 13 *Application file for approval in principle to issuance of a licence*

[An application file shall contain the following documents:]

1. Request signed by the head of the Preparatory Committee to establish the SNBCI, specifying that all the conditions and criteria stipulated in articles 8 and 12 of these Regulations have been satisfied, and requesting approval in principle to issuance of a licence.

2. Draft charter on organization and operation of the SNBCI in compliance with the law on the type of SNBCI it is proposed to establish.

3. Draft plan on establishment of the SNBCI explaining the following items:

(a) The necessity to establish the SNBCI; an explanation of the financial capability of shareholders and their ability to contribute capital to establish the SNBCI and their ability to maintain their share ownership ratio as founding shareholders pursuant to article 7 of those Regulations.

(b) The name of the SNBCI, its charter capital on establishment, and the location where it is proposed to set up its head office in accordance with law.

(c) The structure of organizing staffing:

- A diagram showing the proposed staffing arrangement of the SNBCI;
- Proposed staffing being managers, inspection committee and executives;
- Managerial capabilities of the people proposed to act as members of the board of management, of the inspection committee and as executives of the SNBCI.

(d) Risk management capability: the types of risk which it is forecast may arise and the ability to prevent or control such risks during the operation of the SNBCI.

(dd) Information technology: the ability to apply information technology, including the period for implementing investment in such technology, and the type of technology which it is proposed to apply; proposals regarding senior staff during the application of information technology.

(e) The ability of the SNBCI to be competitive and to develop on the market:

- An analysis and assessment of the finance and banking market (current status, opportunities, challenges and hopes); ability and opportunities to be competitive and to develop;
- Strategy on development, and proposed basic operational scope of the SNBCI after it is granted with a licence.

(g) Scale of the system for internal checks, control and audit of the SNBCI.

(h) Specific, feasible business plan for the first three years: specifying the ability to raise capital, to provide loans, to make investments and specifying business effectiveness; specifying that it satisfies the criteria on minimum capital safety and the criteria on operational effectiveness, and explaining the ability to implement the plan during each year.

(i) Internal rules on organization and operation of the SNBCI, comprising:

- Rules on organization and operation of the board of management, the inspection committee and executives;
- Rules on operation of the internal check, control and auditing section;
- Rules on risk management.

4. A list of founding shareholders containing the following basic information:

(a) Name and head office address in the case of an organization;

(b) Full name, residential address, nationality, number and date and place of issuance of people's identity card or passport in the case of an individual, legal representative and authorized representative of an organization; amount and value of capital contribution, number and class of shares and percentage ownership of shares, period for contributing capital, and an undertaking not to breach the provisions in article 6.4 of these Regulations.

5. The application file of a shareholder:

(a) The application file of a shareholder being an individual shall comprise:

- List of and ratio of purchase of shares by shareholders;
- In addition to the above-mentioned documents, founding shareholders and shareholders owning from five (5) per cent or more of the charter capital in the SNBCI must also enclose the following documents:

+ Application to purchase shareholding on the standard form stipulated by the State Bank

(Appendix 4);

+ Curriculum vita (Appendix 2); and legal file as stipulated by law;

+ Undertaking from each founding shareholder to assist the SNBCI if it meets capital difficulties or becomes insolvent;

+ Written undertaking to be liable for the legality of the source of such shareholder's capital contribution funds and an undertaking that he or she is not in breach of article 6.4 of these Regulations.

(b) The application file of a shareholder being an organization shall contain the following documents:

- Application to purchase shareholding on the standard form stipulated by the State Bank

(Appendix 3);

- Business registration certificate or equivalent document of the organization;

