

STATE BANK OF VIETNAM

No. 35/2024/TT-NHNN

SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom – Happiness

Hanoi, June 30, 2024

CIRCULAR

REPLACEMENT OF LICENSES, ADDITION OF BUSINESS LINES TO LICENSES AND ORGANIZATION AND OPERATION OF NON-BANK CREDIT INSTITUTIONS

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

Pursuant to the Law on Credit Institutions dated January 18, 2024;

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

At the request of the Chief Inspector of the Banking Supervision Agency under SBV;

The Governor of the State Bank of Vietnam (SBV) promulgates a Circular on replacement of licenses, addition of business lines to licenses and organization and operation of non-bank credit institutions.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

1. This Circular provides for replacement of licenses, addition of business lines to licenses and organization and operation of non-bank credit institutions.
2. Finance lease operations performed by general finance companies and financial leasing companies shall comply with regulations issued by the Governor of the SBV.

Article 2. Regulated entities

1. General finance companies.
2. Specialized finance companies.
3. Organizations and individuals related to replacement of licenses, addition of business lines to licenses and organization and operation of non-bank credit institutions according to regulations in this Circular.

Article 3. Definition of terms

In this Circular, the terms below are construed as follows:

1. “*Owner*” means a Vietnamese commercial bank or foreign credit institution that owns the entire charter capital of a single-member limited liability non-bank credit institution.
2. “*Rental*” means an amount of money paid by the lessee to the lessor as agreed upon in an operating lease contract.
3. “*Operating lease*” means a lease wherein a finance leasing company leases an asset to an operating lessee for a particular period on the principle that the leased asset must be returned upon expiry of the lease period. The finance leasing company shall own the leased asset during the lease period. The operating lessee shall use the leased asset and pay rentals during the lease period as specified in the operating lease contract.
4. “*Operating lessee*” means a juridical or natural person that operates in Vietnam.

When a household, artel or another organization without acquiring a legal status wishes to enter into an operating lease contract, such operating lease contract shall be concluded and performed by its members or authorized representative.

Article 4. Power to approve replacement of licenses, addition of business lines to licenses issued to non-bank credit institutions

1. The Governor of the SBV considers deciding to replace licenses or add business lines to licenses and replace licenses issued to non-bank credit institutions at the same time.
2. The Chief Inspector of the Banking Supervision Agency under SBV shall consider deciding to add business lines to licenses issued to non-bank credit institutions.

Chapter II

REPLACEMENT OF LICENSES, ADDITION OF BUSINESS LINES TO LICENSES

Article 5. Principles of replacement of licenses and addition of business lines to licenses

1. SBV shall not approve the replacement of license if it covers business lines which a non-bank credit institution is not allowed to perform according to regulations of law at the time of application for replacement.
2. SBV shall change names of business lines licensed in conformity with regulations in the Law on Credit Institutions and Appendices issued together with this Circular. The new license shall supersede all licenses and written approvals (relating to amended or modified contents of the license) issued by the SBV to the non-bank credit institution before the time of application for replacement.

3. The addition of foreign exchange services to the license shall comply with SBV's specific regulations and relevant laws.

4. With regard to addition of other credit extension services and business lines related to banking operations specified in Appendices issued together with this Circular, the non-bank credit institution may render these services and lines after obtaining SBV's approval; procedures for addition of such services and lines to the license shall comply with SBV's specific regulations and relevant laws.

5. In case where the non-bank credit institution applies for addition of business lines to the license and replacement of the license at the same time, SBV shall consider issuing a new license with the requested additions if the non-bank credit institution submits all of the documents specified in Clause 3 Article 7 of this Circular.

Article 6. Principles of preparation of applications for replacement of licenses and addition of business lines to licenses

1. An application for replacement of license or addition of business lines to license shall be signed by a legal representative or an authorized representative of a non-bank credit institution. In case the application is signed by the authorized representative, it must be accompanied with the written authorization made in accordance with regulations of law.

2. The application for replacement of license or addition of business lines to license issued to the non-bank credit institution shall be prepared in 01 set of documents in Vietnamese. Documents in foreign languages shall be legalized by consulates in accordance with the law of Vietnam (unless they are exempt from consular legalization in accordance with the law on consular legalization) and translated into Vietnamese. Translations from a foreign language into Vietnamese must be notarized or bear the translator's signature certified in accordance with regulations of law; If any of the documents is not a certified true copy or a copy made from its original register, the authentic copy shall be presented together with the application for comparison and the official in charge of comparison shall assume responsibility for the accuracy of the copy in comparison with the authentic copy.

