

LAW ON CREDIT INSTITUTIONS 2024: KEY CHANGES

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The new Law on Credit Institutions No. 32/2024/QH15 (“**Law on Credit Institutions 2024**”) was officially ratified by the National Assembly of Vietnam on January 18, 2024. It will come into effect on July 1, 2024, with the exceptions taking effect from January 1, 2025. The Law on Credit Institutions 2024 aims to enhance the safety of the credit institution system by implementing more robust regulations for risk prevention, including stringent control measures for the management and staff of credit institutions.

1. Scope of Related Persons

In addition to the people's credit fund, which has a more limited scope including the related persons of the customers compared to other types of credit institutions, the proposed expansion of its scope can be viewed as a measure to strengthen management¹. This is because the identities of related persons will have implications for various aspects such as ownership ratio of share, credit limits, approval of transactions involving related parties, disclosure obligations, and information publicization. By setting out a broader scope of related persons including subsidiaries of subsidiaries of banking organizations; grandparents, great-grandparents, grandchildren, great-grandchildren, aunts, uncles, cousins, nephews, nieces, and vice versa, the Law on Credit Institutions 2024 ensures the safety in the operations of banking organizations and the transparency in the ownership of shares by shareholders and related persons.

2. Restriction on Banking and Insurance Upselling

The Law on Credit Institutions 2024 introduces strict amendments that prohibit banking organizations, foreign bank branches, managers, executives, and employees of credit institutions and foreign bank branches from engaging in the sale of non-mandatory insurance products with banking products and services². This aims to enhance the management and prevention of violations by banking staff, such as

¹ Article 4.24 (h) of the Law on Credit Institutions 2024

² Article 15.5 of the Law on Credit Institutions 2024

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providing inadequate advice that may confuse customers regarding insurance and banking products or forcing customers to purchase insurance products in conjunction with loans in need.

If credit institutions wish to engage in securities or insurance business, they must establish separate subsidiaries or create new links or joint ventures that are independent of their commercial banking operations following a license issued by the Governor of the State Bank. This creates a certain barrier for credit institutions and increases the responsibility of State Bank of Vietnam in evaluating which credit institutions are eligible to establish bank holdings, engage in multi-industry business, and make investments.

3. Restriction on Cross-ownership

The issue of cross-ownership, domination and manipulation of credit institutions by certain shareholders and large shareholder groups has become a prominent concern recently, especially upon the occurrence of SCB and Van Thinh Phat Scandal. To address this issue, the Law on Credit Institutions 2024 has introduced new regulations on reducing ownership ratio and enhancing the provision and public disclosure of information.

Specifically, individual shareholders are now restricted from owning more than 5% of a credit institution's charter capital, including indirect ownership. Organizations are prohibited from owning more than 10% of a credit institution's charter capital, including indirect ownership³.

Shareholders and related parties are limited to owning a maximum of 15% (previously 20%) of a credit institution's charter capital. Major shareholders and related parties of one credit institution are also prohibited from owning more than 5% of the charter capital of another credit institution⁴.

³ Article 49 of the Law on Credit Institutions 2024

⁴ Article 63 of the Law on Credit Institutions 2024

Additionally, shareholders holding 1% or more of a credit institution's charter capital are required to disclose information about themselves, their ownership ratios, as well as information about related parties and their ownership ratios⁵.

However, the Law on Credit Institutions 2024 includes a transitional provision that allows shareholders and related parties who exceed the share ownership limits to maintain their current holdings but prohibits them from increasing their ownership until they comply with the regulations. There are also exceptions for state ownership in equitized credit institutions and ownership by foreign investors⁶.

These regulations help increase information transparency and public supervision, at the same time, separate management activities from operating activities, satisfy the principles of transparent governance in business organizations recommended by international standard.

4. Supplementary Guidelines for Small Value Loan Approvals

Under the Law on Credit Institutions 2010, there were no specific regulations concerning small value loans. However, the Law on Credit Institutions 2024 now explicitly states that credit institutions must gather information on the legal purpose of capital utilization and the financial capacity of customers before making decisions to extend the credit to customers. This requirement applies to various types of small value loans, including:

- a. Loans intended for daily needs and loans granted through commercial banks and foreign bank branches using cards;
- b. Financial leases, consumer loans, and credit provided through cards by non-bank credit institutions;
- c. Loans designed to meet the daily needs of people's credit funds;

⁵ Article 49 of the Law on Credit Institutions 2024

⁶ Article 63 of the Law on Credit Institutions 2024

- d. Loans obtained from microfinance institutions⁷.

