

**CIRCULAR**  
**On capital adequacy ratio in**  
**operations of credit institutions**

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Based on Law on State Bank of Vietnam No. 01/1997/QH10 dd 12 December 1997, Amendment of Law on State Bank of Vietnam No. 10/2003/QH11 dd 17 June 2003;

Based on Law on credit institutions No. 02/1997/QH10 dd 12 December 1997, Amendment of Law on credit institutions No. 20/2004/QH11 dd 15 June 2004;

Based on Circular No. 96/2008/NĐ-CP dd 26 August 2008 of the Government on functions, tasks, power and organizational structure of State bank of Vietnam;

State bank of Vietnam (hereafter called as State bank) hereby sets regulations on capital adequacy ratio in operations of credit institutions as follows:

**Chapter I: GENERAL PROVISIONS**

**Article 1. Subject and scope**

1. Credit institutions operating in Vietnam (hereafter called as credit institutions), except Vietnam Bank for Social Policies, Vietnam Development Bank and local people's credit funds, must always maintain capital adequacy ratios in their operations as regulated in this Circular.

2. Capital adequacy ratios regulated in this Circular including:

2.1. Minimum capital adequacy ratio;

2.2. Credit limit;

2.3. Current ratio;

2.4. Capital contribution and shares purchase limit;

2.5. Credit limit v/s mobilized capital

3. Based on supervision, examination and inspection of Inspecting Agencies and banking inspectors on credit institutions, State bank can require credit institutions to maintain capital adequacy ratios higher than the set ratios in this Circular.

**Article 2. Terminologies**

In this Circular, the terminologies are understood as follows:

1. *Receivables* including "Asset" coming from deposit, loan, advanced payment, overdraft, financial leasing, factoring, discount, negotiable tool re-discount, other negotiable paper and securities investment.

2. *Borrower's real estate* is houses of borrowers, or houses leased by borrowers and leaseholders accept that houses will be used as collateral of house owners during leasing period.

3. *Customers* are organizations, businesses or individuals that have relations with credit institutions. A customer is an organization, a business or an individual that has relations with credit institutions.

4. *Related customers* include two or more customers that have direct or indirect credit relation with credit institutions, belonged to one of following subjects:

a) Mother companies and children companies and vice versa; credit institutions and children companies of credit institutions and vice versa; children companies of the same mother companies or of the same credit institutions; managers, members of Boards of supervisors of mother companies or of credit institutions, individual or organizations authorized to assign them to children companies and vice versa;

b) Credit institutions or companies and managers, members of Boards of supervisors of mother companies or of credit institutions or companies, organizations authorized to assign them to children companies and vice versa;

c) ) Credit institutions or companies and individuals, organizations owning at least 5% Charter capital or equity capital with voting rights in that companies or credit institutions and vice versa;

d) Relatives, including wives, husbands, father, adoptive father, mother, adoptive mother, children, adopted children, brothers, sisters of themselves and their wives and husbands;

e) Credit institutions or companies and relatives as regulated in Clause (d) of this sub-article of managers, members of Board of Supervisors, capital contributors or shareholders owning at least 5% Charter capital or equity capital with voting rights in that companies or credit institutions and vice versa;

g) Individuals authorized to be representatives of organizations, individuals regulated in clause (a), (b), (c), (d), and (e) of this sub-article with authorizing organizations and individuals; individuals authorized to represent capital contributions of the same organizations;

h) Individuals and organizations capable to dominate decisions, operations of credit institutions or companies through Shareholders' general meeting or Members' meeting of that Credit institutions or companies.

5. *Children companies of credit institutions* are companies or credit institutions being legal entities, with independent accounting system through their working capital contributed by credit institutions or shares purchased by credit institutions as regulated by the State bank and:

a) Owning more than 50% Charter capital or equity capital with voting rights in that companies; or

b) Having direct or indirect rights to assign majority or all of members of Board of Directors, General Director (Director) of the companies; or

c) Having rights to make decisions on amendment or supplementation of the companies' charters.

6. *Subsidiaries* being children companies operating in financial, insurance, banking areas and real estate management, exploitation and trading areas during process of loan secured assets and assets assigned by the State to credit institutions to work out loans.

7. *Joint-venture companies of credit institutions* are enterprises or credit institutions established in Vietnam by contribution of Vietnam partners (including one or more Vietnamese enterprises or credit institutions) and foreign partners (including one or more foreign enterprises or credit institutions) via joint-venture contracts. Joint-venture companies of credit institutions are established in the form of limited liability companies with two or more members, are Vietnamese entities of which head offices are in Vietnam.

8. *Association companies of credit institutions* are companies, including other credit institutions, satisfying all requirements as follows:

a) Credit institutions having rights to take part in making decisions on financial policies and activities of companies but not control those policies;

b) Credit institutions owning from 20% to less than 50% Charter capital or equity capital with voting rights in the companies;

c) Are not children companies or joint-venture companies of credit institutions.

9. *Long-term investment* including capital contribution to and shares purchased from the companies, except capital contribution to and shares purchased from children companies, joint-venture companies, association companies, meeting all requirements as follows:

a) Purposes of investment:

(i) Being founding members;

(ii) Dominating establishment and decision making processes with regards to financial policies and activities of companies via agreement or assignment of members to Board of Directors and Board of Managers of the companies.

b) Investment tenor is more than 1 year.

10. *Securities investment* including securities invested by the credit institutions rather than capital contribution or shares purchased to get income and not re-sell in the market in short-term to get profit.

