



<https://profit.pakistantoday.com.pk/2023/07/21/pakistan-receives-10-8bn-foreign-loans-in-fy23/>

## New Circular Guiding Conditions of Borrowing Non-Governmental Guaranteed Offshore Loan

The State Bank of Vietnam has, in the recent years, adopted new guidance replacing old circulars which were issued back in 2014. Following Circular No. 12/2022/TT-NHNN dated 30 September 2022 in relation to foreign exchange administration, the State Bank of Vietnam continues to issue Circular No. 08/2023/TT-NHNN guiding conditions of borrowing non-governmental guaranteed offshore loans, taking effect on 15 August 2023 (“**New Circular**”).

The New Circular, in addition to re-emphasizing certain key conditions such as use of loan agreements, currency, loan purpose, security transactions, etc. clarifies certain notable points.

### Types of foreign loans and respective loan use purposes

The New Circular continues to classify foreign borrowings into two types: short-term foreign borrowings (with loan term of up to one year) and medium- to long-term foreign borrowings (with loan term of more than 1 year). Concurrently the New Circular also elaborates loan purposes specifically applicable to each type of foreign loans which a borrower not being a non-financial institution shall comply.

In particular, short-term loan may only be used for refinancing of foreign debts and payment of short-

term payables in cash (excluding principals of domestic loans). Medium- to long-term loan may only be used for restructuring of foreign debts, financing of investment projects and financing of production plans, business plans or other projects.

Any use of loan proceeds shall conform to the legal business lines of a non-financial-institution borrower.

The loan use purpose shall be evidenced by relevant approval in relation to investment projects, plan on use of loan proceeds, and/or plan on refinancing of foreign debts, which shall be submitted to the State Bank of Vietnam for review.

A foreign loan, which was disbursed but has not been used, may be deposited at banks in Vietnam with maximum deposit term of 01 month.

### Limit on foreign loans

A borrower not being a non-financial institution is required to comply with limits on foreign loans in the case of financing of investment projects, financing of production plans or restructuring of foreign debts. In general, such limits will be calculated relying on the limits on loan as recorded in the investment (registration) certificates, the approved plans on using loan proceed or the amounts of outstanding foreign loans as the case

## Legal Updates

may be. However, short-term foreign loan may not comply with such limits.

### Effectiveness of foreign loan agreement signed before the effective date of the New Circular

Any foreign loan agreement, which was signed before the effective date of the New Circular and has complied with the prevailing laws and regulations at the relevant time, may continue to be implemented until termination. Any amendment therefore shall however comply with the New Circular.

### About the Authors



#### Benjamin Yap (Mr.)

Senior Partner  
Ho Chi Minh City Office  
Tel. (+84) 28 3820 6448

[benjamin.yap@rhtlaw.com.vn](mailto:benjamin.yap@rhtlaw.com.vn)



#### Dang Thi Tuong Vi (Ms.)

Partner  
Ho Chi Minh City Office  
Tel. (+84) 28 3820 6448

[vi.dang@rhtlaw.com.vn](mailto:vi.dang@rhtlaw.com.vn)

### About RHTLaw Vietnam

>

#### RHTLaw Vietnam

Suite 1101, 11th Floor, Sofitel Central Plaza 17 Le Duan Boulevard, District 1, Ho Chi Minh City, Vietnam  
Tel: +84 28 38206 448

>

#### RHTLaw Vietnam – Hanoi Branch

Unit 1501B, 15th Floor, Charmvit Tower 117 Tran Duy Hung Street, Cau Giay District, Hanoi, Vietnam  
Tel: + 84 24 3974 8881

RHTLaw Vietnam is a Vietnam law practice registered as a limited liability company in Vietnam (the "LLC"). It works in collaboration with the Singapore law practice RHTLaw Asia LLP. The LLC is a distinct legal entity in Vietnam.

Our model is driven by the focus on helping clients succeed, which translates to clear and precise solutions with high-level legal and commercial insights. We proactively grow our practice in tandem with regional and international fast-growing industries and areas like Banking & Finance, Capital Market, M&As, Inward & Outward Investment, Intellectual Property, Trading & Commerce, Real Estate & Construction, Telecommunications, Employment and Litigation.

Find out more about us at [www.rhtlaw.com.vn](http://www.rhtlaw.com.vn)