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| **THE STATE BANK OF VIETNAM-------** | **SOCIALIST** **REPUBLIC OF VIET NAMIndependence - Freedom – Happiness---------** |
| No. 16/2010/TT-NHNN | *Hanoi, June 25, 2010* |

**CIRCULAR**

GUIDING THE IMPLEMENTATION OF THE GOVERNMENT'S DECREE NO. 10/2010/ ND-CP OF FEBRUARY 12, 2010, ON CREDIT INFORMATION-RELATED ACTIVITIES

*Pursuant to the 1997 Law on the State Bank of Vietnam; the 2003 Law Amending and Supplementing a Number of Articles of the Law on the State Bank of Vietnam;
Pursuant to the 1997 Law on Credit Institutions; the 2004 Law Amending and Supplementing a Number of Articles of the Law on Credit Institutions;
Pursuant to the 2005 Law on Enterprises;
Pursuant to the Government's Decree No. 96/ 2008/ND-CP of August 26, 2008. defining the functions, tasks, powers and organizational structure of the State Bank of Vietnam;
Pursuant to the Government's Decree No. 10/ 2010/ND-CP of February 12, 2010. on credit information-related activities;
The State Bank of Vietnam guides the implementation of a number of articles of Decree No. 10/2010/ND-CP of February 12, 2010, on credit information-related activities (below referred to as Decree No. 10) as follows:*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

1. Conditions on credit information companies and procedures for them to apply for a certificate of eligibility for credit information-related activities (below referred to as certificate);

2. Professional operations of credit information companies;

3. State management of credit information-related activities.

**Article 2. Subjects of application**

1. Credit information companies;

2. Credit providers;

3. Borrowers;

4. Involved organizations and individuals.

**Article 3. Interpretation of terms**

In this Circular, the terms below are construed as follows:

1. Information technology infrastructure means a system of hardware equipment, software, database and network for the creation, transmission, collection, processing, storage and exchange of digital information.

2. Managerial staff of a credit information company means persons holding the post of member of the Board of Directors (of the Members' Council). Director General (Director) or Deputy Director General (Deputy Director), partnership member or member of the Control Board of a credit information company.

**Chapter II**

**CONDITIONS AND PROCEDURES FOR GRANT OF CERTIFICATES**

**Article 4. Conditions for grant of a certificate**

1. Having an information technology infrastructure

A credit information company shall set up and maintain an information technology infrastructure system which meets the following minimum requirements;

a/ Having at least 2 leased lines to maintain continuous transmission of digital information;

b/ Being furnished with advanced information technology equipment compatible with the existing technological level of the system of credit providers; and being capable of integrating and connecting with credit providers;

c/ Having an adequate server system, computer software system and technical solutions to update, process and store credit information and provide credit information services for at least 5 million borrowers;

d/ Having a plan on information confidentiality and safety;

e/ Having a plan on response to disastrous circumstances, assuring that in such a circumstance main professional operations are not interrupted for over 4 working hours.

2. Having a charter capital of at least VND 30 billion

a/ For companies established on April 15, 2010 (the effective date of Decree No. 10), or afterward, the charter capital must be paid up upon their establishment, specifically:

(i) In case the charter capital is contributed in Vietnam dong, gold or a freely convertible foreign currency, the company shall deposit all these assets into an account opened a commercial bank operating in Vietnam. Such an account must not be used until a certificate is granted or a written notice of refusal to grant a certificate is issued by the State Bank;

(ii) In case the charter capital is contributed in other assets, there must be a document on the value of these assets assessed by a professional valuation organization operating in Vietnam.

b/ For companies established before April 15, 2010. there must be a certification of their actual charter capital issued by an audit agency operating in Vietnam.

3. Having managerial staff including persons with professional qualifications in finance banking or information technology, specifically:

a/ For members of the Board of Directors or the Members\* Council or partnership members:

(i) They must possess a university or postgraduate degree, with at least a half of total members possessing a degree in finance, banking or information technology;

(ii) They have worked for at least 3 years in finance, banking or information technology.

b/ For Director General (Director)

Possessing a university or postgraduate degree in finance, banking or information technology and having worked for at least 3 years as a manager or executive officer of a finance, banking or information technology company.

c/ For Deputy Directors General {Deputy Directors) Possessing a university or postgraduate degree in finance, banking or information technology and having worked for at least 2 years as a manager or executive officer of a finance, banking or information technology company.

d/ For members of the Control Board Possessing a university or postgraduate degree in finance or banking and having worked for at least 2 years in finance or banking.

e/ In addition to the criteria and conditions specified at Points a. b, c and d, Clause 3 of this Article, managerial post holders must satisfy other criteria and conditions under current law.

