

**THE STATE BANK OF
VIETNAM**

No.: 06/2023/TT-NHNN

**THE SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness**

Hanoi, June 28, 2023

CIRCULAR

**AMENDMENTS TO CIRCULAR NO. 39/2016/TT-NHNN DATED DECEMBER 30, 2016 OF
GOVERNOR OF STATE BANK OF VIETNAM PRESCRIBING LENDING
TRANSACTIONS OF CREDIT INSTITUTIONS AND FOREIGN BANK BRANCHES WITH
CUSTOMERS**

Pursuant to the Law on the State Bank of Vietnam dated June 16, 2010;

*Pursuant to the Law on Credit Institutions dated June 16, 2010 and the Law on amendments to
the Law on Credit Institutions dated November 20, 2017;*

*Pursuant to the Government's Decree No. 102/2022/ND-CP dated December 12, 2022
prescribing functions, tasks, powers and organizational structure of the State Bank of Vietnam;*

At the request of the Director of the Monetary Policy Department;

*The Governor of the State Bank of Vietnam (SBV) promulgates a Circular providing
amendments to the Circular No. 39/2016/TT-NHNN dated December 30, 2016 of the Governor
of the State Bank of Vietnam prescribing lending transactions of credit institutions and foreign
bank branches with customers (hereinafter referred to as "Circular No. 39/2016/TT-NHNN").*

Article 1. Amendments to Circular No. 39/2016/TT-NHNN

1. Point c Clause 6 Article 2 is amended and Clause 12 is added to Article 2 as follows:

a) Point c Clause 6 is amended as follows:

"c) The plan or project serving business purpose or living purpose such as house purchase,
construction or renovation or receipt of transfer of land use rights for building house."

b) Clause 12 is added as follows:

"12. Loan for financial offsetting refers to a credit institution's grant of a loan to a customer to
offset that customer's own funds or funds borrowed from another individual or organization
(other than a credit institution) used for paying or covering its costs incurred from a plan or
project serving business purpose or living purpose."

2. Article 8 is amended as follows:

“Article 8: Rejected loan demands

Credit institutions shall not be allowed to approve the following loan demands:

1. Loans used for doing business or investing in sectors or activities prohibited by the Investment Law.
2. Loans used for paying expenses or meeting financial demands of business or investment in sectors or activities prohibited by the Investment Law and other transactions or activities prohibited by laws.
3. Loans used for purchasing or using goods or services in the list of prohibited sectors and activities under the Investment Law.
4. Loans used for buying gold bullion.
5. Loans used for repaying loan debts owed to lending credit institutions, except those used for paying loan interests arising during the construction process which are accounted for in the total construction cost estimate approved by a competent authority in accordance with regulations of law.
6. Loans used for repaying foreign loan debts (excluding foreign loans granted in the form of deferred payment for purchased goods) or repaying loan debts owed to other credit institutions, except for a loan used for making early repayment of an existing loan that meets the following conditions:
 - a) The term of the new loan does not exceed the remaining term of the old one;
 - b) The old loan has not yet undergone any debt rescheduling.
7. Loans used for sending money to deposit accounts.
8. Loans used for making capital contribution to, buying or receiving transfer of stakes of a limited liability company or a partnership, or shares of a joint-stock company that is not yet listed on the securities market or registered for trading on the Upcom system.
9. Loans used for making capital contributions under capital contribution contracts, investment cooperation contracts or business cooperation contracts for executing investment projects that are unfit for sale or for business operation as prescribed by laws when the credit institution issues its lending decision.
10. Loans used for financial offsetting purposes, except for those meeting the following conditions:

a) The customer has used their own funds for paying costs incurred from their business project for a period of less than 12 months by the time of grant of lending decision by the credit institution;

b) Costs paid using the customer's funds for executing a business project are costs to be covered using the fund borrowed from the credit institution under the plan to use borrowed fund submitted to the credit institution when applying for a medium-term or long-term loan for executing that business project.”.

3. Clause 2 Article 11 is amended as follows:

“2. Currency unit used for debt repayment is the one used in a loan. The repayment of loan debts in another currency shall be subject to specific agreements between the credit institution and the customer in conformity with relevant law provisions.”.

