

Hanoi, 28 December 2006

DECREE PROVIDING REGULATIONS FOR IMPLEMENTATION OF ORDINANCE ON FOREIGN EXCHANGE CONTROL

The Government

- Pursuant to the *Law on Organization of the Government* dated 25 December 2001;
- Pursuant to the *Law on the State Bank of Vietnam* dated 12 December 1997 as amended on 17 June 2003;
- Pursuant to the Ordinance on Foreign Exchange Control dated 13 December 2005;
- Having considered the proposal of the Governor of the State Bank of Vietnam,

Decrees:

CHAPTER I General Provisions

Article 1 *Governing scope*

1. This Decree provides detailed regulations for implementation of a number of articles of the Ordinance on Foreign Exchange Control regarding foreign exchange activities of residents and non-residents in current transactions, capital transactions, use of foreign currency and provision of foreign exchange services; regarding the foreign currency market and rates of exchange, and management of import and export of gold in the Socialist Republic of Vietnam.

2. The management of foreign exchange reserves of the State shall be implemented in accordance with separate regulations of the Government.

3. Dealing with breaches of the law on foreign exchange control and foreign exchange activities shall be implemented in accordance with regulations of the Government on dealing with administrative breaches in the currency and banking activities sector.

Article 2 *Applicable entities:*

1. Organizations and individuals being residents and non-residents with foreign exchange activities within Vietnam.

2. Organizations and individuals being residents involved in foreign exchange activities during administration, inspection and dealing with breaches.

Article 3 *Interpretation of terms*

In this Decree, the following terms shall be construed as follows:

1. *Foreign exchange* comprises:

(a) Currencies of other nations and territories, the common European currency and other common currencies used in international and regional payments (hereinafter referred to as *foreign currency*);

(b) Foreign currency payment instruments comprising cheques, credit cards, bills of exchange, promissory notes, deposit certificates and other payment instruments;

(c) Various types of valuable papers denominated in foreign currencies comprising Government bonds, corporate bonds, term bonds, shares and other types of valuable papers;

(d) Gold belonging to the foreign exchange reserves of the State, gold in offshore accounts of residents; and gold in the form of bullion, bars, granules and plate which is brought into or taken out of the territory of Vietnam;

(dd) The currency of the Socialist Republic of Vietnam in cases where it is remitted into or out of the territory of Vietnam or used as an international payment instrument.

2. *Residents* means organizations and individuals in the following categories:

(a) Credit institutions established and carrying on business in Vietnam (hereinafter referred to as *credit institutions*);

(b) Economic institutions established and carrying on business in Vietnam except for the entities stipulated in sub-clause (a) above (hereinafter referred to as *economic institutions*);

(c) State bodies, units of the people's armed forces, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socioprofessional organizations and social funds and charitable funds of Vietnam operating in Vietnam;

(d) Diplomatic representative offices and consulates of Vietnam in foreign countries;

(dd) Representative offices in foreign countries of the entities stipulated in sub-clauses (a), (b) and (c) above;

(e) Vietnamese citizens residing in Vietnam; Vietnamese citizens residing overseas for a duration of less than twelve (12) months; and Vietnamese citizens working for any of the organizations stipulated in sub-clauses (d) and (dd) above and the individuals accompanying such citizens;

(g) Vietnamese citizens travelling overseas for purposes of tourism, study, medical treatment or visits;

(h) Foreigners residing in Vietnam for a duration of twelve (12) months or more except for foreigners coming to Vietnam for study, medical treatment, tourism, or to work for diplomatic representative offices, consulates or representative offices of foreign organizations in Vietnam.

3. *Non-residents* means entities other than those defined in clause 2 of this article.

4. *Capital transaction* means a transaction for the purpose of transferring capital between a resident and a non-resident in the following sectors:

(a) Direct investment;

(b) Investment in valuable papers;

(c) Borrowing and repaying a foreign loan;

(d) Providing and recovering a foreign loan;

(dd) Other forms of investment in accordance with the law of Vietnam.

5. *Current transaction* means a transaction between a resident and non-resident not for the purpose of transferring capital.

6. *Payment and remittance of money for current transactions* comprises:

- (a) Payment and remittance of money relating to import and export of goods and services;
- (b) Short term commercial credit loans and bank loans;

(c) Income generated from direct and indirect investments;

(d) Money transfers when a decrease of direct investment capital is permitted;

(dd) Payments of interest on and instalment repayments of principal of foreign loans;

(e) One-way payments for consumption purposes;

(g) Other similar transactions.

7. *One-way money transfer* means a transaction of remittance of money from overseas into Vietnam or vice-versa via a bank or post office in the nature of providing financial support, aid or assistance to family relatives or for individual spending purposes and not related to payment for import and export of goods and services.

8. *Foreign exchange activities* means activities of residents and non-residents in current transactions, capital transactions, use of foreign exchange in the territory of Vietnam, provision of foreign exchange services, and other transactions related to foreign exchange.

9. *Provision of foreign exchange services* means provision by credit institutions and other institutions of services relating to foreign exchange activities in order to meet the needs of clients in accordance with regulations of the State Bank.

10. *Vietnamese dong exchange rate* means the price of one foreign currency unit calculated in the Vietnamese currency.

11. *Currency cash* means bank notes and coins.

12. *Authorized credit institutions* means banks and non-banking credit institutions authorized to conduct foreign exchange activities and to provide foreign exchange services in accordance with the provisions of this Decree.

13. *Foreign direct investment in Vietnam* means the transfer of capital into Vietnam by a non-resident in order to conduct investment and business activities on the basis of establishment and participation in the management of an enterprise or in other forms in accordance with the law of Vietnam.