- Power of attorney and curriculum vita (Appendix 2) of the legal representative [and] of the authorized representative at the SNBCI, and undertaking that he or she is not in breach of article 6.4 of these Regulations;
- Charter on organization and operation;
- People's identity card or passport of the legal representative of a legal entity [and] of the authorized representative at the SNBCI;
- Letter from the authorized body (if any) approving capital contribution to establish the SNBCI;
- Balance sheet and report on business operation results as audited for the most recent year (if any) and an explanation of the financial statements, including the following items:
 - + Source of equity (charter capital, reserve funds, undistributed profits and so forth);
 - + Balance of savings deposit accounts and any loans at credit institutions;
 - + Balance of the investment contribution to purchase shares. If the capital contribution to purchase shares is at a credit institution, securities company or insurer, then the name and address of such body must be specified, including the number of shares currently held, the par value of the shares, and the estimated market value of such shares and so forth;
 - + Business operational results.
- In addition to the above-mentioned documents, founding shareholders and shareholders owning from five (5) per cent or more of the charter capital must also enclose the following documents:
 - + Undertaking to assist the SNBCI if it meets capital difficulties or becomes insolvent;
 - + Independently audited financial statements for the five (5) consecutive years prior to the year of the application to establish the SNBCI in accordance with the law on accounting.

6. An application file from people proposed to be on the board of management or inspection committee, or to act as executives, shall comprise:

- (a) List of the proposed people;
- (b) Curriculum vita (Appendix 2); and legal file (if any) as stipulated by law;
- (c) Documents proving expert qualifications;
- (d) Undertaking from an individual and from the board of management regarding the fact that the people proposed to be managers and executives of the SNBCI satisfy the requirements of the State Bank.

7. Minutes of the meeting of the founding shareholders regarding election of the Preparatory Committee pursuant to article 4.1 of these Regulations.

Article 14 *Application file for issuance of a licence*

[An application file for issuance of a licence shall contain the following documents:]

1. Request for issuance of a licence on the standard form promulgated by the State Bank (Appendix 1).
2. Charter on organization and operation of the SNBCI.
3. Plan on establishment of the SNBCI as stipulated in article 13.3 of these Regulations.
4. Minutes of the initial meeting of the general meeting of shareholders approving the items relevant to establishment of the SNBCI in accordance with article 4.2 of these Regulations.
5. Minutes of the meeting of the board of management electing the chairman of the board and the general director (director); minutes of the meeting of the inspection committee electing the head and members of the inspection committee.

6. Decision of the board of management appointing the general director (director).
7. The application file of a shareholder shall comprise:
 - (a) A shareholder being an individual: Application to purchase shareholding on the standard form stipulated by the State Bank (Appendix 4).
 - (b) A shareholder being a founding shareholder, a shareholder being an organization, and a shareholder being an individual owning from five (5) per cent or more of the charter capital in the SNBCI must also enclose the documents stipulated in article 13.5 of these Regulations.
8. People proposed to be on the board of management or inspection committee, or to act as executives must also enclose the documents stipulated in article 13.6 of these Regulations (if there is any change).
9. List of shareholders and the capital contribution of each shareholder, specifying the full name, residential address, nationality, number of people's identity card and date and place of issuance, or number of the passport or other equivalent legal personal identification of an individual. In the case of an organization, its name and address, head office address, number of its decision on establishment or number of its business registration [certificate]; name and number of people's identity card or passport and address of the representative of a legal entity and of an authorized representative at the SNBCI; amount of capital contribution, its value, percentage ownership, number and class of shares, and time for contributing capital.
10. Letter from the people's committee of the province or city under central authority granting approval for the SNBCI to set up its head office within the locality.
11. Letter confirming ownership of or legal right to use the head office.

Article 15 *Principles for preparing application files*

1. All copy documents must be certified by an authorized body in accordance with law.
2. In the case of documents signed by the Preparatory Committee, there must be a heading which reads "Preparatory Committee for the establishment of the SNBCI".

Article 16 *Contents of a licence*

A licence shall contain the following main particulars:

1. Number of the licence, place and date of issuance.
2. Name of the SNBCI, including full name in both Vietnamese and English, abbreviated name in both Vietnamese and English, and trading name (if any).
3. Address of the head office.
4. Geographical scope of operation.
5. Charter capital.
6. Operational items.
7. Operational term.

Article 17 *Payment of fees*

A SNBCI must pay fees after it is granted a licence at the level stipulated in regulations of the Ministry of Finance no later than fifteen (15) days after the date of issuance of the licence.

Article 18 *Business registration*

A SNBCI must conduct business registration in accordance with law after it is granted a licence.

