

Ordinance No. 06/2013/UBTVQH13

Hanoi, March 18, 2013

ORDINANCE

AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES OF THE
ORDINANCE ON FOREIGN EXCHANGE CONTROL

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by the Resolution No. 51/2001/QH10;

Pursuant to the Resolution No. [07/2011/QH13](#) of the National Assembly, on the Program on formulation of laws and ordinances in 2012 and adjustment to the program on formulation of laws and ordinances in 2011;

The National Assembly Standing Committee promulgates the Ordinance on amending and supplementing a number of articles of the Ordinance on foreign exchange control No. [28/2005/PL-UBTVQH11](#).

Article 1.

To amend and supplement a number of articles of the Ordinance on foreign exchange control:

1. To amend and supplement clauses 2, 4, 6, 7, 11, 12 and 13 Article 4; supplement clause 20 into Article 4 as follows:

"2. *Residents* means organizations and individuals in the following subjects:

- a. Credit institutions, foreign banks' branches established and carrying on business activities in Vietnam as prescribed in Law on credit institutions;
- b. Economic institutions not being credit institutions, established and carrying on business activities in Vietnam (hereinafter referred to as economic institutions);
- c. State agencies, units of the armed forces, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations, social funds and charitable funds of Vietnam operating in Vietnam;
- d. Representative offices in foreign countries of the entities stipulated in points a, b and c this clause;

dd. Diplomatic representative agencies, consulate representative agencies and representative agencies at international organizations of Vietnam in foreign countries;

e. Vietnamese citizens residing in Vietnam; Vietnamese citizens residing overseas for a duration of less than twelve (12) months; and Vietnamese citizens working for any of the organizations stipulated in points d and dd this clause and the individuals accompanying such citizens;

g. Vietnamese citizens travelling overseas for purposes of tourism, study, medical treatment or visits;

h. Foreigners allowed residing in Vietnam for a duration of twelve (12) months or more. For foreigners coming to Vietnam for study, medical treatment, tourism, or to work for diplomatic representative agencies, consulates or representative agencies of international organizations in Vietnam, representative offices of foreign organizations in Vietnam irrespective of term shall be cases not belong to subjects as residents;

i. Branches in Vietnam of foreign economic institutions, forms of presentation in Vietnam of the foreign parties joining in investment operations as prescribed by law on investment, executive office of foreign contractors in Vietnam.”

“4. *Capital transaction* means transaction of capital transfer between residents and non-residents in the following activities”

a. Direct investment;

b. Indirect investment;

c. Borrowing and paying foreign debts;

d. Borrowing and paying foreign debts;

e. Other activities as prescribed by Vietnamese law.”

“6. Payment and remittance of money for current transactions comprises:

a. Payment and remittance of money relating to import and export of goods and services;

b. Payment and remittance of money relating to short term commercial credit loans and bank loans;

c. Payment and remittance of money relating to income generated from direct and indirect investments;

d. Money transfers when the decrease of direct investment capital is permitted;

dd. Payments of interest on and instalment repayments of principal of foreign loans;

e. One-way money transfers;

g. Other payments and money transfers as prescribed by the State bank of Vietnam."

"7. *One-way money transfer* means transactions of remittance of money from overseas into Vietnam or vice versa via a bank or public postal network of enterprises providing public postal services in the nature of financial support, aid or assistance to family relatives or for individual spending purposes and not related to payments for import and export of goods and services."

"11. *Authorized credit institutions* means banks, non-banking credit institutions and foreign banks' branches authorized to conduct business and provision of foreign exchange services in accordance with the provisions of this Ordinance"

"12. *Foreign direct investment in Vietnam* means the transfer of capital for investment and participation in the management of investment activities in Vietnam by foreign investors."

"13. *Foreign indirect investment in Vietnam* means the investment into Vietnam by foreign investors through purchase and sale of securities, other valuable papers, contribution of capital and purchase of shares, and through securities investment funds, other intermediary financial institutions in accordance with the law of Vietnam but without direct participation in management of investment activities."

"20. *Foreign exchange business* means foreign exchange activities of authorized credit institutions aiming to the profit purpose, risk prevention and safety assurance, liquidity for activities of those credit institutions."