3. Each application must include a list of documents.

Article 7. Applications for replacement of licenses and addition of business lines to licenses

1. An application for replacement of license includes:

a) An application form for replacement of license which indicates requested business lines;

b) List of business lines accompanied by the photocopy of the existing license and such written approvals

2. An application for addition of business lines to the license includes:

a) An application form for addition of business lines to the license which indicates additional business lines. If a wholly foreign-owned non-bank credit institution applies for addition of banking operations, its application shall include the commitment of the foreign credit institution that is the owner or the contributing member holding the highest percentage of charter capital of the wholly foreign-owned non-bank credit institution, to ensure that the foreign credit institution is allowed to perform these additional banking operations at the country where the foreign credit institution is headquartered;

b) Resolution of the Board of Directors or Board of Members of the non-bank credit institution giving approval for the addition of business lines to the license;

c) Documents proving satisfaction of requirements for banking operations that the owner or the contributing member holding the highest percentage of charter capital of the wholly foreign-owned non-bank credit institution is allowed to perform at the country where the foreign credit institution is headquartered. These banking operations are expected to be performed in Vietnam.

d) In addition to the documents prescribed in Points a, b and c of this Clause, the non-bank credit institution that wishes to add banking operations specified in the Law on Credit Institutions and Appendices issued together with this Circular to its license shall submit the following additional documents:

(i) Internal regulations on banking operations to be added to the license;

(ii) A written commitment to have fulfilled operation, personnel, facility and technology requirements for banking operations to be added to the license according to regulations of relevant laws.

3. An application for replacement of license and addition of business lines to license at the same time includes:

a) An application form for replacement of license and addition of business lines to license which indicates requested and additional business lines and the commitment specified in point a Clause 2 of this Article;

b) Documents specified in point b Clause 1 and points b,c,d Clause 2 of this Article.

Article 8. Procedures for replacement of licenses and addition of business lines to licenses

1. The non-bank credit institution that wishes to replace the license or add business lines to its license or add business lines to its license and replace the license at the same time shall submit an application according to regulations in Article 7 of this Circular in person or by post to SBV's headquarters (via the Single-window Section).

2. Within 40 days from the receipt of the sufficient and valid application, SBV shall issue a new license or add business lines to the license or add business lines to the license and issue a new

license at the same time at the request of the non-bank credit institution. If the application is refused, the SBV shall give a written notification indicating reasons for refusal to the applicant.

3. After SBV has issued a new license or added business lines to the license, the non-bank credit institution shall:

a) Publish the changes in the license on a mean of communication of the SBV and 03 consecutive issues of a printed newspaper or a Vietnamese online newspaper within 07 working days from the date on which SBV issues a new license or adds business lines to the license;

b) Amend its charter in conformity with the new license or the license covering additional business lines.

Article 9. Fee for replacement of license

1. The fee for replacement of license shall be paid according to regulations of the law on fees and charges.

2. Within 15 days from the date of issuance of a new license, the non-bank credit institution shall pay the required fee for issuance of the new license at SBV

Article 10. Notification of information about replacement of licenses and addition of business lines to licenses

Within 05 working days from the date on which SBV issues a new license or adds business lines to the license or adds business lines to the license and issues a new license at the same time, the Banking Supervision Agency under SBV shall give a written notification enclosed with a Decision on addition of business lines to the license or the new license to the business registration agency of the province where the non-bank credit institution is headquartered for update on the national enterprise registration information system.