4. Clause 2 Article 13 is amended as follows:

“2. If the customer has been rated transparent and healthy in its financial status by the credit institution, the credit institution and the customer shall agree on the interest rate on short-term loan in VND which shall not exceed the maximum lending interest rate decided by SBV's Governor over periods of time in order to meet certain demands for borrowed fund as follows:

a) Loans taken out to support the agricultural and rural development sector under the Government's regulations on credit policies for agricultural and rural development;

b) Loans taken out to implement the export business plan in accordance with the Law on Commerce and its instructional documents;

c) Loans taken out to finance business activities of small and medium-sized enterprises under the Law and the Government's regulations on support for development of small and medium-sized enterprises;

d) Loans taken out to develop ancillary industries under the Government's regulations on development of ancillary industries;

dd) Loans taken out to finance business operations of enterprises that apply high technologies included in the List of prioritized high technologies approved by the Prime Minister and other high-tech enterprises under the provisions of the Law on High Technology and its instructional documents.”.

5. Clause 4 Article 18 is amended as follows:

“4. The credit institution and its customer must agree on the priority order for collection of principal and interest amounts. With respect to a loan overdue, the credit institution shall observe the order in which collection of principal amount will take priority over that of interest amount. With respect to a loan for which one or some payments are past due, the credit institution shall

collect debts according to this order: overdue principal amount, unpaid interest on overdue principal amount, principal amount due, and interest on the principal amount which is not paid when due.

6. Clause 1, Points a, b, c, e and g Clause 2 Article 22 are amended as follows:

a) Clause 1 is amended as follows:

“1. Subject to the provisions of the Law on Credit Institutions, this Circular and other relevant laws, the credit institution shall issue its internal rules on lending, including regulations on digital lending (if any), and management of loans granted as appropriate to its operational characteristics (hereinafter referred to as “internal rules on lending”).”.

b) Point a Clause 2 is amended as follows:

“a) Loan eligibility requirements, including criteria for determining demands for borrowed funds for legitimate purposes, feasible plans to use borrowed funds and customers that have sound financial capability to repay debts; rejected loan demands; lending methods; lending interest rates and methods for calculating loan interest rate; criteria for rating customers transparent and healthy in their financial status and eligible to get loans with the lending interest rate specified in Clause 2 Article 13 of this Circular; customer’s lending application dossiers and other documents and data sent to the credit institution which must be appropriate to loan features, types of loans and target customers; debt collection; conditions, business processes and procedures for debt rescheduling; debt delinquency; eligibility requirements for unsecured loans, and delegation of authority to decide grant of unsecured loans.”.

c) Point b Clause 2 is amended as follows:

“b) Procedures for assessing, approving a loan application and deciding to grant a loan, including:

(i) The maximum duration for assessing a loan application and decide to grant a loan; delegation or assignment of rights and responsibilities to each individual or department in loan application assessment, approval and issuance of lending decisions, including those for digital lending operations prescribed in Article 32dd of this Circular (if any); other workloads as part of loan application assessment, approval and lending decision-making procedures;

(ii) Cases in which loans are given for making capital contributions under capital contribution contracts, investment cooperation contracts or business cooperation contracts for executing investment projects;

(iii) In case of a loan used for making cash payment as security for performing an obligation, measures for freezing amounts of borrowed funds disbursed by the lending credit institution in accordance with regulations of law, and under specific agreements of the parties included in the loan agreement until fulfillment of the secured obligation;”.

d) Point c Clause 2 is amended as follows:

“c) Procedures for inspection and supervision of loan application, use of borrowed funds and debt repayment by customers, including:

(i) Delegation or assignment of rights and responsibilities to each individual or department for inspection and supervision of loan application, use of borrowed funds and debt repayment by customers;

(ii) In case of loans used for making capital contributions under capital contribution contracts, investment cooperation contracts or business cooperation contracts for executing investment projects, measures for inspecting, supervising and evaluating the customer’s financial status and sources of funding for debt repayment, ensuring the possibility of receiving loan principal and interest amounts in full by the agreed due date, and controlling the customer’s use of borrowed funds for right purposes;

(iii) In case of a loan used for making cash payment as security for performing an obligation, measures for ensuring the recovery of the loan principal amount in case the parties fail to fulfill the secured obligation as agreed;”.

dd) Point e Clause 2 is amended as follows:

“e) Identification of risks that may arise; regulations on risk management, assessment and control; measures for treatment of risks arising during the lending process (including digital lending process);”

e) Point g Clause 2 is amended as follows:

“g) Control of extension of loans serving the purpose of repaying loan debts owed to the credit institution, repaying foreign loan debts in order to prevent and stop any deviation in reporting on the credit quality; Control of extension of rollover loans and revolving loans in order to manage the customer’s cash flow to assure possibility of recovering loan principal and interest amounts in full by the agreed due date and reliable reporting on the credit quality; Control of extension of loans used for investing in securities; trading real estate; executing investment projects in the form of public-private partnerships; serving demands for large amounts of borrowed funds for living purposes as assessed by the credit institution; loans granted adopting digital lending method.”.