11. *Capital contribution and shares purchase* : credit institutions use Charter capital and provisions as capital contribution to Charter capital , buy shares of companies, children companies, joint-venture companies; association companies, and other credit institutions, provide Charter capital to subsidiaries of credit institutions; capital contribution to investment funds, capital contributions to investment projects, including capital outsourcing to other legal entities or companies to invest under the above mentioned forms.”

12. *Investment in the form of capital contribution and shares purchase to have controlling rights in companies* include:

- a) Investment accounting for 25% Charter capital or more of Joint stock companies;
- b) Investment accounting for 51% Charter capital or more of limited liability companies.

13. *Interest rate contracts* including swap contracts, forward contracts, option contracts, and other forex contracts as regulated by State bank.

14. *Forex contracts* including Swap contracts, forward contracts, option contracts, and other forex contract as regulated by State bank.

15. *Retained profit* is profit determined through audit of independent auditing companies after tax and provisions as regulated by laws, is retained to add to capital of credit institutions as per provisions of laws. Retained profit of joint stock credit institutions should be approved by Shareholders' meeting.

16. *Commercial advantage* is the difference between amount spent to buy a financial asset and its book value. This financial asset is fully recorded in balance sheet of credit institutions.

17. *OECD* is Organization for Economic Cooperation and Development.

18. *International financial organizations including:* The International Bank for Reconstruction and Development, Inter-American Development Bank, Asian Development Bank, Africa Development Bank, European Investment Bank, European Bank for Reconstruction and Development.

### **Article 3: Information technology**

Credit institutions must ensure that their information technology system is connected thoroughly to:

1. Save, access and add database on customers, ensure quality management credit and guarantee activities and credit policies for customers in accordance with internal regulations of credit institutions with regards to credit quality management and customer policies.
2. Manage cash flow and capital adequacy ratios in activities regulated in this Circular.
3. Execute statistics and reports in accordance with regulations set by State bank.

## **Chapter II: DETAILED PROVISIONS**

### **Item 1: Capital adequacy ratio**

#### **Article 4. Capital adequacy ratio**

1. Credit institutions, except foreign bank branches, must maintain capital adequacy ratio as 8% as minimum between equity and total risky "Asset" credit institutions (separate capital adequacy ratio).

2. Credit institutions with subsidiaries, besides maintaining separate capital adequacy ratio as regulated in clause 1 of this Article, minimum capital adequacy ratio of 8% should be maintained through capital and asset merge credit institutions and subsidiaries (merged capital adequacy ratio).

## **Article 5. Separate capital adequacy ratio of credit institutions**

1. Separate capital adequacy ratio is calculated as follows:

$$\text{Separate capital adequacy ratio} = \text{Equity} / \text{Total risky "Asset"}$$

In which:

- Equity is total primary capital and secondary capital 2 as regulated in Clause 2, Clause 3 after deducting deductible items as regulated in Clause 4 of this Article.

- Total risky "Asset" as regulated in Clause 5 of this Article.

2. Primary capital includes all capital as regulated in Clause 2.1 deducting deductible capital as regulated in Clause 2.2. Primary capital is used to identify buy limit and investment in fixed asset of credit institutions.

2.1. Primary capital include:

a) Charter capital (contributed capital, provided capital);

b) Provisional fund of Charter capital ;

c) Professional development investment fund;

d) Retained profit;

đ) Share surplus accounted to capital according to provisions of law, deducting amount used to buy fund shares (if available).

2.2. Deductible capital from primary capital includes:

a) Commercial advantage;

b) Business losses, including accumulative losses;

c) Capital contribution and shares purchase from other credit institutions;

d) Capital contribution and shares purchase of subsidiaries ;

đ) Capital contribution and shares purchase from a company, an investment fund, an investment project exceeding 10% total capital as regulated in Clause 2.1 of this Article after deducting deductible capital as regulated in Clause 2.2(a), Clause 2.2(b), Clause 2.2(c), Clause 2.2(d) of this Article.

e) The excess of 40% total capital as regulated in Clause 2.1 of this Article after deducting deductible capital as regulated in Clause 2.2(a), Clause 2.2(b), Clause 2.2(c), Clause 2.2(d) of this Article with regards to total capital contribution and shares purchase from all companies, investment funds and investment projects, after deducting the excess 10% as regulated in Clause 2.2(đ) of this Article.

3. Secondary capital includes all capital as regulated in Clause 3.1 of limit as regulated in Clause 3.2 of this Article.

3.1. Secondary capital includes:

a) 50% balance of re-assessed accounts of fixed asset due to re-valuation in accordance to provisions of laws.

b) 40% balance of re-assessed account of securities investment due to re-valuation in accordance to provisions of laws.

c) Financial provisional funds.

d) Convertible bonds issued by credit institutions satisfying the following requirements:

(i) The initial tenor is 5 years as minimum;

(ii) Not secured by assets of the said credit institutions;

(iii) Credit institutions are not allowed to buy back by request of owners or re-buy in the secondary market, or credit institutions are just allowed to buy back after getting approval from State bank by written document given that the buy back does not effect capital adequacy ratios as regulated;

(iv) Credit institutions are allowed to stop paying interest to transfer accumulative interest to coming years if interest paying makes loss for the in-year business;

(v) In case of credit institutions are liquidated, convertible bond owners are paid only after credit institutions have paid all debt secured and non-secured owners;

(vi) Interest increase should be taken place only after 5 years since issuance and adjusted once (01) during the time before converted into common shares.