Article 19 *Conditions for commencing operation*

1. An SNBCI which has been issued with a licence must satisfy the following conditions in order to commence operation:

(a) The State Bank has ratified its charter on organization and operation.

(b) It has a business registration certificate.

(c) Charter capital contributions are fully paid up in accordance with the list of registered shareholders and such sums are deposited in an escrow account opened at a State Bank branch in the province or city where the SNBCI will operate, at least thirty (30) days prior to the proposed date for commencement of operation. The amount in the escrow account may only be released after the SNBCI has commenced operation.

(d) It has an office which is convenient for trading with clients, and which ensures operational safety in accordance with provisions of law and regulations of the State Bank.

(dd) It has published a notice in accordance with law about the contents of its licence.

2. A SNBCI must commence operation within twelve (12) months from the date on which the State Bank issues the licence.

3. If a SNBCI fails to implement the provision in clause 2 above, the State Bank shall withdraw the licence in accordance with law.

Article 20 *Use of a licence*

1. A SNBCI must use the correct name stipulated in its licence, and must operate in accordance with the contents stipulated in its licence.

2. It shall be strictly prohibited to falsify or to erase the contents of a licence, or to assign or lend a licence which has been issued by the Governor of the State Bank of Vietnam.

3. A licence which is lost, torn, burnt or destroyed in any way shall not be re-issued, but instead the State Bank shall only re-issue a copy of a licence to an SNBCI if there is a legitimate reason for doing so.

CHAPTER III

Responsibilities of Related Organizations and Individuals

Section 1

Organizations and Individuals Who Contribute Capital to Establish a SNBCI

Article 21 *Responsibilities of organizations and individuals who contribute capital to establish a SNBCI:*

1. They shall be legally liable for the source of the funds to contribute capital to establish the SNBCI in accordance with article 5.2 of these Regulations.

2. They shall be permitted to assign their shares as follows:

(a) For a period of three (3) years from the date the SNBCI is issued with a licence, founding shareholders shall not be permitted to assign their voting preference shares to others and may only assign the number of ordinary shares within the total amount of capital contributing shares on establishment of the SNBCI to other founding shareholders who satisfy the conditions stipulated in article 7 of these Regulations.

(b) For a period of one year from the date on which the SNBCI receives its licence, shareholders who are not founding shareholders shall not be permitted to assign the number of their capital contributing shares on establishment of the SNBCI to any other person who is not a shareholder of the SNBCI.

3. They shall be liable for the truthfulness and accuracy of the contents of the shareholder's application file as stipulated in these Regulations, and if after the licence has been issued it is discovered that any item was untruthful or inaccurate, the State Bank shall revoke the licence in accordance with article 29 of the *Law on Credit Institutions*.

4. They shall be liable to correctly comply with other provisions relating to the establishment and operation of a SNBCI.

Article 22 Responsibilities of a Preparatory Committee:

1. To prepare six (6) sets of the application file stipulated in article 13 of these Regulations, including two original sets, and to lodge them with the State Bank in order to obtain approval in principle, and to send one set to the people's committee of the province or city where the SNBCI proposes to set up its head office in order to request approval to establishing such office within the locality.

2. After the State Bank provides written approval in principle, the Preparatory Committee shall be responsible:

(a) To hold the initial meeting of the general meeting of shareholders to pass the items stipulated in article 4.2 of these Regulations;

(b) To prepare the file stipulated in article 14 of these Regulations and to lodge three copies, including two original sets, with the State Bank.

3. To guide organizations and individuals to complete procedures to contribute capital and to complete application files in accordance with articles 13 and 14.

4. To be liable for the truthfulness and accuracy of the contents of the application files lodged with the State Bank.

5. To be legally liable for information supplied regarding the proposal to establish the SNBCI, regarding managing and preserving confidentiality of application files and of registration to contribute capital; to be liable for the amount of capital contributions prior to the grant of a licence, or to fully pay up the capital contributions if they are insufficient to commence operation. To notify shareholders of the reason why a licence was not issued if the SNBCI is not in fact established.

6. To pay fees and to open the escrow account at the State Bank branch as stipulated, and to notify shareholders that they are required to pay money into such account in accordance with the registered list of capital contributing shareholders.