2. To supplement clause 5 into Article 8 as follows:

"5. Residents, non-residents are not permitted to send foreign exchange in postal articles."

3. Article 9 is amended and supplemented as follows:

"Article 9. Carrying foreign currency cash, Vietnamese dong cash and gold upon exit and entry; export and import of foreign currency

1. On entry, residents and non-residents being individuals carrying foreign currency cash, Vietnamese dong cash and gold in excess of the limits stipulated by the State Bank of Vietnam must declare with the border-gate customs agencies.

2. On exit, residents and non-residents being individuals carrying foreign currency cash, Vietnamese dong cash and gold in excess of the limits stipulated by the State Bank of

Vietnam must declare with the border-gate customs agencies and present papers as prescribed by the State bank of Vietnam.

3. Residents being credit institutions are entitled to implement export, import of foreign currency cash after receiving written approval of the State bank of Vietnam. The State bank of Vietnam shall provide on dosisers, orders of and procedures for acceptance of activities of export and import of foreign currency cash of authorized credit institutions."

4. Article 11 is amended and supplemented as follows:

“Article 11. Foreign Direct Investment in Vietnam

1. Enterprises possessing foreign direct investment capital, foreign investors joining contract of business cooperation must open accounts of direct investment capital at an authorized credit institutions. The contribution of investment capital, remittance of principal investment capital and profits and other lawful revenue must be effected via these accounts.

2. Lawful revenue of foreign investors from activities of foreign direct investment in Vietnamese may be used for reinvestment or remittance abroad. In case where the stated-above revenue is amount in Vietnam dong, they may be used to buy foreign currency for remittance abroad at authorized credit institutions.

3. Other lawful transactions of capital transfer relating to direct investment activities shall comply with relevant laws and guidance of the State bank of Vietnam.”

5. Article 12 is amended and supplemented as follows:

“Article 12. Foreign indirect Investment in Vietnam

1. Foreign investors being non-residents must open indirect investment accounts in Vietnam dong for implementation of indirect investment in Vietnam. Indirect investment capital in foreign currency must be converted into Vietnam dong for implementation of the investment through these accounts.

2. Lawful revenue of foreign investors being non-residents from activities of foreign indirect investment in Vietnamese may be used for reinvestment or buying foreign currency at authorized credit institutions for remittance abroad.

3. The State bank of Vietnam shall provide the oppening and use of accounts in Vietnam dong for implementation of indirect investments and other lawful transactions of capital transfer relating to indirect investment activities in Vietnam.”

6. Article 13 is amended and supplemented as follows:

“Article 13. Capital sources for offshore direct investment

Residents who are entitled to conduct offshore direct investment shall be permitted to use the following foreign exchange capital sources for their investment:

1. Foreign currency on accounts at authorized credit institutions;
2. Foreign currency bought at authorized credit institutions;
3. Foreign exchange from other lawful capital sources in accordance with law.”

7. Article 14 is amended and supplemented as follows:

“Article 14. Remittance of direct investment capital abroad

Resident permitted to conduct offshore direct investment must open a foreign currency account at an authorized credit institution and register remittance of foreign currency abroad for investment through such account in accordance with regulations of the State Bank of Vietnam.”

8. Article 15 is amended and supplemented as follows:

“Article 15. Remittance of capital and profit from the offshore direct investment activities back into Vietnam

Capital, profit and lawfull revenue from offshore direct investment in accordance with the law on investment and other relevant laws must be remitted back into Vietnam via a foreign currency account opened at an authorized credit institution.”

9. To supplement Article 15a at behind of Article 15 as follows:

“Article 15a. Offshore indirect investment

1. Credit institutions are entitled to conduct offshore indirect investment in accordance with the law on investment and regulations of the State Bank of Vietnam.
2. Residents not being credit institutions permitted to conduct offshore indirect investment specified in clause 1 this Article conduct the opening and use of account, remittance of investment capital abroad, remittance of capital, profit and other lawfull revenue from activities of offshore indirect investment back into Vietnam in accordance with regulations of the State Bank of Vietnam.”