14. *Foreign indirect investment in Vietnam* means the purchase and sale of securities and other valuable papers, contribution of capital and purchase of shares in any form by a non-resident in accordance with the law of Vietnam but without direct participation in management.

15. *Offshore investment* means a transfer of capital overseas by a resident for investment in a form stipulated by law.

16. *Borrowing of a foreign loan and repayment of a foreign loan* means the borrowing by a resident of a loan in any form from, and the repayment of the foreign loan to a non-resident in accordance with law.

17. *Provision of a foreign loan and recovery of a foreign loan* means that a resident provides a loan to, and recovers payment from a non-resident in a form stipulated by law.

18. *Balance of international payments* means a general balance sheet systematically listing all economic transactions expressed in a freely convertible foreign currency between Vietnam and other countries within a specified period.

19. *Foreign currency market* means the place where foreign currency sale and purchase activities take place. Vietnam's foreign currency market includes the inter-bank foreign currency market and the foreign currency market between banks with their customers.

Article 4 *Application of laws on foreign exchange, international treaties, foreign laws and international practice*

1. Foreign exchange activities must comply with the provisions of this Decree and other relevant laws.

2. Where an international treaty of which the Socialist Republic of Vietnam is a member contains provisions which are different from the provisions in this Decree, the provisions of such treaty shall prevail.

3. Where the law of Vietnam does not contain any provision applicable to a foreign exchange activity, the parties may reach agreement on the application of foreign law or international practice if the application of such law or practice does not contravene the fundamental principles of the law of Vietnam.

CHAPTER II Current Transactions

Article 5 *Liberalization of current transactions*

In the territory of Vietnam, all transactions being payments and remittance of money relating to current transactions of residents and non-residents shall be conducted freely in compliance with the provisions of this Decree and other relevant laws on the following principles:

1. Residents and non-residents shall be permitted to purchase, remit and carry foreign currency overseas to service payment needs and to remit money in the case of current transactions.

Residents and non-residents shall be responsible to present source documents in accordance with regulations of credit institutions when the former purchase, remit or carry foreign currency overseas in service of current transactions and shall be legally liable for the authenticity of all types of documents which they present to authorized credit institutions.

3. Residents and non-residents shall not be required to present source documents certifying discharge of tax obligations to the State of Vietnam when they purchase, remit or carry foreign currency overseas servicing current transactions.

Article 6 *Payments and remittance of money relating to import and export of goods and services*

1. Residents with foreign currency revenue derived from export of goods and services or from other current revenue sources overseas must remit such foreign currency amounts into a foreign currency account opened at an authorized credit institution in Vietnam consistent with the payment term in the contract or payment source document.

2. Residents with foreign currency revenue derived from export of goods and services overseas who have a need to retain a part or the entire revenue overseas must obtain approval from the State Bank of Vietnam and must remit such amount into an account permitted to be opened at an offshore bank.

The residual amount of the foreign currency must be remitted to Vietnam.

3. All transactions being payments and remittance of money relating to import and export of goods and services must be conducted in the form of remittance via an authorized credit institution, except for some cases of cash payment which have been considered and approved by the State Bank of Vietnam.

Article 7 *One-way remittance of money from overseas into Vietnam*

1. Foreign currency of residents being organizations and derived from one-way remittance of money must be remitted into a foreign currency account at an authorized credit institution or must be sold to an authorized credit institution.

2. Foreign currency of residents being individuals and derived from one-way remittance of money must be deposited into a foreign currency account or foreign currency savings account, withdrawn in cash in order to be kept, carried with the individual [and/or] sold to an authorized credit institution for Vietnamese dong or another foreign currency, and used for the purposes stipulated in this Decree and other relevant laws.

Article 8 *One-way remittance of money from Vietnam to overseas*

1. Residents being organizations shall be permitted to conduct a one-way money transfer overseas for the purpose of providing financial support or aid or for other purposes in accordance with regulations of the State Bank.

2. Residents being Vietnamese citizens shall be permitted to purchase, transfer and carry foreign currency overseas via an authorized credit institution for the following purposes:

- (a) To study or for medical treatment overseas;
- (b) To work, for tourism or for a visit overseas;
- (c) To pay all types of fees and charges to overseas parties;
- (d) To provide assistance to relatives currently overseas;
- (dd) To remit an inheritance to a beneficiary overseas;
- (e) To transfer money in the case of a permanent residence overseas;
- (g) One-way transfer of money for other legal requirements.

3. Non-residents and residents being foreigners who have foreign currency in their accounts from legal foreign currency revenue sources shall be permitted to remit or carry it abroad; and if they have lawful revenue resources in Vietnamese dong they shall be permitted to purchase foreign currency to remit or carry it abroad.

4. Authorized credit institutions shall be responsible to consider all source documents presented by residents and non-residents for the purposes of sale, remittance, certification of foreign currency sources which they have or for the purchase from authorized credit institutions to carry overseas, based on the actual and reasonable requirements of each remittance transaction.

Article 9 *Carrying foreign currency cash, Vietnamese dong cash and gold upon exit and entry*

Based on the actual situation in each period, the State Bank of Vietnam shall provide specific regulations on residents and non-residents carrying foreign currency cash, Vietnamese dong cash and gold upon entry and exit; and such regulations shall include provisions on the following matters:

1. The amount of foreign currency cash, Vietnamese dong cash and gold carried with an individual which must be declared with bordergate customs on entry and exit.

2. What documents must be presented in a case of exit and carrying foreign currency cash, Vietnamese dong cash and gold above the level required to be declared to customs.

3. Entities authorized to certify the documents stipulated in clause 2 above.

Article 10 *Currencies to be used in current transaction payments*

1. Residents shall be permitted to choose as the currency to pay current transactions: Vietnamese dong, a freely convertible foreign currency or another currency which credit institutions are permitted to accept.

