

**THE STATE BANK OF
VIETNAM**

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

Hanoi, February 23, 2018

CIRCULAR

ON LICENSING, ORGANIZATION AND OPERATION OF MICROFINANCE INSTITUTIONS

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 Law on amendments to the Law on credit institutions dated November 20, 2017;

Pursuant to the Law on Enterprise dated November 26, 2014;

Pursuant to the Government's Decree No. 16/2017/ND-CP dated February 17, 2017 defining the functions, tasks, entitlements and organizational structure of the State Bank of Vietnam;

At the request of the Chief Banking Inspector-Supervisor;

The Governor of the State bank of Vietnam promulgates a Circular on licensing, organization and operation of microfinance institutions.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Circular sets forth licensing, organization and operation of microfinance institutions.

Article 2. Regulated entities

1. Microfinance institutions (hereinafter referred to as MFIs).
2. Entities being transformed to official MFIs from microfinance programs/projects as prescribed in a Decision of the Prime Minister on operation of microfinance programs/projects of political organizations, socio-political organizations, and non-governmental organizations (hereinafter referred to as transformed entities).
3. Other entities involved in incorporation, licensing, organization and operation of MFIs.

Article 3. Interpretation of terms

For the purposes of this Circular, these terms below shall be construed as follows:

1. *“license”* means an incorporation and operation license of an MFI issued by the State Bank of Vietnam (hereinafter referred to as the State Bank). A document on amendments to a license issued by the State Bank is an integral part of the license.

2. *“contributing member”* means an organization or individual that contributes capital to an MFI.

3. *“founding member”* means a contributing member that formulates, ratifies and signs the first charter of an MFI.

4. *“first meeting of founding members”* means a meeting of founding members that:

a) Ratify draft charter of MFI, MFI incorporation project and a list of proposed personnel to be elected or appointed to act as council’s members, control board’s members, general director (director) for the first term of office;

b) Elect preparatory board, preparatory board head from contributing members who are proposed personnel named in the list of proposed personnel to be elected or appointed to act as council’s members, control board’s members, general director (director) for the first term of office and other members to initiate the approval for principles of incorporating the MFI;

c) Decide other matters relevant to incorporation of MFI.

5. *“first meeting of contributing members”* means a meeting of founding members and other contributing members after the State Bank approves the principles of incorporation that:

a) Ratify charter of the MFI;

b) Elect or appoint council’s members, control board’s members, general director (director) for the first term of office according to the list approved by the State Bank;

c) Ratify regulations on organization and operation of board of members, control board, general director (director) of the MFI;

d) Decide other matters relevant to incorporation of MFI.

6. *“microfinance client”* means an individual living in a poor household, near poor household, an individual representing a poor household, near poor household, or microenterprise as per the law.

7. *“other client”* means an individual living in a household or representing a household that was used to microfinance client but rose out of poverty or near poverty.

8. “*compulsory saving*” means an amount that a microfinance client is required to deposit as prescribed by the MFI. The MFI shall provide regulations and announce compulsory saving amount and interest rate.

9. “*voluntary saving*” refers to demand deposit, term deposit, saving deposit (excluding compulsory saving), other than deposits made for payment purpose of microfinance client or other entities in the MFI.

Article 4. The power to licensing

Governor of the State Bank shall consider licensing as prescribed in the Law on credit institutions, this Circular and other relevant provisions.

Article 5. Licensing fee

1. Licensing fee shall be paid in accordance with regulations and laws on fees.
2. Within 15 working days after licensing, the MFI shall pay the fee at SBV Operations Center.
3. The fee prescribed in Clause 1 hereof may not be deducted from charter capital and not be refunded in any case.

Article 6. Application preparation and submission

1. The application must be made in Vietnamese; any copy of document, diploma/certificate in foreign language translated into Vietnamese shall be authenticated as per the law.
2. If copies in the application are neither authenticated copies nor copies issued from master register, original copies are required for comparison upon application submission. The person doing the comparison must certify in the copies and is responsible for accuracy of copies compared to originals.
3. Each application shall specify the list of documents therein. The application shall be submitted to the State Bank in person or by post.

Chapter II

LICENSING

Section 1. Conditions for licensing

Article 7. Conditions for licensing

1. The charter capital is not less than legal capital as prescribed by the Government.
2. There are controlling owners and founding members as prescribed in Article 8 of this Circular.

3. There are managing persons and control board's members qualified as prescribed in Articles 20, 21, 22, 23 hereof.

4. There are charter in accordance with Article 31 of the Law on credit institutions and relevant provisions.

5. There is a feasible incorporation and business plan for the first 3 years.

Article 8. Controlling owners and founding member of MFIs

1. A controlling owner of an MFI which is incorporated in the form of single-member limited liability companies must meet the following conditions:

a) It is a political organization or socio-political organization incorporated and lawfully operating in Vietnam or a political organization, socio-political organization, association, social fund, charitable fund that has microfinance program/project transformed as prescribed in a Decision of the Prime Minister on operation of microfinance programs/projects of political organizations, socio-political organizations, or non-governmental organizations;

b) Its finance is sufficient to invest in the incorporation of the MFI and commit not to use trust fund, raising fund, or loans from other entities; commit to give financial aid to the MFI if it has fund or liquidity problems;

c) It is not a founding shareholder, controlling owner, founding member, or strategic shareholder of another credit institution in Vietnam.

