

**STATE BANK OF  
VIETNAM**

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

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No. 06/2019/TT-NHNN

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*Hanoi, 26 June 2019*

**CIRCULAR**

**Providing guidance on foreign exchange control with respect to  
foreign direct investment in Vietnam**

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- Pursuant to the Law on the State bank of Vietnam dated 16 June 2010;
  - Pursuant to the Law on Credit Institutions dated 16 June 2010 and Law on amendment of, supplement to several Articles of the Law on Credit Institutions dated 20 November 2017;
  - Pursuant to the Ordinance on Foreign Exchange dated 13 December 2005 and the Ordinance on amendment of, supplement to several Articles of the Ordinance on Foreign Exchange dated 18 March 2013;
  - Pursuant to the Decree No. 70/2014/ND-CP dated 17 July 2014 of the Government providing in details for the implementation of several Articles of the Ordinance on Foreign exchanges and the Ordinance on amendment of, supplement to several Articles of the Ordinance on foreign exchanges;
  - Pursuant to the Decree No. 16/2017/ND-CP dated 17 February 2017 of the Government providing for the functions, duties, powers and organizational structure of the State Bank of Vietnam;
  - At the request of the Director of the Foreign Exchange Control Department;

The Governor of the State Bank of Vietnam hereby issues the Circular providing guidance on foreign exchange control for foreign direct investment in Vietnam.

**Chapter I**

**GENERAL REGULATIONS**

**Article 1. Governing scope**

1. This Circular provides guidance on foreign exchange control for foreign direct investment in Vietnam, including: capital contribution for investment; opening and use of direct investment capital account in foreign currency and in Vietnam dong; remittance for preparation of investment; remittance of fund, profit and legal incomes to foreign country; transfer of investment capital, transfer of investment projects.

2. Contents related to foreign exchange control with respect to the foreign direct investment enterprises that are public companies whose stocks are listed or registered on Securities Exchanges in accordance with regulations on foreign exchange control with respect to foreign direct investment in Vietnam.

### **Article 2. Regulated subjects**

This Circular shall be applicable to the following subjects:

1. Foreign direct investment enterprises in accordance with provisions in Clause 2 Article 3 of this Circular.
2. Foreign investors, Vietnamese investors in foreign direct investment enterprises.
3. Foreign investors participating in business cooperation contracts (hereinafter referred to as BCC contracts).
4. Foreign investors participating in investment contracts in the form of public-private partners (hereinafter called PPP).
5. Organizations, individuals related to foreign direct investment in Vietnam.

### **Article 3. Interpretation of terms**

For the purpose of this Circular, the following terms shall be construed as follows:

1. “Foreign investor” shall include: individuals with foreign nationality, organizations established under foreign laws who carry out foreign direct investment activities in Vietnam.
2. “Foreign direct investment enterprises” shall include:
  - a) Enterprises that are established in the form of investment for establishment of economic entities whose foreign investor is a member or shareholder and who are required to follow the

procedures for issuance of investment registration certificate in accordance with laws and regulations on investment;

b) The enterprises that are not regulated in Point a hereof with 51% or more of charter capital held by a foreign investor, including:

(i) An enterprise with a foreign investor contributing capital, buying shares where the capital contributed to the enterprise (operating in either conditional or unconditional business lines as applicable to foreign investors) leads to the foreign investor holding 51% or more of charter capital of the enterprise;

(ii) An enterprise being established after split, merger, consolidation which leads to the foreign investor holding 51% or more of charter capital of the enterprise;

c) A project enterprise that is established by a foreign investor for the purpose of a PPP project in accordance with laws and regulations on investment.

3. "Authorized banks" shall include commercial banks, foreign bank branches that are permitted to do business, to supply foreign exchange services in accordance with relevant laws and regulations.

4. "Authorized credit institutions" shall include authorized banks, non-banking credit institutions which are permitted to do business, to supply foreign exchange services in accordance with relevant laws and regulations.

5. "Direct investment capital account" shall mean a payment account in foreign currency or Vietnam dong opened by a foreign direct investment enterprise or a foreign investor at an authorized bank to perform the transactions related to foreign direct investment activities in Vietnam in accordance with provisions in Article 5, Article 6 and Article 7 of this Circular.