2. If Vietnamese dong is used to pay a current transaction, both residents and non-residents shall be permitted to remit it via a Vietnamese dong account opened at an authorized credit institution.

CHAPTER III Capital Transactions

SECTION I Foreign Direct Investment in Vietnam

Article 11 *Opening and use of direct investment capital foreign currency accounts*

Residents being enterprises with foreign owned capital and foreign parties to business co-operation contracts must open a direct investment capital foreign currency account at an authorized credit institution in order to implement the following revenue and disbursement transactions:

1. Receipt of charter capital monetary contributions, receipt of capital for implementation of direct investment and receipt of medium and long-term foreign loan capital.
2. Receipt of foreign currency from a foreign currency savings account of a resident being an enterprise with foreign owned capital or a foreign party to a business co-operation contract.
3. Disbursement of foreign currency remitted into a foreign currency savings account of a resident being an enterprise with foreign owned capital or a foreign party to a business co-operation contract.
4. Disbursement to outside Vietnam of principle, interest and fees on a foreign medium or long-term loan.
5. Disbursement to outside Vietnam of capital, profit and other legal revenue of a foreign investor.
6. Other revenue and disbursement transactions relating to direct foreign investment activities.

Article 12 *Transfer of capital for a direct investment*

All transfers of capital for a direct investment in Vietnam must be conducted via a direct investment capital foreign currency account opened at an authorized credit institution.

Article 13 *Transfer of capital to overseas*

1. Residents being enterprises with foreign owned capital and foreign parties to business co-operation contracts shall be permitted to remit overseas charter capital, capital for implementation of direct investment, loan capital, interest and fees on a foreign loan and other legal revenue relating to direct investment activities in Vietnam via a direct foreign investment capital foreign currency account.

2. Residents being enterprises with foreign owned capital and foreign parties to business co-operation contracts shall be permitted to use revenue in Vietnamese dong from foreign direct

investment activities in Vietnam to purchase foreign currency at an authorized credit institution and to remit it overseas within a time-limit of thirty (30) days as from the date of purchase of the foreign currency.

SECTION II Indirect Foreign Investment in Vietnam

Article 14 *Opening and use of indirect investment capital Vietnamese dong accounts*

1. A non-resident foreign investor must open an indirect investment capital Vietnamese dong account at an authorized credit institution in order to carry out an indirect investment in Vietnam. Investment capital in a foreign currency must be sold for Vietnamese dong in order to carry out an indirect investment in Vietnam. All transactions relating to indirect investment activities must be conducted via the indirect investment capital Vietnamese dong account.

2. An indirect investment capital Vietnamese dong account shall be used to implement the following revenue and disbursement transactions:

- (a) Receipt from a sale of foreign currency to an authorized credit institution;
- (b) Receipt of salary, bonuses and other lawful items of income by a non-resident being a foreign investor;
- (c) Receipt from the assignment of capital contribution and shareholding, from the sale of securities, dividends and other items of revenue arising from indirect investment activities;
- (d) Disbursement being a capital contribution, purchase of shareholding, purchase of securities or payment of other expenses relating to indirect investment activities;
- (dd) Disbursement for purchase of foreign currency at an authorized credit institution in order to remit it overseas;
- (e) Disbursement being payment of other expenses arising in Vietnam;
- (g) Other revenue and disbursement transactions relating to indirect investment in Vietnam.

Article 15 *Remittance of capital overseas*

A non-resident foreign investor shall be permitted to use Vietnamese dong in its indirect investment capital Vietnamese dong account in order to purchase foreign currency at an authorized credit institution and remit it overseas.

SECTION III Offshore Investment from Vietnam

Article 16 *Authority to permit offshore investment*

1. A resident being an organization or individual shall be permitted to conduct offshore investment in the form of a direct investment when such resident has permission from the investment certificate-issuing body in accordance with the law on offshore direct investment.

2. A resident being an organization or individual shall be permitted to conduct offshore investment in the form of an indirect investment if such resident fully satisfies the conditions stipulated by the State Bank. The Governor of the State Bank of Vietnam shall provide specific regulations on the conditions, order, procedures and use of foreign exchange in order to conduct offshore indirect investment.

Article 17 *Capital sources in foreign currency for offshore investment*

A resident being an organization or individual shall be permitted to use foreign currency capital sources which it has in a savings account, or foreign currency purchased from an authorized

credit institution, or foreign currency from a loan it has borrowed in order to conduct an offshore investment.

Article 18 *Transfer of investment capital abroad*

1. A resident being a credit institution shall be permitted to transfer investment capital abroad in accordance with regulations of the State Bank.

2. A resident being an organization or individual:

(a) A resident being an organization or individual permitted to conduct an offshore investment must open an offshore investment capital foreign currency account at an authorized credit institution. All transactions being the transfer of foreign currency abroad or into Vietnam relating to an offshore investment activity must be conducted via this account;

(b) A resident being an organization or individual permitted to conduct an offshore investment must register its offshore investment capital foreign currency account with the State Bank and must have certification from the State Bank prior to any transfer of investment capital abroad.

The State Bank shall provide regulations on the order, procedures and application files for registration and certification of offshore investment capital foreign currency accounts.