7. Point b Clause 4 Article 23 is amended as follows:

“b) Provide adequate information on the standard form contract or contract containing general terms and conditions for the customer before entering into the loan agreement, and obtain the customer’s confirmation that the credit institution has already provided all necessary information.”.

8. Clause 2 Article 24 is amended as follows:

“2. Credit institutions shall be entitled and obliged to carry out inspection and supervision of use of borrowed funds and debt repayment by their customers in accordance with regulations of law and their own internal rules referred to in Point c Clause 2 Article 22 of this Circular.”.

9. Clause 2 Article 26 is amended and Clause 5 is added to Article 26 as follows:

a) Clause 2 is amended as follows:

“2. Use payment facilities for disbursement of borrowed funds in accordance with SBV’s regulations on methods for disbursement of funds lent by credit institutions to their customers.”.

b) Clause 5 is added as follows:

“5. In case a loan is given for making cash payment as security for performing an obligation, the credit institution shall freeze amounts of borrowed funds disbursed by the lending credit institution in accordance with regulations of law, and under specific agreements of the parties included in the loan agreement until the secured obligation has been fulfilled.”.

10. Clause 1, Clause 4 and Clause 5 Article 27 are amended as follows:

a) Clause 1 is amended as follows:

“One-time loan: The credit institution and its customer implement lending procedures and enter into a loan agreement in each time when a loan is given.”.

b) Clause 4 is amended as follows:

“4. Line of credit loan: The credit institution determines and agrees with its customer on the maximum credit limit maintained during a specified period of time. At least once a year, the credit institution will consider redefining the maximum credit limit and duration of maintenance thereof.”.

c) Clause 5 is amended as follows:

“5. Temporary line of credit loan: The credit institution undertakes to grant loans to its customer up to the agreed temporary credit limit (in addition to the agreed credit limit). The credit institution and its customer shall agree on the validity period of temporary credit limit which is not allowed to exceed 01 (one) year.”

11. Section 3 Chapter II is added as follows:

“Section 3: DIGITAL LENDING

Article 32a. Digital lending rules

1. Credit institutions shall adopt the digital lending method in a manner that is appropriate to their business conditions and loan features, and ensures security, safety and protection of data messages as well as confidentiality of information in accordance with regulations of laws on anti-money laundering and electronic transactions, SBV's risk management guidelines and other relevant law provisions.

2. The information system used for carrying out digital lending activities must satisfy level-3 or higher-level information system security requirements laid down in the Government's regulations on security of information systems by classification and SBV's regulations on security of information systems in banking operations.

3. Credit institutions shall store and manage information and data in accordance with regulations of law; information and data must be stored safely, kept confidential, duly backed up and have their adequacy and integrity ensured to facilitate access or use, where necessary, or to serve the inspection, verification and resolution of trace requests, complaints or disputes, or to be provided at the request of competent authorities.

4. Each credit institution shall itself decide to adopt measures, forms and technologies for carrying out digital lending activities, accept all risks that may arise from digital lending, and must meet the following minimum requirements:

a) It has adopted solutions and technologies for ensuring the accuracy, confidentiality and safety during the collection, use and verification of information and data;

b) It has adopted measures for examining, checking, updating and verifying information and data; measures for preventing acts of forging, intervening and falsifying information and data;

c) It has developed measures for monitoring, identifying, measuring and controlling risks; risk treatment methods;

d) It has assigned responsibilities to each individual or department for performance of digital lending activities and risk management and control.

5. Credit institutions shall consider deciding to carry out digital lending activities as prescribed in Section 3 of this Circular. Relevant provisions of this Circular shall apply to other digital lending-related contents which are not mentioned in Section 3 of this Circular.