Chapter III

ORGANIZATION, ADMINISTRATION, MANAGEMENT AND CONTROL

Article 11. Name and headquarters of a non-bank credit institution

1. Vietnamese name of a non-bank credit institution must comply with the Law on Enterprises and relevant laws and be conformable with its legal and organizational form as follows:

a) The phrase “Công ty tài chính tổng hợp cổ phần” and its proper name;

b) The phrase “Công ty tài chính bao thanh toán cổ phần” and its proper name;

c) The phrase “Công ty tài chính tín dụng tiêu dùng cổ phần” and its proper name;

- d) The phrase “Công ty cho thuê tài chính cổ phần” and its proper name;
- dd) The phrase “Công ty tài chính tổng hợp trách nhiệm hữu hạn một thành viên” and its proper name;
- e) The phrase “Công ty tài chính bao thanh toán trách nhiệm hữu hạn một thành viên” and its proper name;
- g) The phrase “Công ty tài chính tín dụng tiêu dùng trách nhiệm hữu hạn một thành viên” and its proper name;
- dd) The phrase “Công ty cho thuê tài chính trách nhiệm hữu hạn một thành viên” and its proper name;
- i) The phrase “Công ty tài chính tổng hợp trách nhiệm hữu hạn” and its proper name in case it is a general multiple-member limited liability finance company;
- k) The phrase “Công ty tài chính bao thanh toán trách nhiệm hữu hạn” and its proper name in case it is a specialized multiple-member limited liability finance company;
- l) The phrase “Công ty tài chính tín dụng tiêu dùng trách nhiệm hữu hạn” and its proper name in case it is a specialized multiple-member limited liability finance company;
- m) The phrase “Công ty cho thuê tài chính trách nhiệm hữu hạn” and its proper name in case it is a specialized multiple-member limited liability finance company;

2. Headquarters of a non-bank credit institution must comply with regulations on headquarters of enterprises according to the Law on Enterprises and meet the following requirements:

- a) It must be specified in the license according to regulations of law, and will be the workplace of the Board of Directors, Board of Members, Board of Controllers, General Director and a place where transactions with clients are conducted;
- b) It must be a location in the territory of Vietnam and have a specific address which consists of the building’s name (if any), house number, name of street or hamlet, commune, ward, commune-level town, urban or suburban district, district-level town, provincial-affiliated city, city affiliated to central-affiliated city, central-affiliated city/province; phone number, fax number, and email address (if any);
- c) It must be capable of enabling transactions with clients and conformable with regulations of SBV on vaults;
- d) It must be equipped with a management information system which must be connected online with branches and sales departments of the non-bank credit institution, and meet administration and risk management requirements of the non-bank credit institution and management requirements of SBV.

Article 12. Risk management committee and personnel committee

1. The Board of Directors or Board of Members shall establish risk management committee and personnel committee in order to assist it in performing its tasks and powers. The Board of Directors or Board of Members shall issue regulations on organization and operation of these committees. The non-bank credit institution shall send these regulations to SBV (via the SBV Banking Supervision Agency) within 10 days after they are issued.

2. Each committee is composed of at least three members, including a head who is a member of the Board of Directors or Board of Members and other members who will be decided, appointed and dismissed by the Board of Directors or Board of Members according to the charter of the non-bank credit institution. A member of the Board of Directors or Board of Members may only act as the head of a committee. The risk management committee of a joint-stock non-bank credit institution shall include at least a member who is an independent member of its Board of Directors.

3. Regulations on organization and operation of these committees shall include at least the following contents:

a) Working regulations which at least contain quantity of members of the committee and responsibilities of each member; periodic meetings of the committee; extraordinary meetings of the committee; voting forms and votes for proposals made by the committee;

b) Tasks and functions of the risk management committee:

(i) Provide the Board of Directors or Board of Members with advice about promulgation of procedures and policies, within its jurisdiction, for management of risks during operation of the non-bank credit institution in accordance with the law and the charter of the non-bank credit institution;

(ii) Analyze and give warnings about the level of safety of the non-bank credit institution against potential risks and short-term and long-term measures for risk prevention;

(iii) Consider and evaluate the suitability and efficiency of applicable procedures and policies for risk management adopted by the non-bank credit institution, and then make recommendations and proposals to the Board of Directors or Board of Members for change in such procedures and policies as well as business strategies;

(iv) Provide the Board of Directors or Board of Members with advice about approval for decisions on investments, relevant contracts and transactions; decide risk management policies and monitor implementation of measures for preventing risks by the non-bank credit institution within the ambit of its tasks and functions assigned by the Board of Directors or Board of Members;

c) Tasks and functions of the personnel committee:

(i) Provide the Board of Directors or Board of Members with advice about the scale and structure of the Board of Directors, Board of Members, and executives in conformity with the scale and development strategies of the non-bank credit institution;

(ii) Provide the Board of Directors or Board of Members with advice about handling personnel matters related to election, appointment and dismissal of members of the Board of Directors, Board of Members, Board of Controllers and executives of the non-bank credit institution in accordance with regulations of law and the charter of the non-bank credit institution;

(iii) Consider and provide the Board of Directors or Board of Members with advice about promulgating, within its jurisdiction, internal regulations on salary, remuneration, bonus, recruitment, training and other benefits of executives, officers and employees of the non-bank credit institution.