3. An offshore investment capital foreign currency account shall be used to implement the following revenue and disbursement transactions:

(a) Disbursement being transfer of existing foreign currency, of foreign currency purchased from an authorized credit institution, or of foreign currency obtained from a loan in order to conduct an offshore investment;

(b) Disbursement being transfer of foreign currency into a foreign currency savings account of a resident being an organization or an individual permitted to conduct an offshore investment;

(c) Disbursement being the sale of foreign currency to an authorized credit institution;

(d) Receipt of profit, revenue and other lawful items of income from an offshore investment activity;

(dd) Receipt of foreign currency capital which was invested and which is returned to Vietnam on the termination, liquidation or end of the investment activity;

(e) Receipt of foreign currency from purchase or borrowing from an authorized credit institution or receipt from a foreign currency savings account of a resident being an organization or individual permitted to conduct an offshore investment;

(g) Other revenue and disbursement transactions relating to an offshore investment activity.

Article 19 *Remittance of capital and profit back into Vietnam*

1. Investment capital, profit and other items of revenue from an offshore investment activity must be remitted back into Vietnam via the offshore investment capital foreign currency account opened at the authorized credit institution.

2. In the case of an offshore direct investment, the original capital profit and other items of revenue arising from the offshore project must be remitted back into Vietnam in accordance with the law on offshore investment.

3. In the case of an offshore indirect investment, profit and other items of revenue from the indirect investment must be remitted back into Vietnam within a time-limit of sixty (60) days from the end of the fiscal year of the investment recipient country.

4. The use of profit and other items of revenue relating to an offshore investment activity in order to reinvest shall be subject to permission from the competent body and must be registered with the State Bank.

SECTION IV **Borrowing and Repayment of Foreign Loans**

Article 20 *Borrowing and repayment of foreign loans by the Government*

Borrowing and repayment of foreign loans by the Government shall be implemented in accordance with the current law on control of borrowing and repayment of foreign loans.

Article 21 *Borrowing and repayment of foreign loans by residents being economic institutions and credit institutions*

1. Residents being economic institutions and credit institutions shall be permitted to directly borrow and repay foreign loans on the principle of self-borrowing, self-responsibility for repayment, use of loan capital for the correct objective, and compliance with law.

2. Residents being economic institutions and credit institutions which borrow and repay a foreign loan must satisfy the conditions for borrowing and repaying foreign loans, shall register the loan, shall open and use a loan capital account, must repay the foreign loan, shall withdraw capital and shall transfer money to repay the loan, and shall report the status of use of the loan in accordance with regulations of the State Bank.

3. All foreign loans of residents being economic institutions and credit institutions must be certified by the State Bank of Vietnam as having been registered. The State Bank of Vietnam shall conduct certification of registration of loans within the total foreign loan limit approved annually by the Prime Minister of the Government.

Article 22 *Borrowing and repayment of foreign loans by residents being individuals*

1. Residents being individuals shall only be permitted to borrow and repay a foreign loan when they satisfy the conditions for borrowing and repaying foreign loans in accordance with regulations of the State Bank and when they have permission from the Governor of the State Bank of Vietnam.

2. Residents being individuals must register a loan, open and use a loan capital account, repay the foreign loan, must withdraw capital and repay the foreign loan, and shall report the status of use of the loan in accordance with regulations of the State Bank.

Article 23 *Purchase of foreign currency to repay foreign loans*

Residents shall be entitled to purchase foreign currency at authorized credit institutions on presentation of valid documents in order to repay principal and to pay interest and fees relating to the foreign loan.

SECTION V **Provision and Recovery of Foreign Loans**

Article 24 *Provision and recovery of foreign loans of the Government*

1. The Government shall, on the basis of macroscopic balancing of State capital sources, make decisions on the provision and recovery of foreign loans of the State, the Government and organizations authorized by the State and by the Government.

2. The Ministry of Finance shall preside over co-ordination with the State Bank of Vietnam, the Ministry of Planning and Investment and relevant ministries and branches to submit to the Prime Minister of the Government a decision on the limits on lending, capital sources for lending, forms

of lending, lenders, and on the regime for control of borrowing and repayment of foreign loans of the Government.

3. Annually, the Ministry of Finance shall preside over co-ordination with the relevant ministries and branches to provide an overall report on the status of borrowing and repayment of foreign loans of the Government for submission to the Prime Minister of the Government.

Article 25 *Provision and recovery of foreign loans of residents being credit institutions*

1. Residents being credit institutions shall be permitted to provide and recover foreign loans in the form of finance credit and commercial credit in accordance with regulations of the State Bank of Vietnam.

2. The State Bank of Vietnam shall provide regulations on conditions for lending, lenders, forms of lending and the regime for control of provision and recovery of foreign loans by residents being credit institutions.

Article 26 *Provision and recovery of foreign loans of residents being economic institutions*

1. Residents being economic institutions shall only be permitted to provide and recover foreign loans when they have permission from the Prime Minister of the Government. The State Bank of Vietnam shall provide regulations on the conditions and procedures for issuance of permission and shall make submissions to the Prime Minister of the Government to permit residents being economic institutions to provide and recover foreign loans.

2. When a resident being an economic institution is permitted to provide and recover a foreign loan, it must open a foreign currency account at an authorized credit institution to provide and recover the foreign loan, and shall conduct the transfer of loan funds and the recovery of principal, interest and fees via this account in accordance with regulations of the State Bank.

SECTION VI

Issuance of Securities in Vietnam and Overseas

Article 27 *Residents being credit institutions issuing securities overseas*

1. When a resident being an organization is permitted to issue foreign currency securities offshore in the form of bonds, it must comply with the provisions in this Decree and in other relevant laws on borrowing and repayment of foreign loans applicable to residents being organizations.

2. When a resident being an economic institution is permitted to issue foreign currency securities offshore in the form of shares, investment fund certificates or other types of securities, it must open a foreign currency account for the issued securities capital at an authorized credit institution, and shall conduct the receipt and disbursement of foreign currency relevant to the issuance of the securities via this account in accordance with regulations of the State Bank.