đ) Other liability tools meeting all requirements as follows:

(i) Liability that debt owners are secondary in compared with other debt owners: in every cases, owners are allowed to get paid only after credit institutions have paid all debt secured and non-secured owners;

(ii) The initial tenor is 10 years as minimum;

(iii) Not secured by assets of the said credit institutions;

(iv) Credit institutions are allowed to stop paying interest to transfer accumulative interest to coming years if interest paying makes loss for the in-year business;

(v) Debt owners are just allowed to get paid from credit institutions prior to maturity upon having written approval from State bank;

(vi) Interest increase should be taken place only after 5 years since issuance and adjusted once (01) during the loan time.

3.2. Limit of secondary capital:

a) Total amount of capital as regulated in Clause 3.1(d) and Clause 3.1(đ) of this Article, maximum is 50% of primary capital.

b) Financial provisional funds accounted to secondary capital are 1,25% total risky "Asset" as maximum.

c) In the last 5 years before converting and payment, amount of each year is transferred to secondary capital of convertible bonds and other liability assets as regulated in Clause 3.1(d) and Clause 3.1(đ) of this Article deducting 20% initial amount.

d) Total value of secondary capital is 100% of primary capital as maximum.

4. Deductible capital:

4.1. 100% balance of re-assessed accounts of fixed asset due to re-valuation in accordance to provisions of laws.

4.2. 100% balance of re-assessed account of securities investment due to re-valuation in accordance to provisions of laws..

5. Total risky “Asset” is total “Asset” by risky level and “Asset” value respective to off-balance sheet commitment by risky level.

“Asset” by risky level is multiple of “Asset” value and respective risky coefficient of “Asset” as regulated in Clause 5.1, Clause 5.2, Clause 5.3, Clause 5.4, Clause 5.5 and Clause 5.6 of this Article.

Respective “Asset” of off-balance commitment by risky level is multiple of value of off-balance commitment and conversion coefficient as regulated in Clause 6.3 and risky coefficient as regulated in Clause 6.4 of this Article.

5.1. “Asset” with risky coefficient equal to 0% include:

- a) Cash;
- b) Gold;
- c) Deposit in Vietnam Dong at Vietnam Bank for Social Policies in accordance with credit regulations for the poor and other policy beneficiaries;
- d) Receivables in Vietnam Dong as for Vietnam’s Government, State bank of Vietnam;
- d) Negotiation and re-negotiation amount of valuable paper issued by the said credit institutions;
- e) Receivables in Vietnam Dong secured by valuable paper issued by the said credit institutions; Receivables secured fully by cash, savings book, deposit, valuable paper issued by Government and State bank of Vietnam;
- g) Receivables of Central Government, Central Bank of OECD countries;
- h) Receivables secured by securities of Central Government OECD countries or guaranteed by Central Government of OECD countries.

5.2. “Asset” with risky coefficient equal to 20% includes:

- a) Receivables of other local or foreign credit institutions, including receivables in foreign currencies.
- b) Receivables of provincial or central city people’s committees, receivables in foreign currencies of Vietnam’s Government, State bank of Vietnam.
- c) Receivables secured by valuable paper issued by other credit institutions which are established in Vietnam;
- d) Receivables of state financial organizations; receivables secured by valuable paper issued by state financial organizations;
- d) Precious metals (except gold), gemstone;
- e) Receivables of international financial organizations and receivables guaranteed by these organizations or secured by securities issued by these organizations;
- g) Receivables of banks established in OECD countries and receivables guaranteed by these banks;
- h) Receivables of securities companies established in OECD countries in compliance with capital management and supervision agreement based on risks and receivables guaranteed by these companies;

i) Receivables of banks established outside OECD countries, the remaining validation period is less than 1 year and receivables with the remaining validation period less than 1 year guaranteed by these banks.

5.3. “Asset” with risky coefficient equal to 50% includes:

a) Project investment under contract of financial companies in accordance with regulations on organizations and activities of financial companies;

b) Receivables secured by all fixed asset of borrowers.

5.4. “Asset” with risky coefficient equal to 100% includes:

a) Capital contribution and shares purchase , except capital contribution and shares purchase in other credit institutions and subsidiaries as regulated in Clause 2.2(c) and Clause 2.2(d) of this Article;

b) Receivables of banks established in non-OECD countries, the remaining validation period is 1 year or more, and receivables with the remaining validation period is 1 year or more guaranteed by these banks;

c) Receivables of central government of non-OECD countries, except loan by local currencies and loan by local currencies of these countries.

d) Investment in fixed asset, machinery, equipment and other fixed asset;

đ) Receivables other than receivables as regulated in Clause 5.1, Clause 5.2 and Clause 5.3 of this Article.

5.5. “Asset” with risky coefficient equal to 150% includes:

a) Loans for securities investment;

b) Loans for securities companies;

c) Lending to children companies, joint-venture companies, asociation companies of credit institutions.

d) Capital contribution and shares purchase from companies, investment funds, investment projects, except those as regulated in Clause 2.2(c), Clause 2.2.(d), Clause 2.2.(đ), Clause 2.2.(e) of this Article.

5.6. Risky coefficient equal to 250% includes loan for fixed asset investment.

6. Value of off-balance commitment by risky level is determined by the following principles and orders:

6.1. Convert value of off-balance commitment to respective “Asset” by conversion coefficient as regulated in Clause 6.3 of this Article.

6.2. Multiply value of “Asset” of each off-balance commitment with respective risky coefficient as regulated in Clause 6.4 of this Article.

6.3. Conversion coefficient of off-balance commitment:

a) Off-balance commitment with conversion coefficient equal to 100% includes non-recourse commitment, in replacement for direct credit but at the same risky level as direct credit, include:

(i) Loan guarantee.