Article 13. Transfer and repurchase of stakes

1. The transfer and repurchase of stakes must comply with regulations of the Law on Enterprises.

2. The transfer of stakes must comply with regulations on forms of organization of non-bank credit institutions specified in Clause 3, Clause 4 Article 6 of the Law on Credit Institutions.

3. A founding member may only transfer his/her stake to another founding member within 05 years from the date of issuance of the license.

4. The transfer of stakes must ensure the percentage of contribution of capital prescribed in Clause 1 Article 77 of the Law on Credit Institutions and the following regulations:

a) The transferee must meet requirements specified in Clause 5 Article 29 of the Law on Credit Institutions and its guiding documents;

b) The transferee that is a foreign credit institution must meet requirements specified in points b, d and dd Clause 2, Clause 5 Article 29 of the Law on Credit Institutions and its guiding documents.

5. Repurchase of stakes:

The repurchase of stakes of a limited liability non-bank credit institution must comply with the following regulations:

a) Conditions for payment and settlement of stakes at the request of the contributing member for repurchase of stakes shall comply with regulations on repurchase of stakes laid down in the Law on Enterprises;

b) After making full payment for repurchased stakes, the non-bank credit institution is still able to pay its debts and other asset liabilities, meets prudential ratios and limits on banking operations, and has the actual value of its charter capital equal or higher than the legal capital;

c) The non-bank credit institution fully complies with regulations on risk management and establishment of provisions for losses at the time of application for SBV's approval for repurchase of stakes;

d) It has a profitable business for the last 05 years preceding the year in which the application for SBV's approval for repurchase of stakes is submitted, and incurs no accumulated losses;

dd) It has not incurred any penalties imposed by SBV for administrative violations against regulations on monetary and banking operations in the last 05 years preceding the year in which the application for SBV's approval for repurchase of stakes is submitted and by the time the repurchase of stakes is approved by SBV.

Article 14: Notification of information about legal representative

1. Within 10 days from the date on which the legal representative is changed, the non-bank credit institution shall give a written notification of full name; gender; position; date of birth; ethnic group; nationality; type of personal ID document; personal ID number; date of issuance; issuing authority; permanent residence address; contact address of the legal representative to the SBV (except for the case where the non-bank credit institution notifies change of the legal representative after the SBV has approved the provisional list of personnel according to regulations).

2. Within 05 working days from the date on which the written notification of change of legal representative of the non-bank credit institution is received, the SBV Banking Supervision Agency shall be responsible for giving a written notification of the legal representative according to regulations in Clause 1 of this Article to the business registration agency of the province where the non-bank credit institution is headquartered.

Chapter IV

OPERATION OF NON-BANK CREDIT INSTITUTIONS

Article 15. Operation of finance companies

1. A general finance company is entitled to carry out operations and activities in accordance with regulations in Article 115 through 119 of the Law on Credit Institutions.

2. A specialized finance companies is entitled to carry out operations and activities in accordance with regulations in Article 120 through 124 of the Law on Credit Institutions.

3. A factory company has a factoring balance that makes up at least 70% of its total credit extension balance.

4. A consumer credit company has a consumer credit balance that makes up at least 70% of its total credit extension balance.

5. A finance leasing company has a finance leasing balance that makes up at least 70% of its total credit extension balance.

Article 16. Operating lease

1. Operating lease assets include machinery, equipment, means of transport and other movable and immovable property as prescribed in Clause 2 Article 139 of the Law on Credit Institutions.

2. Finance leasing companies engaging in operating lease shall comply with regulations on lease of property in the Civil Code and relevant laws.