#### **Article 4. General principles**

1. Foreign investors and Vietnamese investors shall be entitled to make investment capital contribution in foreign currency or Vietnam dong in proportion with the capital contribution level of the investors in the investment registration certificate, the Establishment and Operation License in accordance with specialized laws and regulations (for foreign direct investment enterprises that are established and operate under specialized laws and regulations), Notice of satisfaction of requirements for capital contribution, share purchase, acquisition of the

contributed capital from foreign investors, PPP contracts concluded with competent state agencies, other documents proving the capital contribution of the foreign investors in accordance with relevant laws and regulations.

2. Residents who are Vietnamese investors shall be entitled to contribute investment capital with their own foreign currency source.

3. The contribution of investment capital in cash by the foreign investors or Vietnamese investors shall be made by transfer to the direct investment capital account.

4. Contents related to short, medium and long-term foreign loans of foreign direct investment enterprises (such transactions as money collection, cash withdrawal, payment of principal, interest, fees; account for foreign loan and debt repayment) shall comply with the laws and regulations on foreign loans and debt repayment of enterprises.

5. The use of distributed profits by foreign investors within the territory of Vietnam must be sure to comply with regulations on foreign exchange management and relevant laws and regulations.

## **Chapter II**

### **SPECIFIC REGULATIONS**

#### **Article 5. Opening and use of direct investment capital account**

1. Those who may open and use direct investment capital account shall include:

- a) Foreign direct investment enterprises as set forth in Clause 2 Article 3 of this Circular;
- b) Foreign investors participating in BCC contracts, foreign investors directly performing PPP projects in case where no project enterprise is established (hereinafter referred to as foreign investors directly performing PPP projects).

2. The subjects who are regulated in Clause 1 of this Article shall open direct investment capital account in accordance with the following regulations:

- a) It is required to open a direct investment capital account in foreign currency at 01 (one) authorized bank to carry out legal receipt and payment transactions in foreign currency related to foreign direct investment activities in Vietnam;

b) Corresponding to the foreign currency of capital contribution only 01 (one) direct investment capital account can be opened in the same foreign currency at 01 (one) authorized bank;

c) In case of making investment in Vietnam dong, it is allowed to open 01 (one) direct investment capital account in Vietnam dong at the authorized bank where the direct foreign capital investment account in foreign currency has been opened to perform legal receipt and payment transactions in Vietnam dong related to foreign direct investment activities in Vietnam;

d) In case where the foreign investor participates in various BCC contracts or directly performs various PPP projects, the foreign investor must open separate direct investment accounts corresponding to each BCC contract or PPP project.

3. In case of taking foreign loans where the currency of borrowing does not correspond to the currency used by foreign direct invested enterprise to open the direct investment capital account, the foreign direct investment enterprise may open extra account for foreign loan and debt repayment with the currency of borrowing at an authorized bank where the direct investment capital account has been opened to perform legal receipt and payment transactions related to the foreign loan in accordance with laws and regulations on foreign loans and debt repayment of enterprises.

4. For the case of changing the authorized bank where the direct investment capital account is opened, the subjects set forth in Clause 1 of this Article shall take the following steps:

a) Opening the direct investment capital account at another authorized bank;

b) Transferring the entire balance of the previously opened direct investment account to a new one, then closing the previous direct investment capital account;

c) Direct investment capital account at other authorized banks may only be used to perform receipt and payment transactions as specified in Article 6 and Article 7 of this Circular after completing the steps specified at Point a and Point b of this Clause.

5. The procedure of opening and closing a direct investment capital account shall be implemented in accordance with the regulations of the State Bank of Vietnam (hereinafter called the State Bank) on opening and use of payment accounts at payment service suppliers.

6. The enterprises as specified at Points b and c Clause 2 Article 3 of this Circular shall have to close their direct investment capital accounts; non-resident foreign investors who hold shares or

contributed capital in such enterprises shall open an indirect investment capital account to perform receipt and payment transactions in accordance with regulations on foreign exchange control for foreign indirect investment activities in Vietnam in the following cases:

- a) After performing the transfer of shares, contributed capital or issuing extra shares to increase charter capital at a foreign direct investment enterprise, the percentage of shareholding or contributed capital of the foreign investor in such enterprise shall be below 51%;
- b) After the foreign direct investment enterprise which is a public company has its stocks listed or registered for trading on Securities Exchange.