Article 32b. Identifying customers, verifying customer identification information

1. Each credit institution must adopt solutions and technologies for identifying its customers and verifying customer identification data during its provision of digital lending services; shall assume responsibility for all risks that may arise, and meet the following minimum requirements:

a) A customer's identification information and biometric data (including biological factor/characteristics that are specifically used to identify a person, cannot be forged, and are rarely matched with those of another person such as fingerprints, face, iris, voice and other

biometric factors) must match corresponding information and biometric data included in documents/data necessary to identify that customer in accordance with regulations of the law on anti-money laundering and as requested by the credit institution, or that customer's personal identity data certified by competent authorities, or included in citizen identity card database/national population database, or provided by electronic certification service providers in accordance with regulations of the law on electronic certification and identification, or provided by other credit institutions;

b) It has developed procedures for managing, controlling and assessing risks, including measures for preventing acts of forging, intervening, altering or falsifying customer identification information during the lending process; measures for checking and verifying customer identification information to ensure that the borrower is the one conducting the electronic transaction; technical measures for certifying the identified customer's consent to the loan agreement. Risk management and control procedures must be regularly reviewed and revised according to updated information and data;

c) It must store and manage customer identification information and biometric data of its customers; sounds, images, videos and recordings; telephone numbers used for conducting transactions; and transaction logs used during lending process in an adequate and detailed manner.

2. Provisions on customer identification and verification of customer identification information in Clause 1 of this Article shall apply to individual customers who apply for loans for living purposes and start a relationship with the credit institution. If an individual customer that applies for a loan for living purposes has established a relationship with the credit institution and completed procedures for customer identification and verification of customer identification information, the credit institution shall be entitled to decide measures, forms and/or technologies employed for verifying that customer's identification information during the digital lending process which should match the known information about that customer.

Article 32c. Outstanding loan balance

The outstanding amount of loans for living purposes given by a credit institution to an individual customer who has been identified or has his/her identification information duly verified as prescribed in Article 32b of this Circular shall not exceed VND 100.000.000 (one hundred million).

Article 32d. Loan application

When there is a demand for a loan, a customer must send a credit institution documents/data evidencing its eligibility for such loan as prescribed in Article 7 of this Circular, and others as referred to in the credit institution's instructions.

Article 32dd. Assessment of loan applications and issuance of lending decisions

The credit institution shall organize assessment and approval of digital loan applications according to the principle of assignment of responsibilities to each individual or department for establishment and operation of the information system used for loan application assessment and lending decision-making stages. The credit institution must adopt mechanisms for determining the individual or department responsible for a risk whenever it arises, and promptly take actions against such a risk so as to ensure its efficient and safe assessment and approval of digital loan applications.

Article 32e. Loan agreement

A loan agreement shall be made in writing. If a loan agreement is made in the form of an electronic contract, it shall comply with regulations of law on electronic transactions. A loan agreement must meet minimum information requirements laid down in Article 23 of this Circular.

Article 32g. Retention of loan dossiers

1. The credit institution shall create loan dossiers in the form of data messages in conformity with regulations of the archives law, law on electronic transactions and relevant laws. Such a loan dossier includes:

- a) Loan agreement;
- b) Report on the customer's actual financial status;
- c) Lending decision which bears the electronic signature of the authorized signatory; if the decision is collectively made, the minutes recording that decision ratification must be included;
- d) Customer identification information and data (if any); information and data arising during the use of the loan which relate to the loan agreement under the credit institution's instructions.

2. The credit institution must retain all loan dossiers for a duration prescribed by law.

Article 32h. Payment facilities used for disbursement of borrowed funds

Credit institutions shall use payment facilities for disbursement of borrowed funds in accordance with SBV's regulations on methods for disbursement of funds lent by credit institutions to their customers. If an individual customer applies for a loan for living purposes and has been identified or has his/her identification information duly verified as prescribed in Article 32b of this Circular, the credit institution shall be allowed to decide the disbursement of borrowed funds to that customer's checking account opened at a licensed payment service provider so that he/she can make payments to relevant beneficiaries according to his/her stated loan purposes.”.

Article 2. Clause 5 Article 7 of the Circular No. 39/2016/TT-NHNN is abrogated.

Article 3. Responsibility for implementation

The Chief of Office, the Director of the Monetary Policy Department, heads of SBV's affiliated units, and credit institutions are responsible for the implementation of this Circular.

Article 4. Implementation

1. This Circular comes into force from September 01, 2023.
2. With regard to a loan agreement or credit contract signed before the effective date of this Circular, the credit institution and its customer shall continue complying with terms and conditions of the signed loan agreement or credit contract in accordance with regulations and laws in force at the date of signing of that loan agreement or credit contract. Any revisions to the signed loan agreement or credit contract must comply with the provisions of this Circular./.

**PP. GOVERNOR
DEPUTY GOVERNOR**

Pham Thanh Ha