3. Operating lease contract:

a) An operating lease contract is an agreement between the finance leasing company and the operating lessee on the lease and use of one or a number of assets as prescribed in Clause 1 of this Article. The operating lease contract shall become effective from the date agreed upon by the parties and specified in the operating lease contract;

b) An operating lease contract shall include at least the following contents:

(i) Name, address and TIN of the finance leasing company and those of the operating lessee;

(ii) Name, type, code (if any) of the leased asset and other information necessary for the purpose of identification of the leased asset;

(iii) Lease term;

(iv) Rental;

(v) Responsibilities of the parties for insurance, maintenance, warranty, inspection, repair and replacement of the leased asset and other responsibilities as agreed by the parties for the leased asset during the lease term;

(vi) Rights and obligations of the finance leasing company and the operating lessee during the lease term and in case of early termination of the operating lease contract in accordance with the civil code and relevant laws.

Article 17. Scope of insurance agent services

1. When the license issued by the SBV to a non-bank credit institution covers insurance agent services, the non-bank credit institution is entitled to provide insurance agent services in conformity with types of insurance according to regulations of the Law on Insurance Business.

2. When providing insurance agent services, the non-bank credit institution shall comply with regulations of law on insurance business and relevant laws.

Chapter V

RESPONSIBILITIES OF RELEVANT ORGANIZATIONS AND UNITS

Article 18. Responsibilities of units affiliated to the SBV

1. The Banking Supervision Agency under SBV shall:

- a) Act as a focal point for receipt, assessment and submission of applications for replacement of licenses to the Governor of SBV;
- b) Act as a focal point in charge of receiving, appraising applications for and deciding addition of business lines to licenses;
- c) Give written notification according to regulations in Article 10, Clause 2 Article 14 of this Circular.

2. The Finance and Accounting Department shall:

Provide guidance on accounting for operations of non-bank credit institutions according to regulations in this Circular.

3. The Monetary Forecasting and Statistics Department shall:

Act as a focal point for development and provision of guidelines for statistical reports on operations of non-bank credit institutions as prescribed herein.

4. The Operations Center shall:

- a) Provide non-bank credit institutions with guidelines for payment of fees for replacement of licenses;
- b) Collect fees for replacement of licenses issued to non-bank credit institutions and transfer all fees collected to state budget according to applicable regulations.

Article 19. Responsibility of non-bank credit institution

1. Fully, accurately and promptly provide information at the request of the SBV according to regulations in this Circular and take responsibility to the law for such information.

2. Meet all requirements to operate business lines as requested and continue to maintain satisfaction of such requirements according to regulations.

3. Make and assume responsibility for internal regulations according to regulations of law; operate licensed business lines according to internal procedures established, regulations in this Circular and relevant laws.

4. Pay fee for replacement of license according to regulations in Article 32 of the Law on Credit Institutions.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 20. Entry into force

1. This Circular comes into force from July 01, 2024.
2. This Circular annuls:
 - a) Circular No. 30/2015/TT-NHNN dated December 25, 2015 of the Governor of the State Bank of Vietnam;
 - b) Circular No. 15/2016/TT-NHNN dated June 30, 2016 of the Governor of the State Bank of Vietnam;
 - c) Circular No. 01/2019/TT-NHNN dated February 01, 2019 of the Governor of the State Bank of Vietnam;
 - d) Circular No. 05/2023/TT-NHNN dated June 22, 2023 of the Governor of the State Bank of Vietnam.

Article 21. Transitional provisions

1. Applications for replacement of licenses, addition of business lines to licenses or addition of business lines to licenses and replacement of licenses at the same time submitted before the effective date of this Circular shall be considered and processed in accordance with regulations of laws in force at the submission time.
2. Non-bank credit institutions are entitled to continue to collect insurance premiums and gather related documents necessary for settlement of claims and payment of insurance according to agreements signed before July 01, 2024 under insurance policies and agreements in which such non-bank credit institutions act as insurance agents. Contracts and agreements for which non-bank credit institutions act as insurance agents may be revised and their duration may be extended if revisions and extension are consistent with regulations of the Law on Credit Institutions and this Circular.

Article 22. Implementation

The Chief of the Office, Chief Inspector of the Banking Supervision Agency under SBV, Heads of units affiliated to the State Bank of Vietnam and non-bank credit institutions shall be responsible for organizing the implementation of this Circular./.

**PP. GOVERNOR
DEPUTY GOVERNOR**

Doan Thai Son

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