These provisions ensure that credit institutions have sufficient information about borrowers and their financial capabilities before extending credit for small value loans.

5. Prompt Intervention for Troubled Credit Institutions

Drawing on international insights and the current state of credit institutions in Vietnam, the Law on Credit Institutions 2024 has introduced a chapter consisting of six articles (from Article 156 to Article 161) that govern early intervention measures for vulnerable credit institutions. Accordingly, the Law on Credit Institutions 2024 stipulates that the State Bank of Vietnam shall consider and decide to implement early intervention when credit institutions and foreign bank branches fall into some of the following cases⁸:

- a. The accumulated loss of a credit institution or foreign bank branch is greater than 15% of the value of charter capital, allocated capital and reserve fund recorded in the most recent audited financial statements or according to inspection and audit conclusions of competent state agencies and in breach of the minimum capital adequacy ratio specified under the Law on Credit Institutions 2024⁹;
- b. Ranked below average according to regulations of the Governor of the State Bank of Vietnam;
- c. Violation of the solvency ratio specified in the Law on Credit Institutions 2024 for a period of 30 consecutive days¹⁰;

⁷ Article 102 of the Law on Credit Institutions 2024

⁸ Article 156.1(b) of the Law on Credit Institutions 2024

⁹ Article 138.1(b) of the Law on Credit Institutions 2024

¹⁰ Article 138.1(a) of the Law on Credit Institutions 2024

- d. Violation of the minimum capital adequacy ratio specified in the Law on Credit Institutions 2024 for 6 consecutive months¹¹;
- e. Mass withdrawal of money and having reported to the State Bank of Vietnam.

The purpose of this regulation is to establish a legal mechanism for early response to significant risks or indications of banking management and operational violations within credit institutions. It is positioned to address instances where these institutions breach adequacy ratio and other ratios stipulated by the State Bank of Vietnam's regulations over a defined period, ensure that such breaches do not persist for an extended duration. For instance, when a credit institution faces a sequence of withdrawals or disruptions in payment activities, and the assurance of minimum capital reserves is compromised, there exists a risk that could impact and jeopardize the overall safety of the banking system. This regulation not only enables credit institutions subjected to early intervention to avert more severe risks but also aids in mitigating the risk's proliferation to the entire system and economy, preventing the substantial costs in terms of resources and time required for remediation.

When credit institutions are in the early intervention circumstances, the Law on Credit Institutions 2024 clearly stipulates requirements and restrictive measures for credit institutions and foreign bank branches as well as the responsibility of developing, updating and approving the contingency plan of that credit institution or foreign bank branch¹². More specifically, this law lays down measures to support credit institutions and empower them to create a handling mechanism for the State Bank of Vietnam in case of necessity to promptly handle the matter and limit risks affecting the entire banking system and the stability of the economy¹³. After the remedial plan has been approved, credit institutions and foreign bank branches are responsible for complying with the obligations when implementing the plan

¹¹ Article 138.1(b) of the Law on Credit Institutions 2024

¹² Article 157, Article 158 of the Law on Credit Institutions 2024

¹³ Article 159.2(d) of the Law on Credit Institutions 2024

specified in and the Law on Credit Institutions 2024 also clearly stipulates situations that arise on a case-by-case basis¹⁴.

In summary, the Law on Credit Institutions 2024 is designed to mobilize resources to support credit institutions, thereby enhancing their responsibility for the overall safety of the system. Simultaneously, it aims to reduce financial costs for regulatory authorities in addressing operational issues encountered by credit institutions.

6. Staged Reduction of Credit Extension Limits

Compared to the regulations on credit extension limits specified in the Law on Credit Institutions 2010, the Law on Credit Institutions 2024 on credit extension limits has some notable changes as follows¹⁵:

Firstly, the new law reduces the outstanding credit balance for a customer and related person. Specifically, the maximum credit/equity ratio for a customer at the bank will gradually decrease from 15% to 10%. The maximum credit/equity ratio for a customer and related persons will gradually decrease from 25% to 15%. This adjustment is intended to mitigate the risk associated with large credit exposures to a limited number of customers and to curtail practices such as lending to closely affiliated businesses or acquiring bonds from related corporations. Moreover, this reduction signifies a tightening of credit approval policies, wherein credit institutions prioritize practical and viable capital needs along with robust collateral as their primary criteria.