Article 28 *Issuance of securities in Vietnam by non-residents being organizations*

1. Non-residents being organizations shall only be permitted to issue securities in Vietnamese dong within the territory of Vietnam.

2. When a non-resident being an organization is permitted to issue securities in Vietnam, it must open a Vietnamese dong account for the issued securities capital at an authorized credit institution, and shall conduct the receipt and disbursement of Vietnamese dong relevant to the issuance of the securities via this account in accordance with regulations of the State Bank.

3. Revenue in Vietnamese dong from the issuance of securities in Vietnam may be used to purchase foreign currency at an authorized credit institution for remittance abroad.

CHAPTER IV

Use of Foreign Currency within the Territory of Vietnam

Article 29 *Provision on restricted use of foreign exchange*

Within the territory of Vietnam, all transactions, payments, listings and advertisements of residents and nonresidents must not be affected in foreign exchange except for the following cases:

1. Transactions with credit institutions and other institutions permitted to provide foreign exchange services.
2. Residents being organizations shall be permitted to transfer capital internally by a telegraphic transfer of foreign currency (as between an entity with legal status and a dependent accounting entity or vice versa).
3. Residents shall be permitted to contribute capital in foreign currency in order to implement a foreign investment project in Vietnam.
4. Residents shall be permitted to receive payment by a telegraphic transfer of foreign currency pursuant to a contract entrusting import or export.
5. Residents being domestic or foreign contractors shall be permitted to receive payment by a telegraphic transfer of foreign currency from investors or head contractors in order to make payment and disbursement transactions and to remit money overseas.
6. Residents being institutions providing insurance business services shall be permitted to receive a telegraphic transfer of foreign currency from insurance purchasers for all types of goods and services which must be reinsured offshore.
7. Residents being institutions conducting business in duty free goods, providing services in separated areas in international bordergates or providing customs bond warehouse services shall be permitted to receive payment in foreign currency and Vietnamese dong for the supply of goods and services.
8. Residents being customs and police offices of international bordergates and customs bond warehouses shall be permitted to receive foreign currency from non-residents for all types of taxes and fees for entry/exit visas and fees for the provision of services.
9. Non-residents being diplomatic offices and consulates shall be permitted to collect fees for entry/exit visas and other types of fees and charges in foreign currency.
10. Non-residents and residents being foreigners shall be permitted to receive salary, bonuses and allowances in foreign currency from residents and non-residents being organizations.
11. Non-residents shall be permitted to make telegraphic transfers of foreign currency to other nonresidents or [in order] to make payment to residents of money for the export of goods and services.
12. Other necessary cases after consideration by and permission from the Governor of the State Bank of Vietnam.

Article 30 *Foreign currency savings accounts in Vietnam*

1. Residents and non-residents being organizations shall be permitted to open and use foreign currency savings accounts at authorized credit institutions in order to implement the following revenue and disbursement transactions:

- (a) To collect foreign currency remitted from overseas;
- (b) To collect foreign currency from legal sources within Vietnam;
- (c) To collect foreign currency cash remitted from overseas in accordance with regulations of the State Bank;
- (d) To disburse for a sale to an authorized credit institution;
- (dd) To disburse for a remittance or payment for a current transaction, capital transaction or [other] transaction permitted to be paid in foreign currency in Vietnam;
- (e) To disburse for an exchange for another type of foreign currency or another foreign currency payment instrument;
- (g) To withdraw foreign currency in cash for individuals working for such organization upon their secondment abroad;
- (h) To transfer or withdraw foreign currency in cash in order to pay salary, bonuses and allowances for residents and non-residents being foreigners;
- (i) To disburse for a remittance abroad or for a transfer into a foreign currency savings account of another non-resident or to make payment to a resident of money for exported goods and services (applicable to non-residents being organizations).

2. Residents and non-residents being individuals shall be permitted to open and use foreign currency savings accounts at authorized credit institutions in order to implement the following revenue and disbursement transactions:

- (a) To collect foreign currency remitted by telegraphic transfer from overseas;
- (b) To collect foreign currency cash carried in accordance with regulations of the State Bank;
- (c) To collect foreign currency from other legal sources;
- (d) To disburse for a sale to an authorized credit institution;
- (dd) To disburse for a remittance or payment for a current transaction, capital transaction or [other] transaction permitted to be paid in foreign currency in Vietnam;
- (e) To disburse for an exchange for another type of foreign currency or another foreign currency payment instrument;
- (g) To disburse by way of a gift or payment of an inheritance in accordance with law;
- (h) To withdraw foreign currency in cash;
- (i) To disburse for a remittance abroad or for a transfer into a foreign currency savings account of another non-resident (applicable to non-residents being individuals);
- (k) To disburse for a transfer into a foreign currency savings account at an authorized credit institution (applicable to residents being individuals).

3. Authorized credit institutions shall be responsible for monitoring and controlling all activities of revenue and disbursement in foreign currency savings accounts in order to ensure payments and transfers are implemented for the correct purpose and in compliance with this Decree.

Article 31 *Offshore foreign currency accounts of residents*

1. Residents being organizations and individuals shall be permitted to open and use offshore foreign currency accounts in accordance with the following provisions:

(a) Residents being authorized credit institutions shall be permitted to open and use offshore accounts in order to conduct foreign exchange activities overseas;

(b) The State Bank of Vietnam shall consider the grant of a licence to open an offshore foreign currency account to any resident being an economic institution with a branch or representative office abroad or which has a need to open an offshore foreign currency account in order to receive foreign loan capital or to perform undertakings or contracts with foreign parties;

(c) Residents being diplomatic offices; consulates; the people's armed forces; and representatives of political organizations, socio-political organizations, social organizations, socio professional organizations, social funds and charitable funds of Vietnam located overseas shall be permitted to open and use offshore foreign currency accounts;

(d) Vietnamese citizens, for the duration they are overseas, shall be permitted to open and use offshore foreign currency accounts in accordance with the law of the foreign country.