10. Article 16 is amended and supplemented as follows:

“Article 16. Borrowing and repayment of foreign loans by the Government

The borrowing by the Government, authorization for other organizations to borrow and repay foreign loans; guarantee for foreign loans shall comply with regulations of law on public debt management and other relevant laws.”

11. Article 17 is amended and supplemented as follows:

“Article 17. Borrowing and repayment of foreign loans by residents

1. Residents being enterprises, cooperatives, cooperatives unions, credit institutions and foreign banks’ branches shall be permitted to borrow and repay foreign loans on the principle of self-borrowing and self-repayment in accordance with law.
2. Residents being individuals shall be permitted to borrow and repay foreign loans on the principle of self-borrowing and self-repayment in accordance with regulations of the Government.
3. When borrowing and repaying foreign loans, residents must comply with the conditions on borrowing and repayment of foreign loans, shall register the loans, shall open and use accounts, shall withdraw capital and transfer money for loan repayment and shall report the use status of loans in accordance with regulations of the State Bank of Vietnam. The State Bank of Vietnam shall certify the registration of loans within the total commercial loan limit annually approved by the Prime Minister of the Government.
4. Residents shall be entitled to purchase foreign currency at authorized credit institutions on the basis of presentation of proper documents for repayment of principal, interest and fees relating to the foreign loans.
5. Other lawful transactions of capital transfer relating to activities of borrowing and repaying foreign loans shall comply with regulations of the State bank of Vietnam and relevant laws.”

12. Article 19 is amended and supplemented as follows:

“Article 19. Provision and recovery of foreign loans of residents being credit institutions and economic institutions

1. Credit institutions shall be permitted to provide and recover foreign loans, grant guarantee for non-residents in accordance with regulations of the State Bank of Vietnam.
2. Economic institutions shall be permitted to provide foreign loans, except for export of goods and services of deferred payment; to grant guarantee for non-residents when being permitted by the Prime Minister.

The State bank of Vietnam shall guide implementation of the opening and use of accounts, the remittance of capital and recovery of foreign loans, registration of provision

of loans, recovery of foreign debts and other transactions of capital transfer relating to activities of provision of loans, recovery of foreign debts by economy institutions.”

13. Article 22 is amended and supplemented as follows:

“Article 22. Provision on limited use of foreign exchange

Within the territory of Vietnam, all transactions, payments, listings, advertisements, quotation, pricing, writing price on contracts, agreements and other similar forms of residents and non-residents must not be effected in foreign exchange except for cases permitted in accordance with regulation of the State bank of Vietnam.”

14. Article 23 is amended and supplemented as follows:

“ Article 23. Opening and use of accounts

1. Residents and non-residents shall be permitted to open foreign currency accounts at authorized credit institutions. The State Bank of Vietnam shall provide the use of foreign currency accounts of the entities stipulated in this clause.

2. Residents being credit institutions shall be permitted to open and use foreign currency accounts overseas in order to conduct foreign exchange activities overseas in accordance with regulations of the State Bank of Vietnam.

3. Residents being organizations shall be considered for permission by the State Bank of Vietnam to open foreign currency accounts overseas in the following cases:

a. Economy organizations which have branches or representative offices overseas or which wish to open a foreign currency account overseas in order to receive loan capital, to fulfil undertakings or to perform contracts with foreign parties;

b. State agencies, units of the armed forces, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations, social funds and charitable funds of Vietnam operating in Vietnam which wish to open foreign currency accounts overseas in order to receive foreign aids and funding or other cases be permitted by competent agencies of Vietnam.”

15. Article 25 is amended and supplemented as follows:

“Article 25. Use of Vietnam dong by non-residents

Non-residents being organizations or individuals who earn Vietnam dong from lawful revenue sources shall have the right to open accounts at authorized credit institutions. The State Bank of Vietnam shall provide the use of Vietnam dong accounts of the entities stipulated in this clause.”

16. To supplement Article 25a at behind of Article 25 as follows:

“Article 25a. Use of Vietnam dong by residents being foreign individuals

Residents being foreign individuals shall be permitted to open and use the Vietnam dong accounts at authorized credit institutions in accordance with regulations of the State Bank of Vietnam.”