#### **Article 6. Receipt and payment transactions on the direct investment capital account in foreign currency**

##### 1. Receipt transactions:

- a) Receipt of transfer of foreign direct investment capital contribution in foreign currency from foreign investors, Vietnamese investors in foreign direct investment enterprises, foreign investors participating in BCC contracts, foreign investors directly performing PPP projects;
- b) Receipt of transfer of payment of investment capital, investment projects as prescribed in Article 10 of this Circular;
- c) Receipt of transfer of foreign currency bought from authorized credit institutions to remit capital, profits and legal incomes abroad in accordance with provisions of this Circular;
- d) Receipt of transfer from a foreign currency payment account opened at an authorized bank of the foreign direct investment enterprise, a foreign investor participating in a BCC contract or a foreign investor directly performing a PPP project for the purpose of offshore remittance of capital, profit and legal income to the foreign investor;
- dd) Receipt of foreign currency conversion for making investment capital contribution in case where the currency of capital contribution is different from the currency of the opened direct investment capital account;
- e) Receipt of transfer of share capital surplus from the issuance of new shares to increase charter capital in the foreign direct investment enterprise;

- g) Receipts of transfers of foreign currency received from the sales of domestic petroleum products (after fulfilling all financial obligations and subtracting the costs in Vietnam dong) in accordance with laws and regulations on oil and gas and the Guarantee agreement and commitments of the Government (if any);
- h) Receipts of transfers related to foreign loans of foreign direct investment enterprises in accordance with laws and regulations on foreign loans and debt repayment of the enterprises, except for the cases as prescribed in Clause 3 Article 5 of this circular;
- i) Other legal receipts in foreign currency related to the foreign direct investment in Vietnam.

## 2. Payment transactions:

- a) Transfer to the foreign currency payment account opened at an authorized bank by the foreign direct investment enterprise, the foreign investor participating in a BCC contract, the foreign investor directly performing a PPP project, the manager of a petroleum project under the laws and regulations on petroleum to perform foreign direct investment activities in Vietnam;
- b) Expense for selling foreign currency to an authorized credit institution to transfer to Vietnamese dong payment account of the foreign direct investment enterprise, the foreign investor participating in a BCC contract, foreign investor directly performing a PPP project;
- c) Transfer of payment of the transfer of investment capital, investment project to the offshore transferor or expense for the sale of foreign currency for payment of the transfer of investment capital or investment project to the transferor in Vietnam in Vietnam dong in accordance with provisions in Article 10 of this Circular;
- d) Payment for offshore remittance of profit and legal incomes in foreign currency from the foreign direct investment in Vietnam by the foreign investor;
- dd) Payment for offshore remittance of the direct investment capital in foreign currency by the foreign investor in case of investment capital reduction, finish, liquidation or termination of the investment project, BCC contract or PPP contract in accordance with laws and regulations on investment;
- e) Payment for foreign currency conversion to carry out the transfer of capital, profits and lawful revenue sources from offshore direct investment activities in cases where the money transferred

from capital, profits and lawful revenues to foreign countries are different from the currency of the direct investment account opened;

g) Expenses for transfer of funds related to foreign loans in foreign currency of foreign direct investment enterprises in accordance with laws and regulations on foreign loans and debt repayment by enterprises, except for cases as prescribed in Clause 3 Article 5 of this Circular;

h) Other legal payments in foreign currency related to foreign direct investment activities in Vietnam.

## **Article 7. Receipt, payment transactions on VND direct investment capital account**

### 1. Receipt transactions:

a) Receipt of transfer of foreign direct investment capital contribution in Vietnam dong from foreign investors, Vietnamese investors in foreign direct investment enterprises, foreign investors participating in BCC contracts, foreign investors directly performing PPP projects;

b) Receipt of transfer of payment of investment capital, investment projects as prescribed in Article 10 of this Circular;

c) Receipt of transfer of distributed profits in Vietnam dong of foreign investors, Vietnamese investors in foreign direct investment enterprises, foreign investors participating in BCC contracts, foreign investors directly performing PPP projects for the purpose of increasing capital, expanding the investment in Vietnam;

d) Receipt of transfer from a VND payment account of the foreign direct investment enterprise, a foreign investor participating in a BCC contract or a foreign investor directly performing a PPP project for the purpose of offshore remittance of capital, profit and legal income to the foreign investor;

dd) Receipt of transfer of share capital surplus from the issuance of new shares to increase charter capital in the foreign direct investment enterprise;

e) Receipts of transfers related to foreign loans in Vietnam dong of foreign direct investment enterprises who are permitted to take foreign loans in Vietnam dong in accordance with laws and regulations on foreign loans and debt repayment of the enterprises;

g) Other legal receipts in Vietnam dong related to the foreign direct investment in Vietnam.



