



NEW AMENDMENTS IN CIRCULAR 19/2024/TT-NHNN ABOUT REGULATIONS ON CONDITIONS FOR FOREIGN LOANS

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INTRODUCTION

Recently, the State Bank of Vietnam (SBV) has issued Circular No. 19/2024/TT-NHNN (“**Circular 19**”) effective from July 1, 2024, to amend and supplement certain regulations in Circular No. 08/2023/TT-NHNN (“**Circular 08**”) regarding conditions for foreign loans without government guarantees. According to this, the significant changes include the SBV (i) recognizing foreign loans arising from letters of credit, (ii) adding conditions related to foreign loans for the payment of deferred import contracts, and (iii) clarifying on loan purposes and limits.

Key Takeaways from Circular 19:

1. **Recognition of Foreign Loans from Letters of Credit:** SBV now recognizes foreign loans from letters of credit, facilitating transactions and validating this form of credit-granting as a cross-border service.
2. **Conditions for Deferred Import Payment Loans:** SBV also adds conditions for foreign loans used for deferred import contracts, ensuring consistent application across SBVs and excluding these loans from foreign loan limits.
3. **Clarification on Loan Purposes and Limits:** Due to the supplementation of Foreign Loans from Letters of Credit mentioned above, Circular 19 clarifies the purposes of foreign loans, adding a new purpose for payment to beneficiaries in the issuance of deferred payment letters of credit.

MAIN AMENDMENTS

Recognizing foreign loans arising from letters of credit¹

According to the WTO commitments, Vietnam does not commit to financial and banking services (including letters of credit issuance) in the form of cross-border service provision.² Except for guarantees and loans, which are two credit-granting activities indirectly recognized through SBV documents, the legal framework for credit-granting activities by foreign banks has previously been unclear. Prior to Circular 19, in transactions involving debt arising from letters of credit, parties typically needed to sign a loan agreement to legitimize the loan that the issuing bank paid to the beneficiary under the signed letter of credit. Recognizing foreign loans arising from letters of credit provided a basis for the Vietnamese borrowers to transfer this amount abroad. Therefore, the supplementation by the SBV aligns with practical needs, facilitates transactions for the involved parties, and indirectly acknowledges this form of credit-granting under the form of the cross-border service provision.

In addition, the recognition of such loans also leads to adjustments which will be discussed below.

Adding conditions related to foreign loans for the payment of import contracts of goods³

This type of loan has been recognized since 1999 and has undergone several amendments and adjustments by the SBV. However, this addition to

Circular 19 is one of the most significant adjustments due to the following reasons:

- It unifies the understanding of the foreign loan limits for borrowers, such as manufacturers, who utilize deferred payment import contracts.⁴ According to Circular 19, outstanding medium and long-term foreign loans arising from this form **will not** be included in the foreign loan limits. This ensures consistent application across local SBVs when handling similar cases.
- The added condition of the imported goods must be used for the purpose of the implementation of the investment project, the business plan or other projects of the borrowers.⁵ This regulation is more stringent as SBVs can now assess the “relevance” of imported goods to the borrower's investment project.

Furthermore, the borrower can exclude medium and long-term foreign loan balances arising from deferred payment import contracts when calculating the foreign loan limit.

Clarifying (i) the purpose of foreign loans, and (ii) the limit on short-term foreign loans for borrowers who are credit institutions or branches of foreign banks⁶

As mentioned earlier, the recognition of foreign loans arising from letters of credit also leads to adjustments regarding the purpose of foreign loan agreements. In particular, Circular 19 supplements a new purpose - payment to the beneficiary in the issuance of deferred payment letters of credit with immediate or pre-maturity payment terms and other

business activities related to letters of credit. In this case, the borrower may not need to prove the purpose of the foreign loan in the registration/change registration dossier submitted to the SBV.⁷

SBV also extends the prudential ratio for borrowers who are credit institutions or branches of foreign banks. This is because Circular 19 clarifies that the limit on short-term foreign loans (e.g. 30% for commercial banks) will not apply in the case of foreign loans arising from the issuance of letters of credit-by-credit institutions or branches of foreign banks.⁸

CONCLUSION

Overall, the adjustments in Circular 19 revolve around the addition of loans arising from letters of credit. The amendments and supplements to Circular 08 are necessary, especially given the Government's schedule to open up the market and the increasing competition in the international trade market. These changes address practical issues, facilitate the flow of international capital, and are particularly important in the context of the current global recession.

¹ Circular 19, Article 1.1.

² Vietnam's WTO Commitments (on Services), Mode of delivery (1) Cross-border service, Section B, Part 7.

³ Circular 19, Article 1.2.

⁴ Circular 19, Article 1.2.

⁵ Circular 19, Article 1.2.

⁶ Circular 19, Article 1.5.

⁷ Circular 19, Article 1.4.

⁸ Circular 19, Article 1.6.



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