17. Article 26 is amended and supplemented as follows:

“Article 26. Use of currencies of countries sharing borderlines with Vietnam

Use of currencies of countries sharing borderlines with Vietnam shall comply with regulations of International treaties to which the Socialist Republic of Vietnam is a member and regulations of the State bank of Vietnam.”

18. To amend name of Chapter V as follows:

"Chapter V - Foreign currency market, foreign exchange rate mechanism, and management of gold being foreign exchange”

19. Clause 2 Article 28 is amended and supplemented as follows:

“2. Members participating in the foreign currency market between authorized credit institutions and their customers comprise authorized credit institutions and customers being residents and non-residents in Vietnam.”

20. Clause 2 Article 30 is amended and supplemented as follows:

“2. The State Bank of Vietnam shall announce the exchange rate, decide the exchange rates regime, exchange rates operating mechanism.”

21. Article 31 is amended and supplemented as follows:

“Article 31. Management of gold being foreign exchange

The State Bank of Vietnam shall manage gold of state foreign exchange reserves; manage the import and export of gold in the form of bullion, bars, granules and plate; manage gold on offshore accounts of residents in accordance with law.”

22. Clause 4 and clause 5 Article 32 are amended and supplemented as follows:

“4. Gold managed by the State bank of Vietnam”

“5. Other types of foreign exchange of State.”

23. Article 34 is amended and supplemented as follows:

“Article 34. Control of foreign exchange reserves of the State

1. The State Bank of Vietnam shall exercise control of the foreign exchange reserves of the State in accordance with regulations of the Government in order to realize the national monetary policy, to ensure international payment capability and to preserve the foreign exchange reserves of the State.
2. The Ministry of Finance shall inspect the management of the foreign exchange reserves of the State by the State Bank of Vietnam in accordance with regulations of the Government.
3. The State Bank of Vietnam shall periodically or ad hoc report to the Prime Minister on management of foreign exchange reserves of the State.
4. The Government shall report to the Standing Committee of the National Assembly on any changes in the status of the foreign exchange reserves of the State.”

24. Article 35 is amended and supplemented as follows:

“Article 35. Foreign exchange belonging to the State budget

1. The Ministry of Finance shall send all foreign currencies of State Treasuries at the State bank of Vietnam.
2. The Prime Minister shall set the level of foreign currency which the Ministry of Finance is entitled to retain from State Budget revenue in order to satisfy the demand for regular payments of foreign exchange from the State Budget, the the Ministry of Finance shall buy the remaining foreign currencies to the foreign exchange reserves of State to concentrate at the State bank of Vietnam.”

25. To supplement Article 35a at behind of Article 35 as follows:

“Article 35a. Use of foreign exchange reserves of the State

The Prime Minister shall decide use of foreign exchange reserves of the State for irregular, urgent demand of the State; in case the use of foreign exchange reserves of the State cause changes of budget estimates, the use shall comply with regulations of Law on the State budget.”

26. To amend name of Chapter VII as follows:

“Chapter VII – Business and provision of foreign exchange services by credit institutions foreign banks’ branches and other institutions”

27. Article 36 is amended and supplemented as follows:

“Article 36. Principles for business and provision of foreign exchange services

1. Credit institutions, foreign banks’ branches and other institutions are entitled to do business and provide the domestic and offshore foreign exchange services after they are approved in writing by the State bank of Vietnam.
2. The State bank of Vietnam shall provide for the scope of business and provision of domestic and offshore foreign exchange services, conditions, orders and procedures for approval for the business and provision of foreign exchange services of credit institutions, foreign banks’ branches and other institutions.”

Article 2.

To annul Article 38 of Ordinance on foreign exchange No. [28/2005/PL-UBTVQH11](#).

Article 3.

1. This Ordinance takes effect on January 01, 2014.
2. The Government, the Prime Minister and the State bank of Vietnam shall detail the assigned articles, clauses in this Ordinance.

**ON BEHALF OF THE STANDING
COMMITTEE OF THE NATIONAL
ASSEMBLY
CHAIRMAN**

Nguyen Sinh Hung