The organizations and individuals stipulated in sub-clauses (c) and (d) above must close their accounts and transfer the entire balance in such accounts to Vietnam on termination or expiration of their stay overseas.

2. The State Bank of Vietnam shall provide regulations on the conditions, application files and procedures for the grant and withdrawal of licences to open offshore foreign currency accounts applicable to the entities stipulated in clause 1(b) above.

Article 32 *Use of foreign currency cash by individuals*

1. Residents and non-residents being individuals with foreign currency cash shall be permitted to store or carry such cash personally, to donate or bequeath it, to sell it to an authorized credit institution, to remit or carry it overseas to service lawful purposes, or to pay it to entities entitled to collect foreign currency pursuant to this Decree.

2. Residents being individuals with foreign currency cash shall be permitted to deposit it in savings accounts at authorized credit institutions, and to withdraw the principal in and to receive interest in foreign currency cash in accordance with the law on foreign currency savings accounts.

Article 33 *Use of Vietnamese dong by non-residents*

Non-residents being organizations and individuals shall be permitted to open and use Vietnamese dong accounts at authorized credit institutions in order to implement the following revenue and disbursement transactions:

1. To collect proceeds from sale of foreign currency to an authorized credit institution.

2. To collect revenue from other legal sources in Vietnam.

3. To make cash payments or to withdraw cash to spend in Vietnam.

4. To disburse in payment of a current transaction or capital transaction in accordance with this Decree.

5. To disburse by way of a gift or payment of an inheritance in accordance with law.

6. To disburse by way of purchase of foreign currency at an authorized credit institution for remittance abroad.

7. To disburse for other purposes permitted by law.

Article 34 *Use of Vietnamese dong by residents being foreign individuals*

1. Residents being foreign individuals shall be permitted to open and use Vietnamese dong accounts at authorized credit institutions in order to implement the revenue and disbursement transactions stipulated in article 33 of this Decree.

2. Residents being foreign individuals shall be permitted to open and use indirect investment capital Vietnamese dong accounts at authorized credit institutions in order to implement the indirect investment transactions stipulated in article 14 of this Decree.

Article 35 *Use of currencies of countries with a common border with Vietnam*

1. Residents being organizations and individuals who have lawful revenue in currencies of a country with a common border with Vietnam from activities of export and import of goods and services or who have other lawful revenue shall be permitted to open Vietnamese dong accounts at authorized credit institutions in order to implement the following revenue and disbursement transactions:

(a) To collect proceeds from the sale of goods and services;

(b) To collect proceeds being the purchase at an authorized credit institution of a currency of a country with a common border;

(c) To collect revenue from other legal sources in Vietnam;

(d) To disburse by way of payment for the import of goods or services;

(dd) To disburse by way of sale to an authorized credit institution or exchange bureau;

(e) To withdraw in cash in order to pay salary, bonuses and allowances to foreigners working for an organization or to spend in a country with a common border;

(g) To disburse for other purposes permitted by law.

2. The use of currencies of countries with a common border with Vietnam to purchase or sell goods in border areas and in economic zones of bordergates must comply with regulations of the State Bank.

Article 36 *Issuance and use of credit cards*

1. In the territory of Vietnam, residents and non-residents being individuals with international cards shall be permitted to use them to make payments at authorized credit institutions and at units which accept such cards.

2. Units which accept cards shall only be permitted to receive payment in Vietnamese dong from card paying banks.

3. Based on the actual situation, the State Bank of Vietnam shall provide regulations on the issuance and use of cards consistent with the objectives of foreign exchange control.

CHAPTER V

Foreign Currency Market, Foreign Exchange Rate Mechanism, and Management of Import and Export of Gold

Article 37 *Foreign currency market of Vietnam*

1. *Foreign currency market* means a place where activities of purchase and sale of all types of foreign currency takes place. Participants in the foreign currency market include the State Bank of

Vietnam, authorized credit institutions, foreign exchange bureaux, and organizations and individuals being residents and non-residents in Vietnam.

The State Bank of Vietnam shall provide regulations on the conditions, methods and types of business transactions being foreign currency trading on the foreign currency market.

2. The inter-bank foreign currency market means the market for transactions as between the State Bank of Vietnam with authorized credit institutions and as between authorized credit institutions amongst themselves. Members participating in the inter-bank foreign currency market must purchase and sell foreign currency in accordance with methods and types of business transactions on the basis of the agreement reached or undertaking made by the parties, and in accordance with international practice and regulations of the State Bank.

3. Any authorized credit institution which participates in the central inter-bank foreign currency market organized and operated by the State Bank of Vietnam must comply with the rules on organization and operation of such market issued by the State Bank.

Article 38 *Activities of the State Bank of Vietnam on the foreign currency market*

The State Bank of Vietnam shall, based on exchange rate fluctuations on the foreign currency market and national monetary policy objectives, prepare and implement a plan for intervention by buying and selling foreign currency on the domestic foreign currency market.

Article 39 *Exchange rate mechanism applicable to Vietnamese dong*

1. The exchange rate applicable to Vietnamese dong shall be formulated on the basis of foreign currency supply and demand on the market as adjusted by the State. The State Bank shall adjust the exchange rate by using monetary policy instruments and by implementing its plan for buying and selling on the foreign currency market.

2. The exchange rate mechanism applicable to Vietnamese dong means the managed, floating exchange rate mechanism which the State Bank determines on the basis of the foreign currency basket of countries with a commercial, lending, repayment and investment relationship with Vietnam and in compliance with macro-economic objectives from time to time.