## 2. Payment transactions:

- a) Transfer to VND payment account opened at an authorized bank by the foreign direct investment enterprise, the foreign investor participating in a BCC contract, the foreign investor directly performing a PPP project, the manager of a petroleum project under the laws and regulations on petroleum to perform foreign direct investment activities in Vietnam;
- b) Transfer of payment of the transfer of investment capital, investment project to the transferor in Vietnam or expense for the purchase of foreign currency for payment of the transfer of investment capital or investment project to the offshore transferor in accordance with provisions in Article 10 of this Circular;
- c) Payment for purchase of foreign currency for transfer to offshore remit profits and legal incomes in Vietnam dong to foreign investors;
- d) Payment for transfer of direct investment capital in Vietnam dong to Vietnamese investors or payment for purchase of foreign currency to offshore remit direct investment capital to foreign investors in case of investment capital reduction, finish, liquidation or termination of the investment project, BCC contract or PPP contract in accordance with laws and regulations on investment;
- dd) Expenses for transfers related to foreign loans in Vietnam dong of foreign direct investment enterprises who are permitted to take foreign loans in Vietnam dong in accordance with laws and regulations on foreign loans and debt repayment by enterprises;
- e) Other legal payments in Vietnam dong related to foreign direct investment activities in Vietnam.

### **Article 8. Remittance for investment preparation**

1. Before being granted with investment registration certificate by the competent agency, the Notice on satisfaction of conditions for capital contribution, share purchase and acquisition of the capital contribution from foreign investors and the Establishment and operation license in accordance with specialized laws and regulations, entering into a PPP contract, the foreign investor may remit from foreign country or from a payment account in foreign currency, Vietnam dong of the very foreign investor opened at an authorized bank in Vietnam to pay the legal costs during the period of preparation for investment in Vietnam.

2. After being granted by the competent agency with investment registration certificate, the Notice on satisfaction of conditions for capital contribution, share purchase and acquisition of the capital contribution from foreign investors and the Establishment and operation license in accordance with specialized laws and regulations, entering into a PPP contract, the amount remitted by the foreign investor into Vietnam for preparation for investment shall be used for:

a) Converting a part or the whole to contributed capital;

b) Converting a part or the whole to foreign loan fund of the foreign direct investment enterprise. In case of conversion into foreign loans, the foreign direct investment enterprise shall comply with the laws and regulations on foreign loans and debt repayment of enterprises. The term of the foreign loan shall be counted from the date the project is granted by the competent authority with the Investment Registration Certificate, the Establishment and Operation License according to specialized laws and regulations, the date of signing of the PPP contract or the date on which the parties sign the foreign loan agreement (depending on which day comes later) to the final date of repayment;

c) Transferring to the foreign investors in foreign currency, Vietnam dong the amount remitted into Vietnam to carry out the investment preparation activities after subtracting the legal costs related to the investment preparation activities in Vietnam.

3. In case of not being granted by the competent authority with the investment registration certificate, the Notice of satisfaction of conditions for capital contribution, share purchase, and acquisition of the foreign investor's capital contribution, the Establishment and Operation License under specialized laws and regulations, signing the PPP contract or discontinuing to perform the direct investment project in Vietnam, the foreign investors may remit abroad the remaining amount in foreign currency or may buy foreign currency to remit abroad for the amount already remitted into Vietnam and the arising interest (if any) after subtracting the legal costs related to investment preparation activities in Vietnam.

4. The transactions set forth in Clauses 1, 2 and 3 of this Article shall be executed basing on the agreement between related parties, the submission of valid documents proving that the money remitted into Vietnam and legal expenses related to the investment preparation activities in Vietnam, ensuring the compliance with regulations on foreign exchange management, laws and regulations on investment, on accounting and other relevant laws and regulations.