Article 23 Responsibilities of the head of the Preparatory Committee

1. To convene and to chair the initial meeting of the general meeting of shareholders in accordance with law.

2. To sign documents regarding establishment of the SNBCI until the State Bank issues the licence, and before the State Bank approves the charter and approves the people appointed to be chairman and members of the board of management, head and members of the inspection committee, and general director (director) of the SNBCI.

Section 2

Responsibilities of the State Bank

Article 24 Responsibilities of the Department for Banks:

1. To make proposals on dealing with any issues relating to issuance of a licence.

2. To act as co-ordinator in receiving application files and in co-ordinating in order to evaluate such files.

(a) Within a time-limit of forty-five (45) business days from the date of receipt of an application file for approval in principle pursuant to article 13 of these Regulations, the Department of Banks shall be responsible:

(i) To send a letter requesting an evaluation to the relevant entities;

(ii) To evaluate the application, to co-ordinate and collate opinions from the entities concerned and to make a submission to the Governor of the State Bank:

- To provide written approval in principle if all conditions are satisfied;

- To advise that approval in principle is not yet granted and to request the Preparatory Committee to supplement the file or to explain unclear items; or

- To provide written notice of non-approval to establishment of the SNBCI if all the conditions stipulated have not been satisfied.

(b) In the case of an application file for issuance of a licence:

Within thirty (30) business days from the date of receipt of a complete file in accordance with article 14 of these Regulations, the Department of Banks shall evaluate the file and make a submission to the Governor of the State Bank:

- To sign a decision issuing a licence, approving the charter and approving the persons proposed to be appointed as chairman and members of the board of management, as head and members of the inspection committee, and as general director (director) of the SNBCI if all conditions are satisfied; or

- To request the Preparatory Committee to supplement the file or to explain unclear items; or

- To provide written notice of non-issuance of a licence if all the conditions stipulated have not been satisfied.

Article 25 State Bank Inspectorate:

Within a maximum time-limit of ten (10) business days from the date it receives a proposal from the Department of Banks, the State Bank Inspectorate shall be responsible:

1. To make an assessment of the current operational status, financial capability and possible participation in management, control and operation by any credit institution requesting to contribute capital to the establishment of a SNBCI, and to supply the relevant information to organizations and individuals who have registered to contribute capital to establish such SNBCI (if any).

2. To evaluate an application file for approval in principle to establish a SNBCI and to send a written response thereon to the Department of Banks.

Article 26 Department of Legal Systems:

Within a maximum time-limit of ten (10) business days from the date it receives a proposal from the Department of Banks, the Department of Legal Systems shall be responsible to evaluate an application file for approval in principle to establish a SNBCI and to send a written response thereon to the Department of Banks.

Article 27 Department for Banking Strategy and Development:

Within a maximum time-limit of ten (10) business days from the date it receives a proposal from the Department of Banks, the Department for Banking Strategy and Development shall be responsible to offer its opinion on the necessity for establishing the SNBCI, and to evaluate an application file for approval in principle to establish a SNBCI and to send a written response thereon to the Department of Banks.

Article 28 State Bank branches in provinces and cities where an SNBCI proposes to set up its head office:

1. Within a maximum time-limit of ten (10) working days from the date a State Bank branch receives a request from the Department of Banks, the State Bank branch in the province or city where the SNBCI proposes to set up its head office shall evaluate the application file for approval in principle to establishment of the SNBCI, including an assessment of the need and necessity to establish a SNBCI within the locality, and the ability of the State Bank branch to conduct

management and supervision, and it shall then provide a written response to the Department of Banks.

2. To act as co-ordinator and reference point for local authorities to provide their opinions on establishment of the SNBCI within the locality.

3. To certify opening of the escrow account and the amount of money deposited by shareholders of the SNBCI into the account.

4. To provide directions and to supervise the SNBCI to fulfil conditions stipulated by law and by the State Bank prior to the SNBCI commencing its operation.

CHAPTER IV **Implementing Provisions**

Article 29 *Dealing with breaches*

Any breach of the provisions in these Regulations shall, depending on its nature and seriousness, be dealt with in accordance with law.

For the Governor of the State Bank
Deputy Governor
TRAN MINH TUAN