(ii) Payment guarantee.

(iii) Letter of credit confirmation, standby L/C as financial guarantee for loans, securities issuance; payment acceptance includes endorsement, except bill exchange acceptance as regulated in Item (ii) Clause 6.3(c) of this Article.

b) Off-balance commitment with conversion coefficient equal to 50% includes non-recourse commitment for payment responsibilities on be half of credit institutions, including:

(i) Performance guarantee;

(ii) Bid bond;

(iii) Other guarantees;

(iv) Standby L/C other than that regulated in Item (iii) Clause 6.3(a) of this Article;

(v) Other commitment with initial tenor of 1 year or more.

c) Off-balance commitment with conversion coefficient equal to 20% includes commercial commitment as follows:

(i) Irrevocable letter of credit.

(ii) Acceptance of sight commercial draft, secured by goods.

(iii) Shipment guarantee.

(iv) Other commercial commitment.

d) Off-balance commitment with conversion coefficient equal to 0%, including:

(i) Revocable letter of credit.

(ii) Other revocable conditional commitment.

đ) Conversion coefficient of interest rate contract:

(i) Initial tenor is less than 1 year: 0,5%

(ii) Initial tenor is from 1 year to less than 2 years: 1,0%

(iii) Initial tenor is from 2 years or more: 1,0% for amount under 2 years plus (+) 1,0% for each following year.

e) Conversion coefficient of forex contract:

(i) Initial tenor is less than 1 year: 2,0%

(ii) Initial tenor is from 1 year to less than 2 years: 5,0%

(iii) Initial tenor is from 2 years or more: 5,0% for amount under 2 years plus (+) 3,0% for each following year.

6.4. Risky coefficient of “Asset” value of each respective off-balance commitment as follows:

a) Off-balance commitment guaranteed by Vietnam’s Government, State bank of Vietnam or secured fully by cash, savings book, deposit, valuable paper issued by Vietnam’s Government or State bank of Vietnam: Risky coefficient is 0%.

b) Off-balance commitment secured by fixed asset: Risky coefficient is 50%.

c) Interest rate contract, forex contract and other off-balance commitment: Risky coefficient is 100%.

## **Article 6. Merged capital adequacy ratio**

1. Companies need to be merged to maintain minimum capital adequacy ratio:

Subsidiaries must merge their capital and asset with credit institutions to maintain minimum capital adequacy ratio include subsidiaries acting in financial and banking sectors, except insurance company and other credit institutions.

2. Merged capital adequacy ratio is calculated as follows:

Merged capital adequacy ratio = Merges equity/total merged risky "Asset"

In which:

- Merged equity is sum of total merged primary capital and merged secondary capital, deducting deductible capital as regulated in Clause 5 of this Article.

Merged primary capital is capital merged from primary capital of credit institutions and respective capital of subsidiaries of merged subjects as regulated in Clause 1 of this Article. Merged primary capital is calculated in accordance with Clause 3 of this Article.

Merged secondary capital is merged capital between secondary capital of credit institutions and respective capital of subsidiaries of merged subjects as regulated in Clause 1 of this Article. Merged secondary capital is calculated in accordance with Clause 4 of this Article.

- Total merged risky "Asset" is sum of total merged "Asset" by risky level and "Asset" value of respective merged off-balance commitment by risky level.

Merged "Asset" by risky level is merged "Asset" between "Asset" of credit institutions and respective asset of subsidiaries of merge subjects as regulated in Clause 1 of this Article, by risky level. Merged "Asset" by risky level is calculated in accordance to Clause 6 of this Article.

"Asset" value of respective merged off-balance commitment by risky level is the merge of "Asset" of respective off-balance commitment of credit institutions and of subsidiaries as merge subjects as regulated in Clause 1 of this Article, by risky level. Value of "Asset" of respective merged off-balance commitment by risky level is calculated as Clause 7 of this Article.

3. Merged primary capital is determined by merged financial statement, including capital as regulated in Clause 3.1 except deductible capital as regulated in Clause 3.2 of this Article.

3.1. Merged primary capital include:

a) Items in merged financial statement respectively to those regulated in Clause 2.1 Article 5 of this Circular;

b) Forex difference during merge of financial statement, except forex difference during merge of financial statement of companies out of those need to be merged as regulated in Clause 1 of this Article.

3.2. Deductible capital out of merged primary capital include:

a) Items in merged financial statement respectively to those regulated in Clause 2.2(a), Clause 2.2(b) and Clause 2.2(c) Article 5 of this Circular;

b) Items in respective merged financial statement of capital contribution and shares purchase in companies out of those need to be merged as regulated in Clause 1 of this Article;

c) Capital contribution and shares purchase in companies out of those need to be merged in accordance with provisions of law.

d) Items in respective merged financial statement of capital contribution and shares purchase as regulated in Clause 2.2(d), Clause 2.2(e) Article 5 of this Circular.

4. Merged secondary capital is determined based on database of merged financial statement of credit institutions, including total items as regulated in Clause 4.1 by limit regulated in Clause 4.2 of this Article.

4.1. Merged secondary capital includes:

a) Items in respective merged financial statement of those regulated in Clause 3.1(a), Clause 3.1(b), Clause 3.1(c), Clause 3.1(d) and Clause 3.1(d) Article 5 of this Circular.

b) Benefit of minor shareholders.