Article 40 *Management of import and export of gold in the form of bullion, bars, granules and plate*

Credit institutions and institutions authorized to trade in gold shall be permitted to import and export gold in the form of bullion, bars, granules and plate in accordance with regulations of the State Bank.

CHAPTER VI

Provision of Foreign Exchange Services by Credit Institutions and Other Institutions

SECTION I

Provision of Foreign Exchange Services on the Domestic Market

Article 41 *Scope and conditions for provision of foreign exchange services by banks*

1. The State Bank of Vietnam shall permit banks which fully satisfy the conditions stipulated by the State Bank to provide foreign exchange services within the following scope:

(a) Provision of foreign exchange transactions being spot transactions, forward transactions, swap transactions, options, future contracts and other foreign exchange transactions pursuant to international practice;

(b) Raising capital, lending and provision of guarantees in foreign currency in forms pursuant to regulations of the State Bank;

- (c) Issuance and agency for issuance of international credit cards;
- (d) Provision of services of remittance and payment (both domestic and international) for the subjects stipulated in this Decree; receipt and disbursement of foreign currency;
- (dd) Discounting and re-discounting valuable papers denominated in foreign currencies;
- (e) Entrusting other credit institutions and economic institutions to act as agents for the provision of a number of foreign exchange services including exchanging foreign currencies, receipt and disbursement of foreign currency, and other services pursuant to this Decree;
- (g) Provision of services of trust and management of assets denominated in foreign currencies;
- (h) Provision of investment bank services [for instruments] denominated in foreign currencies (purchase, sale, [securities] consolidation, and agency for issuance of securities denominated in foreign currencies, and so forth);
- (i) Provision of foreign exchange consultancy services to clients;
- (k) Conduct of other foreign exchange activities pursuant to international practice and consistent with the law of Vietnam.

2. The State Bank of Vietnam shall provide specific regulations on the conditions, application files, procedures and certification of satisfaction of conditions by banks to provide foreign exchange services.

Article 42 *Provision of foreign exchange services by non-banking credit institutions*

Non-banking credit institutions must register with the State Bank in order to provide some or all of the following foreign exchange services:

1. Applicable to finance companies:

- (a) Provision of foreign exchange transactions being spot transactions, forward transactions, swap transactions, options and other foreign exchange transactions consistent with international practice;
- (b) Receipt of foreign currency savings deposits for terms of one year or more, issuance of bonds and valuable papers denominated in foreign currencies, borrowing in foreign currencies from domestic and offshore credit institutions;
- (c) Short term, medium and long term lending in foreign currencies; discounting, re-discounting and pledging valuable papers denominated in foreign currencies; credit guarantees in foreign currencies;
- (d) Provision of services of trust and management of assets denominated in foreign currencies;
- (dd) Receipt and disbursement of foreign currency; entrusting economic institutions to act as agents for exchanging foreign currencies and for receipt and disbursement of foreign currencies;
- (e) Provision of foreign exchange consultancy services to clients.

2. Applicable to finance leasing companies:

- (a) Receipt of foreign currency savings deposits for terms of one year or more, issuance of bonds and valuable papers denominated in foreign currencies, borrowing in foreign currencies from domestic and offshore credit institutions;
- (b) Provision of finance leasing denominated in foreign currencies;
- (c) Credit guarantees in foreign currencies;

(d) Provision of services of trust and management of assets denominated in foreign currencies;

(dd) Provision of foreign exchange consultancy services to clients.

3. Other non-banking credit institutions may provide a number of foreign exchange services pursuant to regulations of the State Bank.

4. The State Bank shall provide specific regulations on the conditions, application files and procedures for registration by non-banking credit institutions to provide foreign exchange services.

Article 43 *Provision of foreign exchange services by other institutions*

1. Services being foreign currency exchange agency for credit institutions:

Economic institutions shall be permitted to act as foreign currency exchange agents for authorized credit institutions when so appointed. Such appointment must take the form of a credit institution signing a foreign currency exchange agency contract with the appointed economic institution, and the contract must be registered with the State Bank.

2. Services being receipt and disbursement of foreign currency:

(a) An economic institution providing services being receipt and disbursement of foreign currency for a credit institution must register with the State Bank. Economic institutions directly providing services being receipt and disbursement of foreign currency must be licensed by the State Bank;

(b) The State Bank shall provide regulations on the conditions, application files and procedures for registration by and issuance of licences to economic institutions providing services being receipt and disbursement of foreign currency.

3. Provision of other foreign exchange services:

Economic institutions must be licensed by the State Bank in order to provide foreign exchange services other than those stipulated in clauses 1 and 2 above.

SECTION II

Provision of Foreign Exchange Services on the International Market

Article 44 *Scope and conditions for provision of foreign exchange services on the international market*

1. Credit institutions and other institutions shall be permitted to provide foreign exchange services on the international market within the following scope:

(a) Applicable to banks:

- Provision of international payment services;
- Transactions of purchase and sale of foreign exchange and gold on the international market;
- Participation in offshore monetary markets and derivative markets;
- Provision of services of management of financial assets for offshore clients;
- Provision of investment bank services (financial consultancy; purchase, sale, consolidation² [of securities], guarantees, co-financing and so forth) on the international market.

(b) Applicable to finance companies:

- Transactions of purchase and sale of foreign exchange and gold on the international market;
- Participation in offshore monetary markets and foreign exchange derivative markets;
- Provision of services of management of financial assets for offshore clients;

(c) Applicable to other institutions:

The State Bank may, on a case by case basis, permit other institutions to provide some of the foreign exchange services stipulated in clauses 1 and 2 above.

