

Vietnam passes the new Law on Credit Institutions



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Recently, there have been complaints regarding the slow reaction of the State Bank of Vietnam in responding to unstable and sensitive market problems – such as the Vietnamese dong-US dollar exchange rate, US dollar shortages, a troublesome online gold trading floor and rocketing gold prices – and there is a clear message in the communist country that the State Bank should play a more important role in the operations of the commercial bank system, the backbone of the national economy.

The Law on Credit Institutions (the new Law) is one of ten new laws approved by the Vietnam National Assembly on 16 June 2010. Setting out a number of amendments and new articles relating to the operation and administration of credits institutions, the new Law aims especially to raise the safety of credit institution systems in comparison with the obsolete Law on Credit Institution of 1997 (the Law of 1997). Effective from 1 January 2011, the new Law includes ten chapters and 163 articles, and the fundamental changes it brings can be summarised as five issues:

1. Scope of regulation

Whilst the Law of 1997 only regulates the organisation and operation of credits institutions, the new Law sets out more comprehensive regulations to cover the establishment, organisation, management, operation, special supervision, consolidation and dissolution of credit institutions. The most remarkable change is made to the rules for management of credit institutions. Previously, these were just stipulated by lower authorities such as by Government decrees (i.e. Decree No. 79/2002/NDD-CP and Decree No. 81/2008/ND-CP) or by Decision issued by the Governor of the State Bank (Decision No. 516/2003/QD-NHNN). Many of the new management regulations aim at increasing the qualifications for managers and other managerial bodies.

2. Organisation form

The new Law sets out criteria to distinguish between banks and non-banking credit institutions, and with respect to banks distinguishes clearly between commercial banks that have business functions and non-profit policy banks. The Law of 1997 classified banks

according to property ownership, which usually generated feelings of unfair treatment between private banks and state-owned banks.

3. Corporate governance

To fill the gap regarding the administration of credit institutions, which was covered poorly by the Law of 1997, the new Law adds some regulations concerning corporate governance of credit institutions, and has specific regulations concerning shares, stocks, organisation, structures, functions and tasks of administration/supervision/operation departments and so on, all of which apply in the field of banking. Although similar provisions are stated in the Law on Enterprises, these may not be fully applicable to credit institutions since they are governed by specific laws in the banking sector.

4. Operational safety requirements

In addition to giving the State Bank of Vietnam the power to deal with credit institutions in operational trouble, the new Law adds regulations regarding the prevention of conflicts of interest inside credit institutions and other limitations concerning operation, in order to ensure safe and sound operation. It also adds new requirements regarding credit relations and share holding between banks, which are targeted to restrain the monopoly in bank control through share acquisitions. Now, the total outstanding loan amount for one borrower at a commercial bank, branch of foreign bank, credit people's fund, or microfinance organisation may not exceed 15 percent of their total charter capital, whilst the outstanding loan amount of that borrower's related persons at an organisation has a ceiling of 25 percent.

Of note is the fact that credit institutions are not allowed to provide loans to a securities company that are controlled by the said credit institution.

5. Power of the State Bank

The role of the State Bank of Vietnam has been strengthened, giving it more power to supervise the operation of credit institutions and be involved in any consolidation, restructuring, bankruptcy, dissolution or liquidation of credit institutions.

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