4.2. Limit of merged secondary capital:

a) Total value of convertible bonds issued by credit institutions and their subsidiaries and other liability tools in respective merged financial statement of which regulated in Clause 3.1(d) and Clause 3.1(d) Article 5 of this Circular, maximum is 50% of merged primary capital.

b) Total financial provisional funds in respective merged financial statement of which regulated in Clause 3.1(c) Article 5 of this Circular, maximum is 1,25% of total merged risky "Asset".

c) In the last 5 years prior to maturity, annual value of other liability tools in merged financial statement respective to which regulated in Clause 4.2.(a) of this Article should deduct 20% of initial value.

d) Total merged secondary capital is 100% of merged primary capital as maximum.

5. Deductible capital out of merged equity:

5.1. 100% balance of re-assessed accounts of fixed asset in merged financial statement, due to re-valuation in accordance to provisions of laws.

5.2. 100% balance of re-assessed account of securities investment in merged financial statement, due to re-valuation in accordance to provisions of laws.

6. Merged "Asset" is determined as follows:

6.1. Merged "Asset" includes items in merged financial statement respective to asset regulated in Clause 5.1, Clause 5.2, Clause 5.3, Clause 5.4, Clause 5.5 and Clause 5.6 Article 5 of this Circular.

6.2. Merged "Asset" by risky level is multiple of asset regulated in Clause 6.1 of this Article and respective risky coefficient as regulated in Clause 5.1, Clause 5.2, Clause 5.3, Clause 5.4, Clause 5.5 and Clause 5.6 Article 5 of this Circular.

7. Value of "Asset" of respective merged off-balance commitment is determined as follows:

7.1 Value of "Asset" of respective merged off-balance commitment includes items in merged financial statement respective to items regulated in Clause 6.3 Article 5 of this Circular.

7.2. Value of "Asset" of respective merged off-balance commitment by risky level is determined as follows:

a) Convert value of merged off-balance commitment regulated in Clause 7.1 of this Article to value of respective “Asset” by conversion coefficient as regulated in Clause 6.3 Article 5 of this Circular.

b) Multiply value of “Asset” of respective off-balance commitment after conversion as regulated in Clause 7.2.(a) of this Article with respective risky coefficient as regulated in Clause 6.4 Article 5 of this Circular.

## **Item 2: Credit limit**

### **Article 7. Formation of one customer and related customer criteria**

1. Credit institutions in this Circular should set up their internal regulations on credit quality management and credit policies for customers to set up their internal regulations on one customer and related customer criteria, credit limit applied for one customer and related customer, in which the following contents are must:

a) Criteria to clarify one customer and related customer.

b) Credit limit for one customer and related customer.

c) Credit diversification plan, supervision and management measures for credit from 5% equity of credit institutions or more. Loan and total loans exceeding 10% equity of credit institutions should be approved by Board of Directors or Chairman of Board of Directors or persons authorized by Board of Directors or Chairman of Board of Directors through empowerment and authorization as regulated in credit policies for customers.

2. Internal regulations on one customer and related customer criteria, credit limit applied for one customer and related customer should be amended or supplemented in accordance with internal regulations on credit quality management and credit policies for customers upon availability of amendment or supplementation of internal credit ranking system every year.

3. Within 15 days since issuance or amendment or supplementation of internal regulations on one customer and related customer criteria and credit limit applied for one customer and related customer, credit institutions must submit reports to State bank (Inspection agencies, banking inspectors).

### **Article 8. Credit and guarantee limit**

1. Loans of credit institutions include loans under credit contract, balance of payable raised from guarantee responsibilities on behalf of customers; negotiation balance as for valuable paper of customers; balance of bond investment issued by customers due to issuance guarantee responsibilities. Total loans of credit institutions for a customer cannot exceed 15% equity of credit institutions.

2. Total loans and guarantee balance of credit institutions for a customer cannot exceed 25% equity of credit institutions, in which loans for a customer cannot exceed ratio regulated in Clause 1 of this Article.

3. Total loans of credit institutions for a related customers cannot exceed 50% equity of credit institutions, in which loans for a customer cannot exceed ratio regulated in Clause 1 of this Article.

4. Total loans and guarantee balance of credit institutions for a related customers cannot exceed 60% equity of credit institutions, in which loans and guarantee balance for a customer cannot exceed ratio regulated in Clause 2 of this Article.

5. Total loans of a foreign bank's branch for a customer cannot exceed 15% equity of the said foreign bank

Total loans and guarantees of foreign bank's branch for a customer cannot exceed 25% equity of the said foreign bank.

Total loans of a foreign bank's branch for a related customer cannot exceed 50% equity of the said foreign bank, in which loans for a customer cannot exceed 15% equity of the said foreign bank.

Total loans and guarantee balance of a foreign bank's branch for a related customer cannot exceed 60% equity of the said foreign bank.

6. Credit institutions are not allowed to grant unsecured loans, grant favorable credit for companies controlled by the credit institutions and must comply with the following restricts:

a) Total loans and guarantee balance of credit institutions for a company controlled by the said credit institutions cannot exceed 10% equity of credit institutions.

b) Total loans and guarantee balance of credit institutions for a company controlled by the said credit institutions cannot exceed 20% equity of credit institutions.

As for subsidiaries of credit institutions being financial leasing companies, credit institutions are allowed to grant non-secured credit with the maximum rate of 5% equity of credit institutions but ensure the compliance with restricts as regulated in item a and item b of this Point.

7. Credit institutions are not allowed to grant credit to companies in securities sector controlled by the said credit institutions; are not allowed to grant non-secured loans for securities investment and trading purposes.

8. Total loans and negotiation of valuable paper for securities investment and trading purposes cannot exceed 20% Charter capital of credit institutions.

9. In case that a customer and related customer requires to borrow over credit limit as regulated in Clause 1, Clause 2, Clause 3, Clause 4 and Clause 5 of this Article, credit institutions or foreign bank's branches are allowed to co-lending as regulated by State bank.

10. In special cases, to fulfill socio – economic tasks that co-lending of credit institutions or foreign bank's branches cannot meet requirements of borrowing or financial leasing, Prime Minister can make decisions on credit limit and financial leasing on a case by case basic.

#### **Article 9. Financial leasing limit**

1. Total financial leasing limit for a customer cannot exceed 30% equity of financial leasing companies.

2. Total financial leasing volume for a related customer cannot exceed 80% equity of financial leasing companies, in which financial leasing volume for a customer cannot exceed limit as regulated in Clause 1 of this Article.

### **Article 10. Non-applicable cases**

Limits as regulated in Article 8 and Article 9 of this Circular are not applicable for the following cases:

1. Lending from investment authorization funds of Government, organizations, individuals; lending of Vietnam's Government.
2. Lending and guarantee with tenor less than 1 year as for other credit institutions acting in Vietnam.
3. Lending secured fully by bonds of Vietnam's Government or bonds issued by Governments of OECD countries.
4. Lending and guarantees secured fully by deposits, including savings and deposits in credit institutions.
5. Lending and guarantees secured fully by valuable paper issued by credit institutions themselves.
6. Lending and financial leasing volume that is decided by the Prime Minister for a customer.
7. Lending and guarantees approved by State bank in written documents.
8. Financial leasing by outsource funds of Government, organizations or customers as leasers are credit institutions but not credit institutions controlled the financial leasing companies.

### **Item 3. Current ratio**

#### **Article 11. Current ratio management**

1. Credit institutions must set up ALCO board to keep track and manage daily current ratio and General Director (Director) or Deputy General Director (Deputy Director) is authorized to be in charge of.
2. Credit institutions must set up and issue internal regulations on current ratio in Vietnam Dong, foreign currencies converted to USD, gold, in which the following contents are must:
  - 2.1. Empowerment, authorization, function, tasks and power of sectors and individuals related to asset and liability management and ensure current ratio.
  - 2.2. Procedures of asset and liability statistics and management. Measurement, assessment and report system on current ratio and payment capacity and warning system on risks of inefficient current ratio and solutions.
  - 2.3. Measures to solve inefficient current ratio and ensure current ratio and payment capacity in case of temporary shortage of payment, and in case of liquidity problem as well.
  - 2.4. Plan and methods to enhance holding of valuable paper with high liquidity.
  - 2.5. Set up stress-test model. Stress-test model should include scenarios for scenario analysis on current ratio and liquidity, in which the following should be included:
    - a) Scenario analysis combines of at least two cases as follows:

- Cash flows from business activities of credit institutions in the most common cases;
- Cash flows from business activities of credit institutions in cases of stress (shortage of payment and inefficient current ratio).

b) Scenario analysis should include the following contents:

- Capacity to implement daily liabilities and commitment;
- Solutions for credit institutions to have minimum sufficient payment capacity in seven (07) working days in cases of stress (shortage of payment and inefficient current ratio).

3. Internal regulations on stress management approved by Board of Directors and amended and supplemented every 6 months as minimum.

As for branches of foreign banks, internal regulations on payment capacity and current ratio should be approved by foreign banks.

4. Credit institutions must report to State bank (Inspection agencies, banking inspectors):

4.1. Internal regulations on stress management and amendment and supplementation;

4.2. Right after risks on payment capacity and current ratio arised, solutions should be delivered.

#### **Article 12. Current ratio**

By the end of a day, credit institutions must identify and set measures to ensure current ratios for the following day in Vietnam dong and USD (other foreign currencies converted to USD), as follows:

1. Minimum ratio of 25% between “Asset” that can be paid immediately and “Liability” that can be paid within 30 days since the following day.

1.1. “Asset” that can be paid immediately since the following day includes:

a) Cash balance available in funds of the previous day.

b) Book value of gold by the end of the previous day, including gold deposited in State bank and credit institutions.

c) Balance of cash deposited in State bank (except compulsory provisional deposit), current deposit in other credit institutions by the end of the previous day.

d) Time deposit other credit institutions matures following day.

đ) 95% value of securities issued by Vietnam’s Government or Governments of OECD countries or guaranteed by Vietnam’s Government or Governments of OECD countries by the end of the previous day.

e) 90% value of securities issued or guaranteed by credit institutions acting in Vietnam or banks of OECD countries by the end of the previous day.

g) 85% values of listed securities by the end of the previous day.

h) Balance of commitment borrowed from foreign banks (mother banks) and branches of foreign banks in which branches of foreign bank in Vietnam must keep their books and pay charges, valid until the following day.

1.2. Liabilities to be paid within 30 days from the following day including

- a) Balance of current account of other credit institutions by the end of the previous day.
  - b) Balance of cash deposited of other credit institutions, organizations, individual matures within 30 days since the following day.
  - c) 15% of average balance of current accounts of organizations (except current accounts of other credit institutions), individuals within 30 previous days from the previous day. Credit institutions must clarify this average balance as accounting base.
  - d) Loan balance from Government and State bank matures within 30 days since the following day.
  - đ) Loan balance from other credit institutions matures within 30 days since the following day.
  - e) Balance of negotiable paper issued by credit institutions matures within 30 days since the following day.
  - g) Value of non-recourse loan commitment of customers matures within 30 days since the following day.
  - h) Value of loan guarantee of customers matures within 30 days since the following day.
  - i) Value of payment guarantee, except cash guarantee, matures within 30 days since the following day.
  - k) Interests and charges matures within 30 days since the following day.
2. Minimum rate is 1 between total “Asset” matures within 7 following days since the following day and total “Liability” ” matures within 7 following days since the following day
- 2.1. “Asset” matures within 7 following days since the following day include:
- a) Cash balance available by the end of the previous day.
  - b) Book value of gold by the end of the previous day, including gold deposited in State bank and credit institutions.
  - c) Balance of cash deposited in State bank (except compulsory provisional deposit), current deposit in other credit institutions by the end of the previous day.
  - d) Time deposit other credit institutions matures within 7 following days since the following day.
  - đ) 95% value of securities issued by Vietnam’s Government or Governments of OECD countries or guaranteed by Vietnam’s Government or Governments of OECD countries by the end of the previous day.
  - e) 90% value of securities issued or guaranteed by credit institutions acting in Vietnam or banks of OECD countries by the end of the previous day.
  - g) 85% values of listed securities by the end of the previous day.
  - h) 80% of balance of commitment borrowed from foreign banks (mother banks) and branches of foreign banks in which branches of foreign bank in Vietnam must keep their books and pay charges, valid until the following day.
  - i) 75% of balance of non-secured loans, except bad-debt, matures within 7 following days since the following day.

k) Balance of commitment borrowed from foreign banks (mother banks) and branches of foreign banks in which branches of foreign bank in Vietnam must keep their books and pay charges, valid within 7 days since the following day.

2.2. "Liability" matures within 7 following days since the following day include:

a) Balance of current account of other credit institutions by the end of the previous day.

b) Balance of cash deposited of other credit institutions, organizations, individual matures within 7 days since the following day.

c) 15% of average balance of current accounts of organizations (except current accounts of other credit institutions), individuals within 30 previous days from the previous day. Credit institutions must clarify this average balance as accounting base.

d) Loan balance from Government and State bank matures within 7 days since the following day.

đ) Loan balance from other credit institutions matures within 7 days since the following day.

e) Balance of negotiable paper issued by credit institutions matures within 7 days since the following day.

g) Value of non-recourse loan commitment of customers matures within 7 days since the following day.

h) Value of loan guarantee of customers matures within 7 days since the following day.

i) Value of payment guarantee, except cash guarantee, matures within 7 days since the following day.

k) Interests and charges matures within 7 days since the following day.

### **Article 13. Sheet to control and supervise current ratio**

1. Based on regulations in Article 12 of this Circular, Credit institution shall prepare a sheet to control, supervise payment term of assets and liabilities in the next 30 days to assist controlling current ratio .

2. The sheet to control, supervise payment term as specified in Clause 1 of this Article must meet following requirements:

2.1. To ensure daily supervision of all assets due in the next 30 days since the next day and liabilities due of each day in the next 30 days since the next day.

2.2. Assets and liabilities due of each specific day are defined based on due date in credit agreement, loan, deposit contracts, commitments and guarantee agreement.

### **Article 14. Implementation of current ratio**

1. Based on results of the sheet and calculation of current ratio , in case when the target is not reached as specified in Article 12 of this Circular at the end of the day, credit institution must set up processing procedures, including borrowing from other credit institution to support current ratio , ensuring current ratio for the next day as regulated; and at the same time report to The State Bank of Vietnam (Banking inspector and supervisor) .

2. If all measures were applied as regulated in Clause 1 of this Article, credit institution is still coping with difficulties or risky current ratio, affecting liquidity, credit institution must immediately report to the The State Bank of Vietnam (Banking inspector and supervisor) as

specified in Clause 4.2 Article 11 this Circular. The State Bank of Vietnam shall apply all necessary measures to deal with credit institutions which are in difficulty and risky in current ratio , liquidity.

3. Credit institution can only commit lending to support current ratio, liquidity to other credit institutions once it has met requirements of current ratio as specified in Clause 1 and Clause 2 Article 12 of this Circular .

4. Credit institution which is temporarily short of current ratio as specified in Article 12 of this Circular is not allowed to lend other credit institutions in interbank market.

5. Credit institutions coping with difficulties in implementation of current ratio and shall be dealt by The State Bank of Vietnam by applying necessary measures as regulated in Clause 2 of this Article, including loan for rediscount, credit institution is not allowed to participate in interbank market.

#### **Item 4. Limit for capital contribution, shares purchase**

##### **Article 15. Sources to contribute capital, purchase shares**

Credit institution can only use charter capital and reserves to contribute capital, buy shares of the companies, investment funds, investment projects, other credit institutions, provide charter capital to companied directly under credit institution as specified in this regulation and other legal related regulations.

##### **Article 16. Limit capital contribution, shares purchase**

1. Level of capital contribution, shares purchase of credit institution contributed in a company, investment fund, investment project, other credit institution must not exceed 11% of charter capital of that company, investment fund, investment project, other credit institution, except for capital contribution to subsidiary.

Total value of capital contribution, shares purchase of credit institution and its subsidiaries contributed in a company, investment fund, investment project, other credit institution must not exceed 11% of charter capital of that company, investment fund, investment project, other credit institution.

2. Total value of capital contribution, shares purchase of credit institution :

a) of subsidiaries must not exceed 25% of charter capital and reserves of credit institution.

b) contributed in a company, investment fund, investment project, other credit institution and subsidiaries must not exceed 40% of its charter capital and reserves, in which total value of capital contribution, shares purchase contributed in subsidiaries must not exceed the rate specified in Clause 2.(a) of this Article.