## **Article 9. Abroad remittance of capital, legal profits and legal incomes**

1. The foreign investors shall be required to remit abroad via the direct investment capital accounts:

a) The direct investment capital in case of investment capital reduction; transfer of investment projects (except for the case as specified at Point a Clause 1 Article 10 of this Circular); finish, liquidation, termination of investment projects, BCC contracts, PPP contracts in accordance with laws and regulations on investment;

b) The principal, interest and expenses for taking foreign loans (except for the cases as specified in Clause 3 Article 5 of this Circular), profits and legal incomes related to direct investment in Vietnam.

2. In the event where the foreign direct investment enterprise must close its direct investment capital account due to dissolution, bankruptcy, termination of existence of the enterprise or due to transfer of the investment project, which makes the initial registered legal entity of the foreign direct investment enterprise changed, the foreign investor may use its payment account in foreign currency, Vietnam dong payment account opened at an authorized bank to carry out the transactions of buying foreign currency, remittance of direct investment capital and legal incomes abroad.

## **Article 10. Transfer of investment capital and investment projects**

1. The payment of transfer of shares, contributed capital in a foreign direct investment enterprise as set forth in Clause 2 Article 3 of this Circular shall be made as follows:

a) Between non-resident investors or between resident investors, it shall not be performed via the direct investment capital account;

b) Between a non-resident investor and a resident investor, it shall be performed via the direct investment capital account.

2. The payment of transfer of an investment project between the investors of a BCC contract, between the investors directly performing a PPP project, shall be made as follows:

a) Between non-resident investors or between a non-resident investor and a resident investor of the BCC contract, it shall be made via the direct investment capital account;

b) Between non-resident investors or between a non-resident investor and a resident investor directly performing the PPP project, it shall be made via the direct investment capital account.

3. The currency of evaluation, payment of transfer of investment capital, investment projects in foreign direct investments in Vietnam:

a) The evaluation, payment of transfer of investment capital, investment projects between two non-residents may be performed in foreign currency;

b) The evaluation, payment of transfer of investment capital, investment projects between residents and non-residents, or among the residents, shall be made in Vietnam dong.

### **Chapter III**

#### **RESPONSIBILITY OF THE PARTIES**

##### **Article 11. Responsibility of authorized credit institutions**

1. Guiding the foreign direct investment enterprises and foreign investors to present valid documents in accordance with applicable laws and regulations on foreign exchange management.

2. Opening, closing direct investment capital accounts at the request of foreign direct investment enterprises, foreign investors in conformity with provisions of this Circular.

3. Reviewing, checking and keeping documents and records in accordance with the actual transactions to make sure the supply of foreign exchange services to foreign direct investment enterprises and foreign investors is done for the right purpose and in accordance with relevant laws and regulations.

4. Requesting the foreign direct investment enterprises, foreign investors to provide the documents or records related to the foreign direct investment activities in Vietnam.

5. Selling foreign currency to the foreign investors and foreign direct investment enterprises to remit abroad to the foreign investors on the basis of self balancing the foreign currency sources of the authorized credit institutions in conformity with relevant laws and regulations.

6. Issuing written confirmation at the request of the account holder about the account balance, information on the transactions on the payment accounts, the direct investment capital accounts of the foreign direct investment enterprises and the foreign investors.

## **Article 12. Responsibility of foreign direct investment enterprises and foreign investors**

1. Complying with regulations on foreign direct investments in Vietnam in accordance with provisions of this Circular and relevant laws and regulations.
2. Declaring honestly and fully the details of transactions related to the foreign direct investment activities in Vietnam; providing documents and records related to the foreign direct investment activities in Vietnam at the request and instructions of authorized credit institutions; taking self responsibility to the law for the authenticity of the documents and records provided to the authorized credit institutions.
3. Buying foreign currency at authorized credit institutions to remit capital, profits, legal incomes abroad to the foreign investors in accordance with provisions of this Circular.
4. Transferring the payment of transfer of investment capital, investment projects to the foreign investors, Vietnamese investors for the case of making payment for the transfer of investment capital, investment projects in accordance with provisions in Point b Clause 1 Article 10 of this Circular.
5. Making report on the related contents as requested by the State Bank.