2. The State Bank of Vietnam shall provide specific regulations on the conditions, application files and procedures for registration by credit institutions and other institutions to provide foreign exchange services on the international market.

SECTION III
**Responsibilities of Credit Institutions and Other Institutions
when Providing Foreign Exchange Services**

Article 45 *Compliance with the law on foreign exchange control*

Credit institutions and other institutions authorized to provide foreign exchange services shall be responsible:

1. To conduct foreign exchange services activities correctly within the scope of their licences and certificates confirming registration for foreign exchange activities, and in compliance with the provisions of this Decree and other relevant laws.
2. To be legally liable for the foreign exchange services activities conducted by any other credit institution or other institution entrusted to conduct such activities.
3. To comply with the regulations on ensuring safety issued by the State Bank.
4. To strictly comply with, and to guide clients to strictly comply with, regulations on foreign exchange control and other relevant laws.

Article 46 *Inspection of source documents*

Credit institutions and other institutions authorized to conduct foreign exchange activities shall be responsible when conducting foreign exchange transactions for clients to consider, check and retain the appropriate papers and source documents in order to ensure that a service is provided for the correct purpose and in compliance with law.

Article 47 *Satisfying the demand for foreign currency to make payment for current transactions*

Credit institutions and other institutions authorized to conduct foreign exchange activities shall be responsible, within the scope of their available foreign currency resources, to satisfy the foreign currency demands of residents and non-residents to pay current transactions, based on actual demand and the reasonableness of each transaction.

Article 48 *Inspections, checks and reporting*

1. Credit institutions and other institutions authorized to conduct foreign exchange activities must submit to inspection and control and shall submit reports in accordance with regulations of the State Bank of Vietnam.

2. Responsibilities of authorized credit institutions regarding information in reports:

Authorized credit institutions shall be responsible to report information regarding foreign exchange activities in accordance with the following provisions:

(a) They must report essential information and data regarding foreign exchange and foreign exchange activities within the time-limit stipulated in current legal instruments on foreign exchange activities;

(b) They have the right to require clients to provide information to assist collation of information and data regarding foreign exchange and foreign exchange activities;

(c) They have the right to provide information and advice on foreign exchange policy and foreign exchange activities to organizations and individuals in accordance with law;

(d) They shall be obliged to maintain the confidentiality of information on the list of confidential information of the banking sector and shall be responsible for information items they include on such list.

3. Responsibilities of organizations and individuals regarding information in reports:

(a) Any organization or individual participating in foreign exchange activities must provide information and data at the request of the State Bank or an authorized credit institution within the time-limit stipulated in current legal instruments on foreign exchange activities;

(b) Organizations and individuals have the right to require a credit institution to provide information and guidelines in order for them to correctly implement the foreign exchange control policy.

CHAPTER VII State Administration of Foreign Exchange Activities

Article 49 *State administration of foreign exchange activities*

1. The Government shall exercise unified State administration of foreign exchange activities:

(a) It shall be responsible for State administration of foreign exchange activities;

(b) It shall prepare and draft legal instruments on foreign exchange activities within its authority.

2. Responsibilities of the State Bank:

(a) It shall be responsible to the Government and the Prime Minister of the Government for the implementation of State administration of foreign exchange activities;

(b) It shall preside over preparation and drafting of legal instruments on foreign exchange activities within its authority;

(c) It shall co-ordinate with relevant ministries and branches when legal instruments contain items concerning foreign exchange;

(d) It shall be responsible to the Government and the Prime Minister of the Government for international co-operation in the foreign exchange sector;

(dd) It shall grant and withdraw licences for foreign exchange activities;

(e) It shall inspect and check implementation of the foreign exchange activities stipulated in this Decree and compliance with the regime on source documents and the information and reporting regime;

(g) It shall deal with breaches of the law on foreign exchange within its authority.

3. Responsibilities of ministries, Government bodies, and provinces and cities under central authority:

(a) They shall provide guidelines for implementation of this Decree in accordance with their respective functions and duties;

(b) They shall co-ordinate with the State Bank in preparation of legal instruments on foreign exchange and foreign exchange activities;

(c) They shall co-ordinate with the State Bank in disseminating information on the law on foreign exchange control and in enforcing such law;

(d) They shall detect and deal with breaches of the law on foreign exchange within their authority.

Article 50 *Information and reporting regime*

1. Responsibilities of the State Bank:

(a) To promulgate the information and reporting regime; and to analyze, forecast and publish information on foreign exchange activities;

(b) To preside over co-ordination with ministries and branches to collect information and data in order to service State administration of foreign exchange and in order to formulate the balance of international payments.

2. Responsibilities of ministries, Government bodies, and provinces and cities under central authority:

They shall, within the scope of their respective duties and powers, report information and data on foreign exchange activities to the State Bank in order to service State administration of foreign exchange activities and in order to formulate the balance of international payments.

CHAPTER VIII Implementing Provisions

Article 51 *Effectiveness*

1. This Decree shall be of full force and effect after fifteen (15) days from the date of its proclamation in the Official Gazette.

This Decree shall replace Decree 63-1998-ND-CP of the Government dated 17 August 1998 on foreign exchange control and the following Decrees CP of the Government which amended Decree 63-1998-ND-CP, namely Decree 05-2001-ND-CP dated 17 January 2001 and Decree 131-2005-ND-CP dated 28 October 2005.

2. All previous provisions in Decrees, Decisions and Circulars which are inconsistent with this Decree are hereby repealed.

Article 52 *Implementing guidelines*

1. The Governor of the State Bank of Vietnam shall provide guidelines for the implementation of this Decree.

2. Ministers, heads of ministerial equivalent bodies and Government bodies, and chairmen of provinces and cities under central authority shall be responsible for the implementation of this Decree.

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG