BANKING POSITION PAPER

Prepared by
Banking Working Group

EXECUTIVE SUMMARY

Vietnam has achieved tremendous success in developing the economy while also preserving social order and tradition. In the financial sector, Vietnam has weather several international crises, while successfully taming inflation and the impacts of a credit bubble.

In looking to the future, forces such as ASEAN integration, AFTA and potential trade agreements such as TPP will further shape the economy and competition. The Bank Working Group believes that Vietnam needs to move beyond the challenges in the bank sector of recent years, and begin today to set in place the financial markets to support Vietnam's economic growth in 2020 and beyond. This is about building institutional capacity to compete with and compliment regional financial markets.

Some elements we believe that need to have focus in the years ahead are summarized as follows:
- Developing robust local currency debt capital markets for corporate issues to support longer tenor investment needs
- Expanding access to finance for SMEs
- Streamlining FX and Trade documentation to facilitate Vietnam's growing international export manufacturing base
- Leveraging technology advances in banking and payments to reduce cash payments in society (in particular payments to and from the government)
- Continuing the reforms and accelerating restructuring in local banking and SOE sector to ensure that lessons are learned from past, and bank sector is solidly recapitalized
- Improving institutional capacity at banks and regulatory bodies and ensuring ethical conduct in the industry.

Looking at 2014 and the year ahead, the Bank Working Group continues to applaud the strengthening of regulation in the financial sector. However, we continue to note that often legislation is issued where aspects of implementation is unclear. The Bank Working Group is concerned that with stronger enforcement (Decree 96), banks cannot afford to have unclear or ambiguous interpretation of regulation. We strongly urge the SBV and Government to ensure adequate timeframes for consultation and implementation of new laws, and where there is ambiguity, written responses to all banks should be provided on a timely basis.

In this regard, a summary of key issues requiring clarification at present includes:

- FX management: We have submitted letters seeking for the SBV guidance in implementing a number of FX regulations (Decree 70, Circulars 5, 19, 16, 21, 23, etc). Issues regarding licensing, supporting documentation (including consularization requirements), routing payments via capital accounts, FCY savings by foreigners and the structure of accounds by foreign indirect investors require urgent clarification.

- AML: We await a new circular clarifying implementation of 2013 and 2014 AML regulation, in particular as certain aspects of Circular 35 are proving impractical to implement. As AML is a global regulatory priority, the Bank Working Group strongly notes that foreign bank head offices are uncomfortable with continued "verbal" clarifications and we strongly request that proposed changes be published as soon as possible.

- Loan Rollover/Extensions: The BWG undewrstands that new regulations aree expected to update Circular 1627. In particular, the BWG notes that the recent OL 7059 restricting loan extensions needs to be reconsidered, as loan rollovers within approved credit lines by good

quality borrowers is not an indication of financial weakness, and is a normal practice in international markets.

- E-customs & Supporting Documentation: The BWG continues to recommend a streamlining of documentation requirements, in particular as E-customs is a reality.

- Decree 96: The BWG recommends that the penalties envisaged under Decree 96 not apply to cases of "self identification" by banks. It is important that bank staff be encouraged to escalate mistakes or errors without fear, and in turn that management act to rectify and report issues proactively.

- Consumer Finance Draft Lending Regulations: The BWG welcomes legislation of this growing non-bank sector, and has raised specific comments regarding topics including scoring, risk acceptance criteria, and supervision of loans. Furthermore, the BWG wishes to ensure clarity of legislation as to coverage of bank consumer lending operations.

The BWG has also provided a detailed list of pending issues of lower urgency than the above, and looks forward to receiving clarification from the SBV.

CONCLUSION

Many of the issues and comments highlighted arise as aresult of a clear and urgent drive by the State Bank of Vietnam to create a better governed, more transparent banking system. Vietnam is moving steadily and progressively to this aim and there is increasing confidence that this is the right direction.

The BWG remains committed to help in any way possible in furthering Vietnam's financial market development to serve the needs of our customers and the nation.

BANKING POSITION PAPER

Vietnam has achieved tremendous success in developing the economy while also preserving social order and tradition. GDP per capital has gone from below $100 when renovation (Doi moi) began, to around $1750 per capita last year. Poverty has dropped; Vietnam is expected to meet 7 of the 10 millennium development goals. In the financial sector, Vietnam has weather several international crises, while successfully taming inflation and the impacts of a credit bubble.

In looking to the future, forces such as ASEAN integration, ASEAN Free Trade Area ("AFTA") and potential trade agreements such as Trans-Pacific Strategic Economic Partnership Agreement ("TPP") will further shape the economy and competition. In this regard, the Bank Working Group believes that Vietnam needs to move beyond the challenges in the bank sector of recent years, and begin today to set in place the financial markets to support Vietnam's economic growth in 2020 and beyond.

This is not just a question of introducing Basel II or improving governance and risk management frameworks in the domestic banks (which remains critical), it is about building institutional capacity to compete with and compliment regional financial markets. Some elements we believe that need to have focus in the years ahead are summarized as follows.

- *Capital markets* – Most local banks in Vietnam are facing with huge asset-liability maturity mismatch with an averaged 80%+ of liabilities are shorter than 6 months tenor while an averaged 40% of assets have duration of more than 3 years. With historical volatility of interest rates, it would pose big interest risks to banks, leading to periodical liquidity crunch and potential systematic risks to the local banking sector. One of the key solutions to address this maturity mismatch risk is to develop further the currently fragile and weak local capital markets.

  The development of local debt capital market and efficient platform for asset/liability management will definitely benefit many areas in Vietnam – including but not limited to 1) better access of diverse sources of capital for corporations and financial institutions, 2) more selection of investment tools for financial investors (domestic and foreign), 3) stable usage of local currency as means of business and capital (breaking away from USD or other hard currency), 4) effective management of interest rate exposures for both investors and issuers, 5) less shock and volatility from government's macro-economic policy shifts, and more.

  However, the development of local debt capital market and efficient management of asset/liability will not come easily at the current situation. A lot of efforts and platform building/providing from the regulator (also government and market participant collaboration) will be necessary in order for this to happen. The following are the pre-requisites to enable the development of local debt capital market and enhance asset/liability management;
  - Need solid local accounting standards that meet international standards (or at least close to).
  - Legal framework involving bankruptcy/default needs to be enhanced significantly to ensure support for investors.
  - The introduction of Mark-to-Market (on both market risk and credit risk) methodology will be crucial for the proper assessment of risk and book valuation.
  - Unreasonable and ineffective regulations such as limiting IRS & CCS exposure by notional and imposing PL threshold (e.g. cap at 5%) will greatly hinder any development as these are backward moving measures – need to approach from Mark-to-Market and Value At Risk (VaR) perspective,

- The existing government bond and SBV bill market need to be improved substantially vis-à-vis volume and stability of issuances in key tenors as the government credit will be the basis of all local debt products.
- Introduction of a true interest rate benchmark (need at least a stable 1 month or 3 month tenor) that is governed by the proper regulator (should be SBV),
- Development of local currency IRS market to enable investors as well as issuers to manage asset/liability risk and tenor mismatch - this will not happen unless above issues are resolved.
- Foreign bond issuers should be permitted to enter the Vietnamese bond market (for example to finance long term investments) which would creates top-tier quality assets to the market and thus help expand bond investor-base
- Local credit rating agency needs to be established following international best practices to enhance transparency and investor confidence throughout the bond tenor.
- Foreign banks should be allowed to underwrite VND bonds to be able to bring more international issuers to Vietnam as well as introduce best international practices, corporate governance into the market.

• *SME finance* – Related to the development of capital markets is a related topic of finance to small businesses and entrepreneurs. By developing capital markets in Vietnam, there can be a shift of a portion lending out of bank sector (to pensions and insurance companies). Banks will then have a greater capacity to mobilize lending to other sectors, such as SME. Again, recognition needs to be developed that cash flow based lending needs to develop alongside the traditional secured lending. Small businesses typically will have working capital needs that go beyond the owner's ability to provide security, and if carefully and properly understood by the lender, this type of financing can unlock growth in areas which will strongly contribute to future growth. It is worth noting that in countries like Japan, Korea, and Taiwan, small businesses make up the majority of employment and have been vital to those countries success.

• *Reducing barriers to international trade* – exports as a percentage of GDP have risen from around 50% of GDP in 2000, to approx. 89% of GDP in the year to date 2014. As regional integration continues, and in order for Vietnam to remain a competitive export manufacturing base, the approach towards foreign exchange, hedging, and documentation will need to be streamlined and modernized. Currently, both banks and their customers carry significant documentation burdens, and this needs to be simplified. Allowing both importers and exporters to better manage (hedge) their foreign currency flows for longer tenors would remove significant volatility and risk from their business. Again, many regional countries have successfully found ways to largely eliminate speculative or hostile currency actions, so we would hope that Vietnam can increasingly liberalize international trade and FX in the years ahead to legitimate trade purposes.

• *Technology* – the technology available in international financial and payment systems is evolving rapidly, and there may be opportunities for Vietnam to "leapfrog" to new technologies rapidly, while at all times ensuring the safety and security of the country. For example, card or non-cash payment technologies are being adopted by several governments across the region, and being used to reduce the burdens of physical cash handling, enhance transparency and accounting, and reduce corruption related issues. There could be significant advantages to Vietnam in pursuing a robust e-governance strategy, with basic payments to and from the government being a possible are to start.

• *Conduct* - Banking is an industry based on trust. Ethical and appropriate professional standards in banking need to be upheld. The BWG is currently examining approaches to improve conduct in Vietnam, and will share these ideas with the SBV in due course.

The BWG urges policy makers to consider themes like those listed above to further enhance Vietnam's position as one of ASEAN's leading economies in the years ahead.

Turning back to the situation today, the BWG is pleased to see tangible progress with regard to the restructuring of the financial sector following the release of the Banking Sector Restructuring Master Plan in March 2012. The operating environment for the banking system has stabilised, and government's balance sheet has remarkably improved. However, there remain some key challenges with regard to bank sector governance and risk management – which we expect will be addressed with new legislation shortly. We also would wish to see further changes to see resolution (or restructuring) of NPLs – indeed improvements to the legal framework to allow foreign participation in purchase of NPLs (and associated collateral, notably real estate) would be welcome. Clearly there is a need to recapitalize the banking sector, and we believe that taking clear steps in this regard quickly will benefit Vietnam's economy greatly.

However, we continue to note that often legislation is issued where aspects of implementation is unclear. The Bank Working Group is concerned that with stronger enforcement (Decree 96), banks cannot afford to have unclear or ambiguous interpretation of regulation. We strongly urge the SBV and Government to ensure adequate timeframes for consultation and implementation of new laws, and where there is ambiguity, written responses to all banks should be provided on a timely basis. In this regard, we continue to highlight specific themes for the SBV's attention and guidance along two themes:

A. Key and emerging issues
B. Pending and long standing issues.

SECTION A – KEY AND EMERGING ISSUES

1. FX management

We have submitted letters seeking for the SBV guidance in implementing a number of FX regulations (Decree 70, Circulars 19, 16, 21, 23, etc). While waiting for the official guideline from the SBV, we would like to highlight the following concern:

- FX licence: We recommend that banks should be allowed to carry out "basic" FX activities in both domestic and international markets so to meet client's needs, properly hedge associated risks, and ensure liquidity. Importantly, there should have no limitations on basis FX activities in the international market performed by foreign bank branches in term of client categories. Basic FX activities in international market should be licensed on an umbrella basis to reduce the unnecessary and heavy administrative workload for both banks and the SBV.
- Verifying supporting documents: there is a significant conflict between Decree 70 (Article 16) and Circular 16 (Article 9) on the obligation of banks with regard to this topic. We recommend the verification obligation of the bank is only to ensure that we meet the real need of our customer (vs. speculative purpose) and that the bank's service complies with the relevant laws and regulations. Banks should not be responsible for ensuring that clients are doing business in compliance with laws and regulations, which should be the responsibility of the clients and other judicial agencies.
- FCY saving deposit in cash by foreigners is currently not allowed under Article 13 of Decree 70. We would recommend the SBV to reconsider to allow banks to receive FCY saving deposits from foreigners working in Vietnam as it would be a waste of a funding source for banks and would make foreigners to remit all their legitimate income in Vietnam offshore.
- The lack of regulations on opening term deposits for resident organisations and invididuals. This has led to different interpretation and thus different approach from banks such as stopping to accept term deposits from individual customers. Request that SBV to urgently issue guidance on this.

- Translation into Vietnamese with notarization and consularization of constituent and identity documents for account opening purposes (Article 12.3 of Circular 23): while we could understand the sovereign issue if those documents are to be submitted to a Government agency, we found this requirement is too much of a burden for commercial banks and foreign investers, particularly while Vietnam is aiming to international integration and commercial banks could have resource to read and understand documents in foreign language. We recommend that this requirement is to be eliminated.
- Opening Indirect Investment capital account under Circular 05/2014. Circular 05/2014/TT-NHNN dated 12/3/2014 stipulates that foreign indirect investment activities must be implemented via one indirect investment capital account ("IICA") opened at one authorized bank. Sophisticated investors normally diversify their investment and request for multiple accounts opened at one bank for the purpose of their separated management of investment activities. Under international standard banking system, the bank will open multiple accounts for the client under an unique master client ID to accommodate such requirement. With this approach, the SBV management objective on aggregated indirect investment flows by client is still achieved as multiple accounts will be rolled up to one unique client master ID.

  The requirement on opening only one IICA for an indirect foreign investor restricts the possibility of managing various investments in foreign investors' portfolio which would potentially discourage the inflow of indirect foreign investments into the country. This in turn could adversely impact the development of Vietnam stock market. We recommend that SBV would allow the flexibility over multiple account structure in foreign indirect investment in order to meet legitimate demand of investors with the full reporting compliance by banks to SBV.

2. Rollover Loan / Loan Extensions

On 29 Sep. 2014, we received the Official Letter 7059/NHNN-TTGSNH dated 26 Sep. 2014 (OL 7059) on credit extension under the rollover scheme, which requires that:

- Credit institutions ("CIs")/Foreign bank branches ("FBBs") are to collect the total of principal and interest on the maturity date as agreed with customers in the credit contracts, not to wholly and partially rollover the outstanding amount.
- For the existing revolving contracts, CIs/FBBs are to negotiate with customers to amend the contracts.

We found these requirements and SBV's decision on banning rollover loan contradicts normal international practices on lending, in particular when lending against normal working capital cash flows which fluctuate during the year.

Currently, a significant amount of credit at foreign banks' branches and foreign wholly-owned banks that offers to customers is short-term loans for working capital financing purposes. Normally, the tenor of each loan ("**loan tenor**") is several months which are in line with cash flow of one cycle of producing/trading/import-export goods. The rollover of short-term loans, which is recognized internationally, is preferred both firms and banks as follows:

To firms:

- The use of short-term capital cycle (a few months) helps reduce significantly the borrowing costs of the firms.
- "Healthy" firms often have credit relationships with many banks and the application of short-term tenor for each loan enables firms to choose bank with the most favorable interest rate at each point of time.

To banks:

- Ensures to make the best assessment of credit risk as well as cash flow and a customer's ability to repay for each period (to decide whether to allow rollover of the loans)

The rollover of loans as presented above does not result from the diminished financial capacity or the customer's credit quality, but from the practical requirements of business operations. This does not in any way imply an increased level of credit risk, as banks will typically approve tenors far greater than actual loan drawdown tenors

However, according to current provisions of SBV as stated in many legal documents such as Decision 1627/2001/Q ĐNHN dated 31/12/2001 of the Governor of the State Bank issuing regulation on lending by credit institutions to clients ("Decision 1627") and Circular 02/2013/NHNN on classification of assets, levels and method of setting up risk provisions, and use of provisions against credit risks ("Circular 02"), rollover of loans will create an unreliable and negative picture of banks' status on non-performing loan which will then affect the reputation and operation of banks and firms in particular and the business climate of Vietnam in general. Furthermore, the quality and status of credit of firms and customers will also not be truly reflected by applying these provisions.

We understand that a new draft circular is in preparation to amend aspects of Decision 1627, and very much hope that the State Bank of Vietnam shall consider allowing rollover of short-term loans (less than 1 year) and more importantly, not consider rollover as extension of debt or negative in terms of provisioning.

3. Decree 96/2014/ND-CP on Civil penalization in relation to monetary and banking practices

Decree 96 is clearly intended to strongly enhance the effectiveness of bank enforcement and oversight in Vietnam. In this regard, we applaud the Government for such a comphrensive and detailed approach.

One important point we would wish to highlight is the concept of "self-identified" issues. Most international banks train and encourage our staff to come forward and report, escalate issues in their work. Whether minor mistakes, or more significant operational challenges, the concept is to encourage ethical and proactive escalation of problems to management. (Management of course then has a duty to act of these matters).

The BWG is concerned that Decree 96 appears to be silent on how "self-identified" issues will be treated. This is turn raises a concern that employees may in future be afraid to escalate mistakes or issues for fear of penalty under Decree 96.

We would respectfully request that a clarification be considered, to allow for and encourage appropriate escalation and self-reporting of issues. Proactive and constructive efforts by bank staff and management to address problems in their organizations should be encouraged, not penalized.

Furthermore, currently with a financial penalty in records (regardless of small or big, material or non-material), banks are not allowed to obtain approval for new products within 6 months or extension of bank network within 1 year. Therefore, we would like to suggest that SBV to consider the seriousness of each violation before applying penalty and/or imposing penalty conditions for licensing/approval/new business etc. to ensure penalty fairly reflects violations and their consequences.

4. Commenting Draft circular regulating consumer loan operations of finance companies [FC]

The conditions stipulated in Item 2 of Article 3 are suitable only for financing consumer goods purchasing at dealer shops. We propose SBV to add the following products to the consumer loan category (i) Cash loans (disbursal in cash or through borrowers' account) and (ii) Mortgages / Home equity loans for consumption purposes.

SBV should encourage rather than compel FCs to build a credit scoring system because it depends on the various conditions, stage of development, business model and specific consumer loan products of each FC.

We propse SBV to allow FCs to have the flexibility when (i) deciding risk acceptance criteria; selecting target customer segments (ii) deciding the maximum loan tenors for each loan type (secured or unsecured) as well as (iii) the necessary loan supporting documents, based on the risk appetite & credit risk management framework of each company.

Point dd, Item 1, Article 12 requires FCs "to supervise & inspect customers' borrowing process, their using of borrowed money & repayment history". These requirements do not really help FCs to effectively manage risks in consumer lending, instead they create administrative & financial burdens for FCs to achieve compliance. It is requested that SBV work out a more open & flexible regulations applicable to consumer lending due to the nature of borrowing by individuals & the constraints for Lenders in reality to monitor & follow up with these loans [Borrowers may not have bank accounts, large customer base, small loans ect.]

Due to the (i) Various characteristics of each consumer loan product and (ii) Different business model of each FC, we suggest SBV (in Item 3 of Article 15) not to require FCs to determine & publicize maximum Turn Around Time [TAT] of credit verification & underwriting process.

The draft on consumer lending is presumed to apply to finance companies (and not banks). We would urge the SBV to clarify the applicability of this draft to Banks engaged in consumer lending.

5. Anti Money Laundering (AML)

The Banking Working Group welcomes Circular 31/2014/TT-NHNN amending and supplementing a number of Articles of Circular 35/2013/TT-NHNN detailing implementation of a number of Article of Law on anti-money laundering dated November 11, 2014 ("Circular 31"). The Working Group was very happy to see many recommendations of the Group have been reflected in Circular 31. However, there are still some articles in Circular 31 and Decree 116/2013/ND-CP guiding the implementation of the Law on anti-money laundering are impractical and difficulty to implement. We would like to report to SBV for consideration as follows:

1. Obtaining information of Individual who holds 10% and more of charter capital of the legal entity and individual who holds 20% and more of charter capital of organizations contributing over 10% of capital of the legal entity. Recommend SBV to clarify the unwrapping process.
2. Obtaining information of address, representative person of the parent company, subsidiary, representative office for foreign customers and informnation of beneficiary beneficiary individuals, entities (ID, passport, tax code, etc.). It is difficult to obtain such information for foreign/non-resident customers.
3. Meeting customers at first establishment of relationship. This is impractical for the case of investors who are non residents or unnecessary when the banks provide a certain types of services to massive customers such as payroll payment.

6. Prudential Ratio

Circular 36/2014/TT-NHNN on prudential ratios (Circular 36) has just been issued by the State Bank of Vietnam with effect from February 1, 2015. We would like to raise some burning issues, request for clarifications as well as some recommendations as follows:

Article 17.6 governing the ratio on short term funding allowed for long term loans: Article 17.6 stipulates the 15% and 35% limit ratio of G-bonds holding per short term funding for

Foreign bank branch and Commercial banks respectively. We appreciate the intention of SBV to impose the limit of using short term funding to fund for long term asset (medium term funding ratio issue). However, we are of the opinion that Article 17 is not in line with Basel II and III where banks are required to hold substantially more G-bonds. In addition, banks are perhaps the biggest (if not only) buyers for G-bonds and this requirement may adversely impact the Government plan in funding fiscal deficit next year.

Under Appendix 3 of Circular 36, G-bonds is the most liquid asset only after cash and being used for calculating immediate liquidity ratio under Article 15. In addition, banks can always use their Government bonds to apply for re-financing from the SBV. Accordingly, we understand that this short term funding on long term loan ratio should mainly address to short term funding source for medium and long term loan as well as that for long term investment in G-Bonds and the term on "purchase, invest in Government Bonds" meant to the investment in G-Bonds with the two following conditions:

- Government bonds which are being held till their maturity (i.e Hold Till Maturity Government Bonds); and
- The remaining maturity of these Government Bonds must be longer than 01 year.

Moreover,

a) We understand that the trading of Government Bonds which are not being held till maturity, i.e those are calculated under Appendix 3 of Circular 36 and booked under category "Available for Sale" or Government Bonds for Trading are not subject to Article 17.6. We respectfully request SBV's clarification in this regard.

b) If Government bond is a liquid asset and foreign banks with proper mark to market(MTM) process for their bond trading activities, how can they use the long term funding to fund for the bond if the bond can be sold at any time. What should the bank do with their long term funding if the bond position is zero?. In term of liquidity management it is not a safe and effective way for banks to perform. Even if the State Bank of Vietnam has concern on the bond liquidity then they should have a separate ratio for different bond tenor. E.g. bond tenor is 8 months but we cannot use 100% of a 8 month deposit to fund for the bond.

   In case of Hold Till Maturity Government Bonds, it is understood that the ratio under Article 17(6) will be calculated after the computation of the medium and long term funding. We look forward to SBV's clarification in this regard.

c) We also suggest SBV to regard Bank's capital as long term funding. This capital should be able to use to fund for Bond holding. So in the Ratio, the bond which is being funded by Capital (after deducting fixed asset and other investment) should be exclude from this requirement.

d) We would appreciate if SBV can provide rationales to have different limit ratio for Foreign bank branches and local commercial banks. It is unclear to us on why this ratio is only 15% for foreign bank branch while a fair treatment should be encouraged to benefit all market participants given our local bond market development.

Article 17.5 governing the use of bank's capital and ratio of short term deposit to fund long term asset: Article 17.5 stipulates the use of bank's capital and ratio of 60% short term deposit to fund long term assets. Following our comment on point (d) above, It is better if bank can decide if they can use bank's capital to fund the bond or to fund the long term asset. Therefore, we appreciate SBV's consideration in this regard.

Article 31 on effective date of Circular 36: The Circular 36 will take effect on February 1, 2015. We are of the opinion that the effective date is too short for banks to prepare their liquidity situation as it may create a market shock if banks have to reduce their bond position in a short period to comply with new regulation. For the development of Vietnam bond market, we do not expect to have again the experience in 2008-2009 where bond yields up from 7% to 21-25%. Therefore, we would respectfully request SBV's consideration for extending the effective date of Circular 36.