3. In case of exceeding the rate specified in Clause 1 and Clause 2 of this Article, a prior written notice must be approved by The State Bank of Vietnam and must fully meet all following conditions as follows:

a) Credit institution must fully comply with other capital adequacy ratios in banking activities, bad debt rate (NPL) must be lower than 3% and profit from operating activities is gained consecutively in the last three (03) years.

b) That is capital contribution, shares purchase contributed in other credit institutions in order to financially support credit institutions those are in difficulty and in risk of involency, affecting security of credit institution system.

4. In case of exceeding the rate specified in Clause 1 and Clause 2 of this Article, credit institution shall be imposed sanctions such as it is not allowed to continue contributing capital, purchasing shares of a company, investment fund, investment project, other credit institution or providing charter capital to form subsidiaries until the rates are complied as regulated in Clause 1 and Clause 2 of this Article.

Measures to deal with credit institutions whose capital contribution, shares purchase's rate exceeds the rate specified in this Circular must be approved by Board of management and sent to The State Bank of Vietnam(Banking inspector, supervisor).

##### **Article 17. Retroaction**

1. . In case of exceeding the rate specified in Clause 1 and Clause 2 Article 16 of this Circular, credit institution is not allowed to continue contributing capital, purchasing shares of a company, investment fund, investment project, other credit institution or providing charter capital to form subsidiaries until the rates are complied as regulated.

2. Credit institution which has granted credit to companies under control of credit institution taking part in securities trading during the time of maximum one (01) year since the effective date of this Circular must apply reconciliation measures.

### **Item 5. Ratio between credit granted and mobilized capital**

#### **Article 18. Ratio between credit granted and mobilized capital**

1. Credit institution can only use mobilized capital to grant credit if current ratio is guaranteed as specified in Article 12 of this Circular and must not exceed following rate:

1.1. For the bank : 80%

1.2. For non banking credit institution: 85%

2. Granting credit as specified in Clause 1 of this Article includes lending, financial lease, factoring, guarantee, discount of valuable papers and transferable instruments.

3. Mobilized capital specified in Clause 1 of this Article includes:

3.1. Individual deposit such as demand deposit, fixed deposit;

3.2. Deposit (excluding deposit for payment) of organization (excluding State treasury, other credit institution), households such as demand deposit, fixed deposit;

3.3. Borrowings from domestic and foreign organizations, including borrowing from other domestic and foreign credit institutions, excluding State treasury;

3.4. Capital is mobilized from organizations, individuals, households by issuance of valuable papers.

## **Chapter III**

### **REPORTING, CHECKING AND DEALING WITH VIOLATION**

#### **Article 19. Reporting**

Credit institution must make report on implementation of capital adequacy ratio in accordance with regulations issued by The State Bank of Vietnam on statistics report applied to credit institutions.

#### **Article 20. Checking and dealing with violations**

Credit institution or related person who violate regulations of this Circular, depending on nature and acts of violation, shall be fined in accordance with one of followings:

1. Financial fine in accordance with legal regulations;

2. Limiting granting credit, network expansion and activities;

3. Stopping operation in case of serious violation;

4. To sue to court in accordance with legal rules without fines as specified in Clause 1, Clause 2 and Clause 3 of this Article.

## **Article 21. Implementation**

1. Banking inspector, supervisor is liable for:

1.1. Supervising, checking, inspecting implementation of capital adequacy ratios as regulated in this Circular ;

1.2. Financially fining in accordance with Article 20 of this Circular ;

1.3. Coordinating with Credit Department, Forecast Department and Monetary Statistics Department in implementation of regulations as specified in Clause 2 and Clause 3 of this Article.

2. Credit Department is liable for:

2.1. Coordinating with Banking inspector, supervisor in dealing with current ratio of credit institution;

2.2. Dealing with credit institution which is in difficulty of current ratio , liquidity as regulated in Clause 2 and Clause 5 Article 14 of this Circular .

3. Forecast Department and Monetary Statistics Department, based on regulations of this Circular, shall prepare statistics report of implementation of security ratios in banking and credit institution activities and submit to the Governor.

## CHAPTER: IMPLEMENTATION ARTICLE

### Article 22. Effectiveness

1. This Circular comes into effect since the date of October 1<sup>st</sup> 2010 and shall replace Decision 457/2005/QD-NHNN dated April 19<sup>th</sup> 2005 of Governor of The State Bank of Vietnam on regulations of capital adequacy ratios in credit institution's activities, Decision 03/2007/QD-NHNN dated Jan 19<sup>th</sup> 2007 of Governor of The State Bank of Vietnam on amendment and supplement of some provisions in regulations of capital adequacy ratios in credit institution's activities issued under Decision 457/2005/QD-NHNN dated April 19<sup>th</sup> 2005 of Governor of The State Bank of Vietnam, Decision 34/2008/QD-NHNN dated December 05<sup>th</sup> 2008 on amendment and supplement of some provisions in regulations of capital adequacy ratios in credit institution's activities issued under Decision 457/2005/QD-NHNN dated 19/4/2005 of Governor of The State Bank of Vietnam.

2. Any amendment, supplement and replacement of this Circular must be approved by the Governor of The State Bank of Vietnam.

3. Chief of Administrative, Inspection departments, Chief of The State Bank of Vietnam's departments, Directors of provincial State Bank, Chairmen and General Directors (Directors) of credit institutions are responsible for implementation of this Circular ./.

#### *Copies to:*

- As in Clause 3 Article 21;
- Government's Administrative department (02 copies);
- Ministry of Justice (for checking);
- Archived at Administrative department, **TTGSNH5** (3 copies).

**GOVERNOR**