2. A founding member of an MFI which is incorporated in the form of multiple-member limited liability companies must meet the following conditions:

a) There is at least a founding member being political organization or socio-political organization;

b) There is at least a founding member which has directly run or managed a microfinance program/project safely and steadily for at least 3 consecutive years before the application submission;

c) In case of a founding member being individual:

(i) He/she has Vietnamese nationality and full legal capacity as per the law;

(ii) He/she is not banned from business incorporation and management as prescribed in the Law on Enterprise; incurs no penalties for administrative violations against regulations on money and banking at the largest fines bracket in case of violations against regulations on licenses, administration, shares, stocks, capital contribution, share purchase, credit extending, corporate bond purchase, or prudential ratios as prescribed in laws on actions against administrative

violations against regulations on money and banking within 24 consecutive months before the application submission;

(iii) He/she is not a founding shareholder, founding member of another credit institution in Vietnam;

(iv) His/her finance is sufficient to invest in the incorporation of the MFI and commit not to use trust fund, raising fund, or loans from other entities; commit to give financial aid to the MFI if it has fund or liquidity problems;

d) In case of founding member being a Vietnamese body:

(i) It is incorporated in accordance with Vietnamese laws;

(iii) It is not a founding shareholder, controlling owner, founding member, or strategic shareholder of another credit institution in Vietnam;

(iii) Its finance is sufficient to invest in the incorporation of the MFI and commit not to use trust fund, raising fund, or loans from other entities; commit to give financial aid to the MFI if it has fund or liquidity problems;

(iv) It has fulfilled adequate tax and social insurance obligations as prescribed prior to the submission of application;

(v) It incurs no penalties for administrative violations against regulations on money and banking at the largest fines bracket in case of violations against regulations on licenses, administration, shares, stocks, capital contribution, share purchase, credit extending, corporate bond purchase, or prudential ratios as prescribed in laws on actions against administrative violations against regulations on money and banking within 24 consecutive months before the application submission;

(vi) If the founding member is an enterprise, it must have gained profit in 3 consecutive years prior to the application submission;

(vii) If the founding member is an enterprise doing business that requires legal capital, it must ensure that the owner's equity minus (-) legal capital is not less than the committed stake according to the financial statement that has been audited prior to the application submission;

(viii) If the founding member is an enterprise obtaining establishment and operation license in banking, securities, or insurance, it shall comply with regulations on capital contribution as per the law;

dd) In case of founding member being foreign organization:

(i) It is a foreign bank,

(ii) It has not committed serious violations against regulations and laws on banking of the host country in 5 consecutive years before the application submission until the issuance time.

(iii) It is not a founding shareholder, controlling owner, founding member, or strategic shareholder of another credit institution in Vietnam;

(iv) Its finance is sufficient to invest in the incorporation of the MFI and commit not to use trust fund, raising fund, or loans from other entities; commit to give financial aid to the MFI if it has fund or liquidity problems.

Section 2. APPLICATION AND PROCEDURES FOR LICENSING APPLICABLE TO MFIS BEING SINGLE-MEMBER LIMITED LIABILITY COMPANIES

Article 9. Application for licensing

1. An application for approval for principles:

a) An application form for licensing signed by the legal representative of controlling owner using the form of Appendix No. 01a issued herewith;

b) The draft charter of MFI;

c) The MFI incorporation project signed by preparatory board head which at least contains:

(i) The necessity of incorporation, objectives of MFI; possible impacts of MFI on the locality;

(ii) Name of MFI, expected area of operation, expected headquarters, charter capital, operation;

(iii) Products and services intended to provide for clients;

(iv) Organizational structure;

(v) The list of proposed personnel specifying professional qualifications and working experience satisfying requirements for every position below:

- Chairman, council's members; heads of committees of council of members;

- Head, members, full time members of control board;

- director general (director), deputy general directors (deputy directors), chief accountant and heads of affiliated entities in organizational structure;

(vi) Expected financial aid for information technology system and application of information technology;

(vii) Expected system of internal control and audit in accordance with the Law on credit institutions, at least containing rules of operation, drafts of internal regulations prescribed in Clause 2 Article 93 of the Law on credit institutions, drafts of regulations on organization and operation of council of members, control board, director general (director);

(viii) intended business plan in 3 beginning years, at least containing: Market analysis, business strategy and plan; expected financial statements of each year (balance sheet, income statements, cash flow statements, minimum capital adequacy ratios, performance indicators and notes of ability to perform financial indicators in each year);

d) Dossiers of proposed personnel to be elected or appointed to act as council's members, control board's members, director general (director) of MFI, including:

(i) Curriculum vitae using form of Appendix 02 issued herewith;

(ii) Police (clearance) certificate of proposed personnel, clarifying sufficient information about criminal records (including criminal convictions that have been or not been deleted) and prohibition from undertaking positions, incorporation and management of enterprise and cooperatives;

In case of proposed personnel not having Vietnamese nationality: Police (clearance) certificate or equivalent document (including criminal convictions that have been or not been deleted and prohibition from undertaking positions, incorporation and management of enterprises and cooperatives) issued by a competent authority of the country that the foreigner resided before coming to Vietnam. If the foreigner has resided in Vietnam for more than 6 months or more, the Police (clearance) certificate issued by the competent authority at the place where the foreigner resides.

The police (clearance) certificate or equivalent must be issued by the competent authority before the MFI submits the application for approval of candidate list for a maximum of 6 months;

(iii) A declaration of candidates' relevant persons using form 04 issued herewith;

(iv) Copies of ID cards or citizen identification cards or passports;

(v) Copies of professional diplomas and certificates;

(vi) Other documents proving the fulfillment of conditions and standards prescribed in Articles 20, 21, 22 of this Circular;

(vii) If the candidate to be elected or appointed as council's member, control board's member, director general (director) of MFI has no Vietnamese nationality, and a written commitment fulfilling conditions for residing and working at Vietnam;

dd) Incorporation license of controlling owner or equivalent;

e) Charter of controlling owner;

g) A commitment issued by controlling owner to contribute capital to the MFI on predetermined schedule, amount of stake and responsible for legitimacy of the contributed sources of funds;

h) A document issued by controlling owner in terms of establishment of preparatory board, election and appointment of preparatory board head, ratification of draft charter, MFI incorporation project, list of proposed administration and control positions.

2. Application for licensing:

a) Charter of the MFI ratified by the council of members;

b) Decision's controlling owner on appointment of Chairman of the council of members, council's members, control board's members, director general (director), deputy general director (deputy director), chief accountant;

c) A meeting minutes of control board in terms of election of control board head.

Article 10. Licensing procedures

1. The preparatory board send an application for approval for principles as prescribed in Clause 1 Article 9 of this Circular to the State Bank.

2. Within 10 days from the date on which the application is received, the State Bank sends a written acknowledgement of satisfactory application to the MFI; if the application is not satisfactory, the State Bank shall notify it of completion.

3. Within 5 working days from the date on which the acknowledgement of satisfactory application, the State Bank shall request for consultation of:

a) the People's Committee of province and central-affiliated city (hereinafter referred to as province) where the MFI's headquarter is expectedly situated in terms of incorporation of the MFI;

b) the People's Committee of province where the founding member has run microfinance program/project in terms of the performance of microfinance program/project for development of the province;

c) the State Bank branch of province in where the MFI's headquarter is expectedly situated in terms of the incorporation of the MFI, the list of proposed personnel to be elected or appointed as chairman and council's members, the head and members of the control board, the general director (director) of the MFI (where necessary);

d) the Ministry of Foreign Affairs and the Ministry of Public Security in terms of capital contribution to the incorporation of MFI of foreign banks.

4. Within 15 days after receiving the written request of the State Bank, relevant bodies shall give written opinions.

5. Within 80 days after receiving satisfactory application, the State Bank shall issue a written approval for principles of incorporation of the MFI and approval for the list of proposed personnel to be elected or appointed as the chairman and council's members, the head and members of the control board, the general director (director) of the MFI; if the application is rejected, the State Bank shall provide explanation in writing.

6. Within 60 days after receiving the written approval of the principle for the incorporation of the MFI, the preparatory board shall send an application for licensing according to the provisions of Clause 2 of Article 9 of this Circular to the State Bank. Upon expiry of the aforementioned time limit, if the State Bank has not received or has received an unsatisfactory application for licensing, the written approval for principles no longer remains valid.

Within 2 working days from the date of receipt of a satisfactory application of application for licensing, the State Bank shall certify in writing the receipt of the satisfactory application.

7. Within 30 days after receiving satisfactory application for licensing as prescribed in Clause 6 of this Article, the State Bank shall grant a license; if the application is rejected, the State Bank shall provide explanation in writing.

8. After being granted the license, the MFI shall follow the necessary procedures for the commencement of its operation under the provisions of Article 15 of this Circular.

Section 3. APPLICATION AND PROCEDURES FOR LICENSING APPLICABLE TO MFIS BEING MULTIPLE-MEMBER LIMITED LIABILITY COMPANIES

Article 11. Application for licensing

1. An application for approval for principles:

a) An application form for licensing, signed by founding member, using the form in Appendix 01a issued herewith;

b) Documents prescribed in Points b, c and d, Clause 1 Article 9 hereof;

c) the list of founding members shall be signed by the head of preparatory board, with details: full name (for founding members being individuals), name of MFI, amount of stakes (in Vietnamese dong, other assets and capital contribution percentage of each member), capital contribution plan (clearly stating capital contribution method and schedule);

d) The application of founding member being a body:

(i) corporation license or enterprise registration certificate or equivalent document;

(ii) A commitment of contributing members to contribute capital to the MFI on predetermined schedule, amount of stake and responsible for legitimacy of the contributed sources of funds;

(iii) Charter of the contributing members being bodies incorporating the MFI;

(iv) Written authorization of the representative of the capital contribution in the MFI in accordance with the law;

(v) A copy of the identity card or citizen identification card or passport of the lawful representative of the contributing organization of the MFI and the representative of the capital contribution of that MFI;

(vi) The audited financial statement of the year preceding the year of submission of the application for licensing and financial statement to the latest date (interim financial reporting or unaudited annual report) up to the time of submission of the application for licensing;

(vii) Report on operations in the last 2 consecutive years prior to the year of submission of the application for licensing of contributing members other than enterprises;

(viii) Documents proving that the body has participated in the management of the microfinance program/project and the effectiveness of the program/project;

(ix) In addition to the above documents, a body being foreign bank must provide additional documentation from the competent authority of the home country to provide information on the foreign bank as follows:

- Permitted lines of businesses in the home country at the time of submission of the application for licensing;

- The compliance with the law on banking activities in the 5 consecutive years preceding the year of submission of the application for licensing and prior to the submission of application for licensing;

dd) The application of founding member being individual:

(i) Curriculum vitae using form of Appendix 02 issued herewith;

(ii) Police (clearance) certificate, clarifying sufficient information about criminal records (including criminal convictions that have been or not been deleted) and prohibition from undertaking positions, incorporation and management of enterprises or cooperatives;

The police (clearance) certificate or equivalent must be issued by the competent authority before the MFI submits the application for approval of candidate list for a maximum of 6 months;

(iii) Copies of ID cards or citizen identification cards;

(iv) A commitment to contribute capital to the MFI on predetermined schedule, amount of stake and responsible for legitimacy of the contributed sources of funds;

e) A meeting minute of founding member meeting in terms of incorporation of preparatory board, election and appointment of preparatory board head, ratification of draft articles of incorporation, MFI incorporation project, list of proposed administration and control positions.

2. Application for licensing:

a) Charter of the MFI ratified by the council of members;

b) Meeting minutes of first contributing member meeting;

c) Meeting minutes of council of members in terms of ratification of election of chairman of the council of members; meeting minutes of the control board in terms of election of head of control board;

d) Decision of council of members in terms of appointment of director general (director), deputy general director (deputy director), chief accountant.

Article 12. Licensing procedures

1. The preparatory board send an application for approval for principles as prescribed in Clause 1 Article 11 of this Circular to the State Bank.

2. Within 10 days from the date on which the application is received as prescribed in Clause 1 of this Article, the State Bank sends a written acknowledgement of satisfactory application to the MFI; if the application is not satisfactory, the State Bank shall notify it of completion.

3. Within 5 working days from the date on which the acknowledgement of satisfactory application, the State Bank shall request for consultation of:

a) the People's Committee of province and central-affiliated city (hereinafter referred to as province) where the MFI's headquarters is expectedly situated in terms of incorporation of the MFI;

b) the People's Committee of province where the founding member has run microfinance program/project in terms of the performance of microfinance program/project for development of the province;

c) the State Bank branch of province in where the MFI's headquarter is expectedly situated in terms of the incorporation of the MFI, the list of proposed personnel to be elected or appointed as president and council's members, the head and members of the control board, the General director (director) of the MFI (where necessary);

d) the Ministry of Foreign Affairs and the Ministry of Public Security in terms of capital contribution to the incorporation of MFI of foreign banks.

4. Within 15 days after receiving the written request of the State Bank, relevant bodies shall give written opinions.

5. Within 80 days after receiving satisfactory application, the State Bank shall issue a written approval for principles of incorporation of the MFI and approval for the list of proposed personnel to be elected or appointed as the chairman and council's members, the head and members of the control board, the general director (director) of the MFI. If the application is rejected, the State Bank shall provide explanation in writing.

6. Within 60 days after receiving the written approval of the principle for the incorporation of the MFI, the preparatory board shall send an application for licensing according to the provisions of Clause 2 of Article 11 of this Circular to the State Bank. Upon expiry of the aforementioned time limit, if the State Bank has not received or has received an unsatisfactory application for licensing, the written approval for principles no longer remains valid.

Within 2 working days from the date of receipt of a satisfactory application of application for licensing, the State Bank shall certify in writing the receipt of the satisfactory application.

7. Within 30 days after receiving satisfactory application for licensing as prescribed in Clause 6 of this Article, the State Bank shall grant a license; if the application is rejected, the State Bank shall provide explanation in writing.

8. After being granted the license, the MFI shall follow the necessary procedures for the commencement of its operation under the provisions of Article 15 of this Circular.

Section 4. APPLICATIONS AND PROCEDURES FOR LICENSING IN TERMS OF TRANSFORMATION OF MICROFINANCE PROGRAMS/PROJECTS

Article 13. Application for licensing

1. An application for licensing, using the form in Appendix 01b issued herewith, signed by the lawful representative of political organization, socio-political organization, association, social fund and charity fund that run the microfinance program or project (in case of transformation of a microfinance program/project to an MFI which is a single-member limited liability company) or signed by contributing members (in case of transformation of a microfinance program/project to an MFI which is a multiple-member limited liability company), with the commitment of the new MFI to inherit all related rights and obligations of the transformed microfinance program/project.

2. Documents proving the capital transfer to the transformed entity.

3. Commitment of the lawful representative of the transformed entity on the capital amount of the microfinance program/project. Microfinance program/project must notify the State Bank of the changes that affect the value of such capital until the license is granted.
4. A commitment of contributing members to contribute capital to the MFI on predetermined schedule, amount of stake and responsible for legitimacy of the contributed sources of funds.
5. Intended business plan in 3 beginning years, at least containing: Market analysis, business strategy and plan; expected financial statements of each year (balance sheet, income statements, cash flow statements, minimum capital adequacy ratios, performance indicators and notes of ability to perform financial indicators in each year).
6. Documents evidencing the satisfaction of regulations on operation networks according to the regulations of the MFI if the microfinance program/project operates in at least 2 provinces.
7. Draft internal regulations prescribed in Clause 2 Article 93 of the Law on credit institutions, regulations on organization and operation of board of members, control board, general director (director) of MFI.
8. The list of proposed personnel specifying professional qualifications and working experience satisfying requirements for every position below:
 - a) Chairman, council's members; heads of committees of council of members;
 - b) Head, members, full time members of control board;
 - c) director general (director), deputy general directors (deputy directors), chief accountant and heads of affiliated entities in organizational structure.
9. Documents prescribed in Points b, c and d, Clause 1 Article 9 hereof.
10. If the microfinance project/project transform to an MFI is a single-member limited liability company, apart from documents prescribed in Clauses 1, 2, 3, 4, 5, 6, 7, 8, 9 of this Article, following documents are also required:
 - a) report of independent audit organization on assets, liabilities of microfinance project/project;
 - b) report on operation of the year preceding the year of submission of application for licensing of microfinance project/project, summarizing the organizational structure, financial situation and services currently provided to clients;
 - c) Documents prescribed in Points dd, e, g, h Clause 1 Article 9 hereof.
11. If the microfinance project/project transform to an MFI is a multiple-member limited liability company, apart from documents prescribed in Clauses 1, 2, 3, 4, 5, 6, 7, 8, 9 of this Article, the documents prescribed in Points c, d, dd Clause 1 Article 11 of this Circular are also required.

Article 14. Licensing procedures

1. A transformed entity submits an application for licensing as prescribed in Article 13 of this Circular to the State Bank.
2. Within 10 days from the date on which the application for licensing is received, the State Bank sends a written acknowledgement of satisfactory application to the transformed entity; if the application is not satisfactory, the State Bank shall notify it of completion.
3. Within 5 working days from the date on which the acknowledgement of satisfactory application, the State Bank shall request for consultation of:
 - a) the People's Committee of province where the transformed entity's headquarters is expectedly situated in terms of incorporation of the MFI;
 - b) the People's Committee of province where the transformed entity has run microfinance program/project in terms of the performance of microfinance program/project for development of the province;
 - c) the State Bank branch of province in where the transformed entity's headquarter is expectedly situated in terms of the incorporation of the MFI, the list of proposed personnel to be elected or appointed as president and council's members, the head and members of the control board, the General director (director) of the MFI (where necessary);
 - d) the State Bank branch of province where the microfinance program/project proposes to transform having affiliated entities which are operating in terms of satisfaction of regulations on operation networks;
 - dd) the Ministry of Foreign Affairs and the Ministry of Public Security in terms of capital contribution to the incorporation of MFI of foreign banks.
4. Within 15 days after receiving the written request of the State Bank, relevant bodies shall give written opinions.
5. Within 80 days after receiving a satisfactory application, the State Bank shall grant a license; approve the list of proposed personnel to be elected or appointed as council's member, member of the control board, general director (director); approve the network of activities (in case of meeting regulations on operation network of MFI); if the application is rejected, the State Bank shall provide explanation in writing.
6. After being granted the license, the MFI shall notify the creditors and depositors that make deposits in the microfinance program/project on the grant of the license; issue internal regulations as prescribed in Clause 2, Article 93 of the Law on Credit Institutions and the regulations on organization and operation of the council of members, the control board and the general director (director) of the MFI; elect and appoint the chairman and council's members, the head and members of the control board, the general director (director) according to the list of

proposed personnel approved by the State Bank and following necessary procedures for the commencement of operation in accordance with the provisions of Article 15 of this Circular.

Article 15. Commencement of operation

1. The MFI which is granted the license must apply for business registration as per the law.
2. The MFI must commence operation within 12 months from the date of issuance of the license. An MFI may only commence its operation from the date of its commencement (except for case where an MFI is granted a license on the basis of transformation of a microfinance program/project).

Upon expiry of 12 months from the date of issuance of the license, the MFI shall not commence its operation; the State Bank shall revoke the license.

3. The MFI which is granted license on the basis of transformation of microfinance program/project shall complete the notifications to creditors and depositors in microfinance program/project in terms of grant of license. The MFI shall then send a report on the completion of notification to the branch of State Bank in the province where the MFI is headquartered before the commencement of its operation.

4. Commencement of operation:

A licensed MFI may only commence its operation if it meets all the following conditions:

- a) Its charter has been issued and sent to the State Bank;
- b) It has obtained a business registration certificate;
- c) It has sufficient charter capital as prescribed in Clause 1 Article 7 of this Circular. The charter capital in Vietnamese dong must be fully deposited into the blocked account without interests at the operations center of the State Bank at least 30 days prior to the commencement of operation, minus the stake equal the real value of funds allocated under the microfinance program/project. The charter capital's account is unlocked when the MFI has commenced operation;
- d) Its headquarters fully meets the conditions for ensuring the property safety and compatibility with the operation requirements of the MFI;
- dd) It has an organizational structure, an executive apparatus, an internal audit, a risk management unit and an internal control system in accordance with the law on MFIs;
- e) Internal regulations prescribed in Clause 2 Article 93 of the Law on credit institutions, regulations on organization and operation of council of members, control board, general director (director) of MFI;
- g) It has disclosed information as prescribed in Article 25 of the Law on credit institutions.

5. The licensed MFI shall notify the branch of the State Bank of province where the MFI is headquartered of conditions for commencement of operation prescribed in Clause 4 of this Article at least 15 days prior the expected commencement date; the State Bank shall suspend the commencement of operation if the MFI has not satisfied all conditions prescribed in Clause 4 hereof.

Chapter III

ORGANIZATION, ADMINISTRATION AND CONTROL

Section 1. NAMES, CONTRIBUTING MEMBERS, ORGANIZATIONAL STRUCTURE

Article 16. Name and headquarters of MFI

1. The name of an MFI must be in line with the provisions of the Law on Enterprises and relevant provisions of law. The name of the MFI is set in accordance with the legal form; the corresponding type is as follows:

- a) Single-member limited liability MFI and its own name;
- b) Limited liability MFI and its own name.

2. The headquarters of the MFI must satisfy the regulations on the headquarters of the enterprise according to the provisions of the Enterprise Law and the following conditions:

- a) It is the working place of the council of members, the executive board, which is specified in the license and enterprise registration as per the law;
- b) It must be situated in the territory of Vietnam with a designated address including the building's name and number, alley, street or village, hamlet, commune, district-level town, suburban district, urban district, provincial city, province or central-affiliated city; telephone number, fax number and email address (if any);
- c) It fully meets the conditions for ensuring the property safety and compatibility with the operation requirements of the MFI.

Article 17. Contributing member

- 1. Contributing members of an MFI being multiple-member limited liability company includes domestic bodies, domestic bodies, and foreign banks.
- 2. Total number of contributing members may not exceed 5, in which at least one member is a political organization or socio-political organization.

Article 18. Organizational structure

1. The MFI has an organizational structure, an executive apparatus, an internal audit, a risk management unit and an internal control system in accordance with the Law on credit institutions and other provisions.

2. Organizational structure of the MFI includes council of members, control board, director general (director).

Article 19. Risk management committee and personnel committee

1. The council of members shall set up the risk management committee and the personnel committee and promulgate the regulations on organization and operation of these two committees. Within 10 days from the date of issuance, the MFI must send these internal regulations to Bank Supervision and Inspection Agency affiliated to the State Bank.

2. The organizational structure of the two committees shall be decided by the council of members, but each committee must have at least two members, the head is a council's member. A council's member can only be the head of a committee. The head and other members of the two committees shall be appointed or dismissed by the council of members in accordance with the charter of the MFI.

3. The regulation on organization and operation of the Committees shall at least contain:

a) Working regulations:

(i) number of members of the committee and responsibilities of each member;

(ii) periodic meetings of the committee;

(iii) the extraordinary meeting of the committee;

(iv) decision making by the committee;

b) Tasks and functions of committees:

(i) Regarding the risk management committee:

- Advising the council of members on the promulgation of procedures and policies under the jurisdiction of the committee relevant to risk management in operation of the MFI in accordance with the law and the charter of MFI;

- Analyzing and issuing warnings about the safety of the MFI against the risks and potential risks that may affect and the prevention of these risks in the short and long term;

- Reviewing and evaluating the appropriateness and effectiveness of current microfinance risk management processes and policies of the MFI to make recommendations and recommendations

to the council of members on the need of changing the current process, policy, and operational strategy;

(ii) Regarding the personnel committee:

- Advise the council of members on the size and structure of the council of members, the general director (director) in accordance with the scale of operation and the development strategy of the MFI;

- Advise the council of members on the handling of personnel matters related to the procedures for electing, appointing or dismissing the posts of council's members, members of the control board and general director (director) of the MFI in accordance with the law and the charter of the MFI;

- Study and advise the council of members on the promulgation of internal regulations of the MFI under the competence of the council of members on the salary, remuneration, bonus and regulations on recruitment, training and other treatment policies for operators, officers and employees of the MFI.

Section 2. QUALIFICATIONS OF MANAGERS, EXECUTIVES AND MEMBERS OF CONTROL BOARDS

Article 20. Qualifications of the chairman and council's members

1. A council's member of an MFI must have the following qualifications:

a) He/she is not an entity prescribed in Clause 1, Article 33 of the Law on Credit Institutions (amended);

b) He/she has worked in one of the field of economics, finance, accounting, auditing, banking, or law for at least 2 years and obtains at least a bachelor's degree;

c) He/she incurs no penalties for administrative violations against regulations on money and banking at the largest fines bracket in case of violations against regulations on licenses, administration, shares, stocks, capital contribution, share purchase, credit extending, corporate bond purchase, or prudential ratios as prescribed in laws on actions against administrative violations against regulations on money and banking within 24 consecutive months before the election.

2. The chairman of the council of members shall have all of qualifications below:

a) He/she fulfils conditions prescribed in Clause 1 of this Article;

b) He/she used to hold managerial or executive positions in a unit in one of the banking and financial fields under the charter or equivalent document of that unit or leader of at least the department or equivalent position as prescribed in regulatory agencies, business entities, political

organizations, socio-political organizations for at least 2 years, or having experience in managing and administering organizations in financial activities for at least 3 years.

Article 21. Qualifications of members of control boards

1. a) He/she is not an entity prescribed in Clause 1, Article 33 of the Law on Credit Institutions (amended).

2. He/she obtains at least a bachelor's degree in economics, finance, accounting, auditing, banking, business administration, or law and at least 01 year of working experience in relevant field or diploma of intermediate or higher degree in economics, finance, accounting, auditing, banking or law and at least 03 years of work experience in positions related to microfinance.

3. He/she incurs no penalties for administrative violations against regulations on money and banking at the largest fines bracket in case of violations against regulations on licenses, administration, shares, stocks, capital contribution, share purchase, credit extending, corporate bond purchase, or prudential ratios as prescribed in laws on actions against administrative violations against regulations on money and banking within 24 consecutive months before the election.

4. A member of the control board must reside in Vietnam during his/her term of office.

Article 22. Qualifications of director general (director)

A general director (director) of an MFI must have all of the following qualifications:

1. He/she is not an entity prescribed in Clause 1, Article 33 of the Law on Credit Institutions (amended).

2. He/she obtains a bachelor's degree in economics, finance, accounting, auditing, banking, business administration, or law.

3. He/she has at least 2 years' experience as executives of credit institutions or at least 2 years' experience as director general (director) of enterprise with owner's equity at least equal to legal capital of an MFI as per the law or at least 3 years' experience as managerial post in microfinance sector or at least 5 year's experience as employees in finance, banking, accounting, or auditing sector.

4. He/she incurs no penalties for administrative violations against regulations on money and banking at the largest fines bracket in case of violations against regulations on licenses, administration, shares, stocks, capital contribution, share purchase, credit extending, corporate bond purchase, or prudential ratios as prescribed in laws on actions against administrative violations against regulations on money and banking within 24 consecutive months before the appointment.

5. He/she resides in Vietnam during his/her term of office.

Article 23. Qualifications of deputy director general (deputy director), chief accountant, director of branch

1. The deputy general director (deputy director) is not an entity specified in Clause 1, Article 33 of the Law on Credit Institutions (amended); chief accountant and the director of branch is not an entity defined in Clause 2, Article 33 of the Law on Credit Institutions.
2. He/she obtains at least a bachelor's degree in economics, finance, accounting, auditing, banking, business administration, law or an area of specialization which he/she will undertake or at least a bachelor's degree in other area of specialization, and at least 2 years' experience in the banking, finance or other professional field that he/she is in charge.
3. He/she incurs no penalties for administrative violations against regulations on money and banking at the largest fines bracket in case of violations against regulations on licenses, administration, shares, stocks, capital contribution, share purchase, credit extending, corporate bond purchase, or prudential ratios as prescribed in laws on actions against administrative violations against regulations on money and banking within 24 consecutive months before the election.
4. He/she resides in Vietnam during his/her term of office.

Section 2. APPROVAL FOR LIST OF PROPOSED PERSONNEL OF MFIS

Article 24. Application for approval for list of proposed personnel of MFIs

1. An application for approval for approval for the list of proposed personnel submitted to the State Bank shall at least contain:
 - a) Reasons for the election or appointment of personnel;
 - b) A list of proposed personnel, clearly stating: full name, current positions (at MFI and/or other enterprises/bodies - if any) and positions to be elected or appointed at the MFI;
 - c) Structure of present council of members, the control board and expected ones after the election or appointment of the MFI (in case of proposal to approve the list of proposed personnel to hold positions of council's members, members of the control board), clearly stating the number of council's members; the number of members of the control board; the number of full-time members of the control board;
 - d) Commitment of personnel to elected or appointed to have qualifications as stipulated in the Law on Credit Institutions, the provisions of relevant laws and the provisions of the charter of the MFI.
2. The written approval for the proposed list of personnel of the MFI (in case of council's members, the control board, the term of office must be clearly stated), in particular:

a) In case of MFI being a single-member limited liability: a document of the lawful representative of the controlling owner;

b) In case of MFI being a multiple-member limited liability:

(i) Proposed appointment of council's members, members of the control board: a document of the legal representatives of the contributing members;

(ii) Proposed appointment of general director (director): a resolution of the council of members.

3. Curriculum vitae of proposed personnel using form of Appendix 02 issued herewith.

4. Police (clearance) certificates of personnel proposed for election or appointment:

a) Regarding personnel having Vietnamese nationality: Police (clearance) certificate of candidates, clarifying sufficient information about criminal records (including criminal convictions that have been or not been deleted) and prohibition from undertaking positions, incorporation and management of enterprises or cooperatives;

b) Regarding personnel not having Vietnamese nationality: Police (clearance) certificate or equivalent document (including criminal convictions that have been or not been deleted and prohibition from undertaking positions, incorporation and management of enterprises and cooperatives) issued by a competent authority of the country that the foreigner resided before coming to Vietnam. If the foreigner has resided in Vietnam for more than 6 months or more, the Police (clearance) certificate issued by the competent authority at the place where the foreigner resides.

The police (clearance) certificate or equivalent must be issued by the competent authority before the MFI submits the application for approval of candidate list for a maximum of 6 months.

5. A declaration of personnel's relevant persons using form 04 issued herewith.

6. Other documents evidencing the satisfaction of qualifications prescribed in Articles 20, 21 and 22 of this Circular, including one or certain of the following documents:

a) Diplomas and certificates evidencing the professional qualifications of personnel proposed for election or appointment; if diploma of a Vietnamese person issued by a foreign educational institution must be recognized by a competent Vietnamese body as per the law;

b) A competent agency's written authorization of representative for managing the state's capital holding at the MFI according to the provisions of law in cases where the personnel proposed for election or appointment are officials, public employees and managers of at least departments in enterprises with more than 50% of the charter capital of the State, or officers, non-commissioned officers, professional soldiers and national defense workers in the agencies and units of the People's Army of Vietnam; officers and non-commissioned officers in agencies and units of the Vietnam People's Police;

c) The business registration certificate and the financial statement already audited by an independent auditing firm where the employee intends to hold the post of general director (director) of the MFI (if the owner's equity level is at least equal to the legal capital of the MFI as per the law).

Article 25. Procedures for approval for list of proposed personnel of MFIs

1. At least 30 days before the expected date of appointment of council's members, members of the control board, the general director (director), the MFI shall send 1 set of application as provided for in Article 24 of this Circular to Bank Supervision and Inspection Agency affiliated to the State Bank for approval of the list of proposed personnel.
2. Within 20 days after the receipt of sufficient application from the MFI, the State Bank shall approve in writing the list of proposed personnel of MFI. If the application is rejected, the State Bank shall provide explanation in writing.
3. The MFI must notify the State Bank of the list of personnel to be elected and appointed as council's members, members of the control board and the general director (director) within 10 working days from the date of election or appointment.

Article 26. Validity period of written approval for proposed personnel

Document of the Governor of the State Bank approving the list of proposed personnel of the MFI takes effect within 06 months from the signing date. Upon the expiry of above period, if the MFI has not completed the election or appointment of personnel, the written approval for list of proposed personnel issued the State Bank shall no longer be valid.

Chapter IV

CHARTER CAPITAL, PROPORTION OF CAPITAL HOLDING AND ASSIGNMENT OF CAPITAL HOLDING, REPURCHASE OF CAPITAL HOLDING

Article 27. Charter capital

1. The charter capital of an MFI is the capital already allocated by the owner or capital contributed by the contributing members and recorded in the charter.
2. The change of charter capital shall comply with the regulations of the State Bank on the changes which must be approved by the State Bank.
3. Owners and contributing members must not use trust funds, mobilized capital or loans in any form to contribute capital to the MFI and must undertake to take responsibility for their legitimacy of sources of capital.

Article 28. Forms of charter capital contribution

1. The charter capital of an MFI shall be contributed in cash in Vietnamese dong in case of capital holding of the contributing members, the value of the allocated capital or the allocated capital of the transformed financial program/project as prescribed in Clause 2 of this Article.

2. The value of the allocated capital of a transformed microfinance program/project is the difference between the assets and liabilities of the microfinance program/project on the independent audit report within 6 months prior to the time of submission of the application for licensing and the competent authority or organization holding the allocated capital shall deliver the document to the organization political organizations, socio-political organizations and non-governmental organizations to contribute capital to the establishment of MFIs.

Article 29. Proportion of capital holding

1. The proportion of capital holding of all contributing members being political organizations and socio-political organizations must be at least 25% of the charter capital of the MFI.

2. The proportion of capital holding of domestic contributing members other than political organizations or socio-political organizations may not exceed the shareholding of political organizations or socio-political organizations.

3. The proportion of capital holding of foreign contributing members may not exceed the shareholding of political organizations or socio-political organizations.

4. The proportion of capital holding of a contributing member being an individual shall not exceed 5% of the charter capital of the MFI.

5. The proportion of capital holding of a contributing member and affiliated persons shall not exceed 50% of the charter capital of the MFI.

Article 30. Repurchase of capital holding of MFI

1. Requests for repurchase of capital holding of contributing members, conditions for payment and handling of capital holding shall comply with the provisions on repurchase of capital holding of the Enterprise Law.

2. Qualifications of an MFI to re-purchase a capital holding of a member include:

a) Continuously making profits in the 05 consecutive years preceding the year of request for repurchase of capital holding and having not incurred cumulative losses;

b) Fully complying with the provisions on risk management and set aside adequate contingencies according to the provisions at the time of requesting the State Bank to approve the repurchase of capital holding;

c) Incurring no penalties for administrative violations against the monetary and banking activities in the 5 consecutive years preceding the year of request for the repurchase of capital holding and at the time of requesting the State Bank to approve the repurchase of capital holding;

d) After paying the entire capital holding repurchased, the MFI shall still ensure the payment of all debts and other financial obligations, ensuring adequacy ratios in banking activities, the actual value of the charter capital is not lower than the legal capital.

Article 31. Assignment of capital holding

1. The assignment of capital holding must comply with the provisions of Article 29 of this Circular, the Enterprise Law and relevant provisions of law.

2. Within 5 years from the date of issuance of the license, the founding members may only assign the capital holding to other founding members provided that the proportion of shareholding remains legal prescribed in Article 29 of this Circular.

3. In case of an MFI being a multiple-member limited liability company, the contributing members may assign their partly or wholly capital holding to other contributing members or other individuals. The assignment of the capital holding of members must ensure that:

a) the legal form of business entity of the MFI will not change;

b) Prioritizing the assignment of capital holding to the remaining members in proportion to their stakes with the same conditions;

c) The assignment of capital holding to other organizations and individuals shall be effected only when the remaining contributing members fail to buy or buy all the stakes within 30 (thirty) days from the date of offering and are actually executed currently under more favorable conditions than the conditions for assignment to the remaining contributing members in the MFI;

d) Other organizations and individuals receiving the assignment of capital holding by members must satisfy the conditions specified in Clause 2, Article 8 of this Circular.

4. The assignment of capital holding must be approved in writing by the State Bank before implementation. The application and procedures for approval of the assignment of capital holding shall comply with the regulations of the State Bank.

Chapter V

OPERATION OF MFIS

Article 32. Operation

1. The MFI may conduct operation inscribed in the license granted by the State Bank.

2. The MFI may carry out the following fund raising activities:

a) Receiving deposits in Vietnamese dong in the following forms:

(i) compulsory savings;

(ii) voluntary savings;

b) Borrowing capital from credit institutions, financial institutions and other domestic and foreign individuals and organizations as per the law.

3. An MFI may only provide loans in Vietnamese dong to microfinance clients and other clients to earn income and improve living conditions. Loans granted by an MFI can be secured by compulsory savings, guaranteed by the group of depositors and borrowing customers in accordance with regulations of the MFI.

4. The MFI must maintain the ratio of outstanding loans to microfinance clients in the total outstanding loans at least 90%.

5. The total outstanding loans of an MFI for a microfinance client must not exceed 50 million dong.

Total outstanding loans of an MFI to another client must not exceed 100 million dong.

6. The MFI may open a deposit account at the State Bank or commercial banks. The MFI is not allowed to open payment accounts for clients.

7. The MFI may also conduct business activities below:

a) Trust service, accepting entrusted loans;

b) Providing financial consultancy services related to the microfinance sector;

c) Providing services of collection, payment and transfer of fund to microfinance clients;

d) Acting as an insurance agent.

Article 33. Operation duration

1. The operation duration of the MFI stated in the license shall not exceed 50 years.

2. The MFI shall change its operating duration in accordance with regulations of the State Bank.

Article 34. Area of operation

1. The operation area of the MFI is defined in the license.

2. The conversion of the operation network of an MFI which is granted a license on the basis of the transformation of a microfinance program/project shall comply with the regulations of the State Bank on operation network of MFIs.

3. The MFI shall expand its operation network outside the province where it is headquartered in accordance with the State Bank's regulations on the operation network of MFIs.

Article 35. Classification of debts, setting aside and use of reserves for dealing with risks in lending activities of MFIs

The MFI shall classify debts, set aside and use of reserves for dealing with risks in lending activities under the State Bank's guidance on classification of debts, setting aside and use of reserves to deal with risks in lending activities of small-sized financial institutions stipulated in Circular No. 15/2010/TT-NHNN dated 16/6/2010 until the State Bank issues guidance on debt classification, setting aside and use of reserves to deal with risks in lending activities of MFIs.

Chapter VI

RESPONSIBILITIES OF BODIES

Article 36. Bank Supervision and Inspection Agency

1. Acting as central role in evaluating applications of licensing; submitting to the Governor for consideration and decision on the grant of a license, approving the list of personnel proposed to be elected and appointed as chairman and other council's members, the head and other members of the control board, general director (director) of the MFI, approving the transformation of the affiliates of the microfinance program/project.

2. Inspecting, supervising and taking actions against violations committed by MFIs in the provinces where the Banking Inspection and Supervision Department is located in the implementation of the regulations of this Circular and other relevant provisions of law.

3. Taking charge and cooperating with departments affiliated to the State Bank in requesting the Governor of State Bank to considering matters related to the incorporation organization and operation of the MFIs.

4. Resolving difficulties in the course of implementation of this Circular.

Article 37. Branches of the State Bank

1. Inspecting, supervising and taking actions against violations committed by MFIs in the provinces where the Banking Inspection and Supervision Department is not located in the implementation of the regulations of this Circular and other relevant provisions of law.

2. Offer opinions to Bank Supervision and Inspection Agency affiliated to the State Bank as prescribed in this Circular.

3. Inspect, direct and supervise MFIs and ensure the fulfillment of conditions prescribed by law and the State Bank before commencing operation and reporting the Banking Inspection and Supervision Agency affiliated to the State Bank on the conditions and situation of the MFI's commencement of operation.

4. Direct, guide, supervise and inspect MFIs operating in provinces in the implementation of the provisions of this Circular.

Chapter VII

IMPLEMENTATION

Article 38. Transitional regulations

1. In case of MFIs which have been incorporated and operating under licenses granted by the State Bank before the effective date of this Circular but fail to meet the provisions on qualifications of founding members in Clause 2 Article 8 of this Circular, they may continue to operate and shall not have to adjust the composition of founding members.

2. Within 180 days from the effective date of this Circular, an MFI incorporated and operating under the license issued by the State Bank prior to the effective date of this Circular shall complete of the establishment of the risk management committee and the personnel committee in accordance with Article 19 of this Circular.

3. For loan contracts signed before the effective date of this Circular and in accordance with the provisions of law at the time of signing, the MFI and its clients shall continue to execute the signed contract until the end of the term of the lending contract or make appropriate amendments in accordance with the provisions of this Circular.

Article 39. Entry in force

1. This Circular comes into force as of April 15, 2018.

2. From the effective date of this Circular, the provisions on the licensing, organization and operation in Circular No. 02/2008/TT-NHNN dated 2 April 2008 of the Governor of the State Bank of Vietnam on guidelines for the Government's Decree No. 28/2005/ND-CP of March 9, 2005 on the organization and operation of small-sized financial institutions in Vietnam and the Government's Decree No. 165/2007/ND-CP dated November 15, 2007 of the Government on guidelines for the Decree No. 28/2005/ND-CP dated March 9, 2005 by the Government on the organization and operation of the small-sized financial institutions in Vietnam cease to be effective.

Article 40. Implementation

The chief officers, the Chief Banking Inspector-Supervisor, heads of affiliates of the State bank, directors of the State Bank of branches, chairmen of the council of members, director general (director) of MFIs shall implement this Circular./.

**PP. GOVERNOR
DEPUTY GOVERNOR**

Nguyen Dong Tien

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