SECTION B – REVIEW OF PENDING AND LONG OUTSTANDING ISSUES

The working group respectfully recommends that SBV reviews and provides its guidance on the following matters raised previously.

1. Update of general banking license

We understand that SBV has put a lot of efforts to work out on approach to sort out the existing licensing risks faced by all banks in the market. This approach is applauded and appreciated by all banks across BWG. However, latest update from SBV shows that all license update is hold until the new regulation on license re-issuance is issued. This exposes many legal risks to banks (or interruption of financial services to clients) and we are looking forward to the guidelines to be issued soon by SBV on this matter.

2. Reimbursement of interest subsidy

Over the last years, banks have been waiting for the reimbursement of 20% of due interest subsidies under the interest rate support initiative that ended in 2009. Following our previous meetings with SBV in late 2012, we note that the figures has been checked and finalized for a number of BWG members. We also understand that this is a complicated matter that may have bearings on the public funding balance sheet and national financial health. However since the unpaid accumulated reimbursements are presenting themselves as a problem with the banks in relation to their internal accounting systems and audited financial statements, the working group would appreciate if SBV wraps this up and starts releasing this interest rate refund as soon as possible.

3. Update of commodity product license

Currently SBV only allows credit institutions and foreign bank branches to offer commodity derivatives on a pilot basis which is normally for one (01) year and subject to SBV approval for any extension. Uncertainty in licensing could result in disruption to banking services to clients, and also to banks risking legal breaches with existing transactions committed to. We request that the SBV re-evaluate the "pilot" license framework for commodity derivatives as a more permanent approach. The BWG will continue to work with SBV to develop the regulation on commodity derivatives to facilitate this process.

4. Non- recourse discounting and factoring

Laws on Credit Institutions and Circular 04/2013/TT-NHNN dated 1/3/2013 only recognise discounting and factoring activities on a with recourse basis to the seller. This is not in line with international practices, for products/ solutions such as factoring, bill discounting and any other product where the bank has enforceable recourse to the buyer or the buyer's bank.

The recourse imposed on the exporters restricts them to access good quality funding to finance their working capital and reduce the payment risk from the buyer. Aligning Vietnam with the international trade finance standards would help protect exporters in Vietnam against buyers' default and delays of payment, ensuring a steady source of funding. As these products offer risk protections against buyer and buyer's country risks, Vietnamese exporters would be more comfortable developing commercial relationships with new markets or counterparties to grow their exports. We recommend that SBV issue the regulation allowing discounting and factoring activities on a with recourse basis to both the seller and the buyer.

5. Amendment of Circular No. 28/2012/TT-NHNN dated 03/10/2014 on Bank Guarrantee

We have previously addressed our recommendations to the SBV in term of difficulties and challenges on the current regulation on bank guarantee which we are facing with, in particular, the counting of single credit limits to guarantees issued based on counter guarantee granted by our parent banks or subsidiaries or branches within the same group and the requirement on Vietnamese languagues of the guarantee related documents.

The above recommendations have been reflected in draft Circular which is proposed to replace Circular No. 28 which was sent to us for our comments.
We much appreciate if the SBV could update us on the progress of this amendment.

6. FATCA

We would like to know the progress of the Intergovernmental Agreement that Vietnam intends to sign with USA as well as any clarification or change regarding this issue.

7. Onshore Loans in Foreign Currency

We would like to have SBV clarify its intention in connection with its policy on management of Onshore Loans in foreign currency as the current Circular 29/2013 will expire soon (31 Dec 2014).

CONCLUSION

Many of the issues and comments mentioned in this paper come from a clear and urgent drive by the State Bank of Vietnam to create a better governed, more transparent banking system. We are moving steadily and progressively to this aim and there is increasing confidence that we are moving in the right direction. As noted in the beginning, we believe that Vietnam can shortly begin work on other aspects of developing the financial markets, so that Vietnam has a solid and robust financial sector for future growth.

The BWG remains committed to help in any way possible in furthering Vietnam's financial market development to serve the needs of our customers and the nation.