## **Chapter IV**

### **IMPLEMENTATION CLAUSES**

#### **Article 13. Transitional provisions**

1. Within 12 months at the latest after the date this Circular comes into effect, the enterprises and foreign investors who are non-residents holding shares or contributed capital in such enterprises must proceed with transforming their accounts in accordance with provisions in Clause 2 and Clause 3 of this Article.
2. In the event that an enterprise with a foreign investor having opened and used an indirect investment capital account for capital contribution, buying shares, or the contributed capital at the enterprise which leads to the foreign investor holding 51% charter capital or more, a direct investment capital account must be opened in accordance with this Circular.
3. In the event that the enterprises below have already opened direct investment capital accounts, they shall be required to close such accounts and, at the same time, the non-resident foreign

investors who hold shares or contributed capital in such enterprises shall open indirect investment capital accounts in accordance with laws and regulations on foreign exchange control:

- a) The enterprises with foreign investors holding less than 51% of their charter capital, except for the case specified at Point a Clause 2 Article 3 of this Circular;
- b) The enterprises that do not fall within the subjects that are required to follow the procedures for issuance of Investment Registration Certificate but have a demand for and have been granted with an Investment Registration Certificate by the competent authority in accordance with the laws and regulations on investment;
- c) Foreign direct investment enterprises whose stocks are listed on the stock exchange or registered for trading on the stock exchange;
- d) In the event where the enterprise as specified in points a, b and c of this Clause has been taking foreign loans and debt repayment via a direct investment account, it may continue to maintain this account for the purpose of foreign loans and debt repayment in accordance with laws and regulations on foreign loans and debt repayment of enterprises.

4. During the transitional period, the enterprises and foreign investors who are non-residents owning shares or contributed capital in such enterprises may continue to use the existing capital accounts to perform the transactions of receipt and payment related to the investment activities in Vietnam.

#### **Article 14. Effectiveness**

1. This Circular shall come into effect from 6 September 2019 and replace the Circular No. 19/2014/TT-NHNN dated 11 August 2014 of the Governor of the State Bank providing guidance on foreign exchange control for foreign direct investment in Vietnam.

2. This Circular shall amend Clause 1, Clause 2 and Clause 6 of Article 5 of the Circular No. 05/2014/TT-NHNN dated 12 March 2014 of the Governor of the State Bank providing guidance on opening and use of indirect investment capital accounts for performing foreign indirect investment activities in Vietnam as follows:

“1. The capital contribution, sale or purchase of shares, the contributed capital of the foreign investors in enterprises shall not be governed by Clause 2 Article 3 of the Circular No.

06/2019/TT-NHNN dated 26 June 2019 of the Governor of the State Bank providing guidance on foreign exchange control for foreign direct investment in Vietnam and the amendment thereof, supplement thereto (if any), which have not been listed or registered yet for trading on Stock Exchange.”

“2. The capital contribution, sale or purchase of shares, the contributed capital of the foreign investors in the enterprises whose stocks are listed or registered for trading on Stock Exchanges.”

“6. Capital contribution, transfer of contributed capital of the foreign investors in securities investment funds and fund management companies in accordance with laws and regulations on securities.”

3. This Circular shall supplement the forth dash to Point d Clause 1 Article 3 of Circular No. 16/2014/TT-NHNN dated 01 August 2014 of the Governor of the State Bank providing guidance for use of foreign currency accounts, VND accounts of residents, non-residents at authorized banks (as amended, supplemented by the Circular No. 49/2018/TT-NHNN dated 31 December 2018 of the Governor of the State Bank on term deposits) as follows:

“- Receipt of transfer of foreign currency from direct investment capital accounts of foreign investors in petroleum projects.”

#### **Article 15. Implementation responsibility**

Chief of State Bank’s Office, Director of the Foreign Exchange Control Department, Head of affiliated units of the State Bank, General Manager of State Bank branches in provinces and centrally-run cities, Chairman of Board of Directors, Chairman of Board of Members, General Director (Director) of credit institutions, foreign bank branches shall be responsible for the implementation of this Circular.

For the Governor of the State Bank

Deputy Governor

**NGUYEN THI HONG** *(Signed and sealed)*