Secondly, the reduction of the credit extension limit for a customer and related individuals, implemented over a 5-year roadmap, is assessed to aid the bank in minimizing the risk of abrupt disruptions in capital flows for major enterprises. Specifically, of the Law on Credit Institutions 2024 stipulates as follows¹⁶:

¹⁴ Article 160 of the Law on Credit Institutions 2024

¹⁵ Article 128 of the Law on Credit Institutions 2024

¹⁶ Article 136.1 of the Law on Credit Institutions 2024

- a. From January 1, 2025 to before January 1, 2026: 14% of equity capital for one customer; 23% of equity capital for a customer and related persons of that customer;
- b. From January 1, 2026 to before January 1, 2027: 13% of equity capital for one customer; 21% of equity capital for a customer and related persons of that customer;
- c. From January 1, 2027 to before January 1, 2028: 12% of equity capital for one customer; 19% of equity capital for a customer and related persons of that customer;
- d. From January 1, 2028 to before January 1, 2029: 11% of equity capital for one customer; 17% of equity capital for a customer and related persons of that customer;
- e. From January 1, 2029: 10% equity capital for one customer; 15% of equity capital for a customer and related persons of that customer”.

7. Transfer of Real Estate Project as Collateral for Debt Collection

Regarding the handling of non-performing loans and collateral assets (in Chapter XII of the Law on Credit Institutions 2024), a noteworthy point is that the Law on Credit Institutions 2024 helps fill a legal gap and deal with the expiration of Resolution No. 42/2017/QH14 on non-performing loans collection effective from December 31, 2023, which significantly impacted the handling of non-performing loans by commercial banks.

The provision on the transfer of the entire or a part of real estate projects as collateral assets for debt collection is outlined in Article 200.3. Additionally, the transfer of the entire or a part of real estate projects received as collateral assets prior to the effective date of this law for debt collection is detailed in Article 210.15.

As such, credit institutions, foreign bank branches, debt management companies of credit institutions, and asset management companies of Vietnamese credit institutions have the authority to transfer the entire or a part of real estate projects as

collateral for debt collection. Moreover, the conditions on the transferor as stipulated in the Real Estate Business Law do not apply under this law.

If the transfer is completed before the effective date of this law for debt collection, the real estate business entity conditions under the Real Estate Business Law are not applicable to the transferor, but certain conditions must still be met:

- a. The transferred real estate project must meet the conditions specified under points a, d, đ, g, and h of Article 40.1 of the Real Estate Business Law and must have a decision on land allocation or lease by the competent state authority;
- b. The transferee must meet the conditions specified under Article 40.2, Article 40.4, and Article 40.5 of the Real Estate Business Law.

The Law on Credit Institutions 2024 supplements provisions regarding the transfer of collateral under Article 200, effective from January 1, 2025. This amendment aims to enhance the responsibility of banks in financing real estate development projects while imposing more stringent conditions for real estate project loans. Concurrently, this regulation provides additional mechanisms for banks to unburden large projects that serve as collateral and are entangled in legal issues, thereby facilitating the cash flow of real estate businesses and reducing non-performing loans for banks, especially listed banks with a high real estate lending ratio¹⁷.

The new regulation reflects an adjustment in capital flow to stabilize the real estate market early, promote its recovery, and minimize risks for banks involved in capital infusion into real estate projects. Simultaneously, it introduces a mechanism to facilitate the handling of secured assets associated with non-performing loans, an aspect absent in the previous legal framework.

8. Amendments of the Foundations for Policy Banks and Non-bank Credit Institutions

¹⁷ Article 200 of the Law on Credit Institutions 2024

The Law on Credit Institutions 2024 introduces a distinct chapter dedicated to Policy Banks, a substantial expansion compared to the current law, which addresses this matter in only one article. This new chapter presents detailed regulations regarding the operational and managerial aspects of policy banks¹⁸. It encompasses provisions outlining their status, organizational structure, Board of Directors, Supervisory Board, General Director, and mechanisms for addressing non-performing loans.

The Law on Credit Institutions 2024 enhances the regulatory framework for credit institutions functioning as cooperatives¹⁹. It elaborates on key aspects such as the functions and responsibilities of the General Meeting of Members, Board of Directors, Supervisory Board, and the roles of their respective members.

The Law on Credit Institutions 2024 also refines regulations governing financial companies by categorizing them into two distinct models: General finance companies and specialized finance companies. These provisions set out guidelines for the operation of both models in detail such as loan acquisition, money deposition, securities trading, company accounts opening, capital contribution, and the acquisition of company shares²⁰.

These amendments are anticipated to facilitate a conducive environment for the operations of policy banks and non-bank credit institutions. This, in turn, is expected to stimulate the holistic development of the financial market and reduce reliance on commercial banks, thereby fostering a more sustainable evolution of the financial landscape.

9. Licensing Simplification

Pursuant to the Law Credit Institutions 2010, in order for credit institutions, foreign banks' branches, or representative offices of foreign credit institutions to operate lawfully in Vietnam, they are required to undergo the licensing process at the Department of Planning and Investment to obtain enterprise registration

¹⁸ Chapter II of the Law on Credit Institutions 2024

¹⁹ Section 6, Chapter IV of the Law on Credit Institutions 2024

²⁰ Article 115 and Article 120 of the Law on Credit Institutions 2024

certificates, subsequent to obtaining establishment and operation licenses issued by the State Bank of Vietnam²¹.

However, in accordance with the Law on Credit Institutions 2024, the establishment and operation license will now serve as the simultaneous enterprise registration certificate. Consequently, credit institutions, foreign banks' branches, and representative offices of foreign credit institutions will no longer be obligated to register with the Department of Planning and Investment. This change alleviates the administrative burden on credit institutions.

Regarding the amendment of the legal representative of a credit institution, the credit institution shall only be required to provide notification to the State Bank of Vietnam within a period of 10 days from the date of the election and appointment of the new legal representative. Subsequently, the State Bank will notify the credit institution's new legal representative to the business registration agency for the purpose of updating the national information system on business registration²². As for other amendments to the establishment and operation license, the Governor of the State Bank of Vietnam will issue separate guiding regulations on the notification processes²³.

10. Regulatory Sandbox in the Banking Industry

The Law on Credit Institutions 2024 additionally stipulates that the Government will establish a regulatory sandbox for the implementation of technology and the introduction of new products, services, or business models within the banking sector.

This regulatory sandbox, as defined in the Law on Credit Institutions 2024, will be a restricted and monitored setting, with limitations on business scope, location, and duration. Participation in the sandbox will be contingent upon meeting specific conditions and criteria, and oversight will be provided by the competent authority.

²¹ Article 24 of the Law on Credit Institutions 2010

²² Article 11.3 of the Law on Credit Institutions 2024

²³ Article 27.4 of the Law on Credit Institutions 2024

Further information on this regulatory sandbox will be provided by the Government²⁴.

11. Other Amendments

- The Law on Credit Institutions 2024 has eliminated the provision that prohibits credit institutions and foreign banks' branches from suspending their transactions for more than one (1) business day²⁵.
- In the event of debt settlement, the duration for which credit institutions are permitted to hold real estate is extended from three (3) years to five (5) years²⁶. The extension of this timeframe is anticipated to facilitate credit institutions in enhancing the efficacy of their real estate collateral management and resolution processes.
- Enhanced clarity in regulations pertaining to financial, accounting, and reporting matters applicable to credit institutions and foreign bank branches. This includes regulations concerning the financial regime²⁷, revenue recognition principles²⁸, expense recognition principles²⁹, risk provisions³⁰, as well as profit and fund distribution³¹.

²⁴ Article 106 of the Law on Credit Institutions 2024

²⁵ Article 10 of the Law on Credit Institutions 2010 and Article 10 of the Law on Credit Institutions 2024

²⁶ Article 139 of the Law on Credit Institutions 2024

²⁷ Article 151 of the Law on Credit Institutions 2024

²⁸ Article 145 of the Law on Credit Institutions 2024

²⁹ Article 146 of the Law on Credit Institutions 2024

³⁰ Article 147 of the Law on Credit Institutions 2024

³¹ Article 148 of the Law on Credit Institutions 2024