4. Having feasible business plans and refraining from conducting business lines other than credit information-related activities specified in Decree No. 10.

5. Obtaining commitments from at least 20 commercial banks to provide credit information and not to provide credit information to other credit information companies operating under Decree No. 10. except for their responsibility to provide compulsory credit information to the Credit Information Center of the State Bank (below referred to as the Credit Information Center).

6. Entering into written agreement on the process of collection, processing, storage and provision of credit information between the credit information company and credit providers that have made commitments, containing the following minimum details:

a/ Contents and scope of credit information to be provided;

b/ Time, place and method of provision or transmission of information, data or credit information products;

c/ Principles, scope and purposes of use of credit information products;

d/ The obligation to notify borrowers of the use of their credit information;

e/ The responsibility of involved parties to adjust or correct errors in the process of updating, transmitting, processing, storing or using information;

f/ The responsibility of involved parties to verify, compare and inspect quality of and store credit information;

g/ The responsibility of and coordination between involved parties in settling complaints of borrowers;

h/ Handling of violations and settlement of disputes;

i/ Effect of the written agreement and unilateral termination of performance of the agreement;

j/ Other rights and obligations of involved parties in collecting, processing, storing and providing credit information.

**Article 5. Dossiers of application for certificates**

1. A dossier of application for a certificate comprises:

a/ An application for a certificate, made according to a set form (not printed herein);

b/ Business registration certificate;

c/ Documents evidencing satisfaction of the conditions specified in Article 7 of Decree No. 10 and Article 4 of this Circular, including:

i) The company charter;

ii) The contract with a network service provider;

iii) A list of and written explanations about information technology equipment and computer software for the collection, processing, storage and provision of credit information products;

iv) A commercial bank's certification of the balance of the deposit account in Vietnam dong, gold or a foreign currency; a professional valuation organization's certification of other assets contributed as capital; or an audit agency's certification of the charter capital of at least VND 30 billion as stipulated in Clause 2, Article 4 of this Circular;

v) A list of managerial posts of the company;

vi) Resumes of managerial staff members, made according to a set form (not printed herein), enclosed with their diplomas, certificates and relevant organizations' certification of their working periods in specialized fields as stipulated in Clause 3, Article 4 of this Circular;

vii) A business plan, made according to a set form (not printed herein):

viii) Commercial banks' written commitments to provide credit information to the company made according to a set form (not printed herein);

ix) A written agreement on the process of collection, processing, storage and provision of credit information between the company and credit providers that have made commitments under Clause 6, Article 4 of this Circular.

2. A dossier of application for a certificate shall be made in 5 (five) sets and submitted directly to the State Bank (through the Credit Information Center), of which:

a/ At least 2 (two) sets containing original papers or copies of original papers issued by competent agencies or organizations or copies certified by competent agencies under law;

b/ Remaining sets containing copies of the papers specified at Point a. Clause 2 of this Article made by the credit information company with a seal appended on every two adjoining pages.

**Article 6. Time limit for grant of certificates**

Within 30 working days after receiving a complete and valid dossier of a company, the State Bank shall grant a certificate to the company. In case of refusal, the State Bank shall issue a written reply clearly stating the reason to the applicant.

**Article 7. Order of appraising dossiers of application for certificates**

1. The Credit Information Center shall act as the focal point and coordinate with the Banking Inspection and Supervision Agency, the Information Technology Department and the Legal Department in receiving and processing dossiers of application for certificates.

2. Appraisal order:

a/ The Credit Information Center shall receive and check the completeness and validity of papers and documents in dossiers of application for certificates. Within 10 working days after receiving a dossier, it shall:

i) Request in writing the applicant to add certain papers or documents in case the dossier is incomplete or invalid;

ii) Request in writing concerned units to coordinate with it in appraising the dossier and notify the applicant of the dossier acceptance in case the dossier is complete and invalid.

b/ Within 10 working days after receiving a written request of the Credit Information Center the units appraising the dossier shall give their written appraisal:

i) The Banking Inspection and Supervision Agency shall appraise conditions on charter capital, managerial staff and risk management capability of the applicant;

ii) The Information Technology Department shall appraise the applicant's conditions on information technology infrastructure; and technological process and computer software for processing and storing information and providing service products to meet requirements of information confidentiality and safety;

iii) The Legal Department shall appraise the legality of dossiers and procedures; and handle legal matters arising in the appraisal of the applicant's dossier.

c/ Within 10 working days after receiving all written appraisal of the units, the Credit Information Center shall summarize them and prepare a report on dossier appraisal to the State Bank Governor (the Governor) for:

i) Signing a decision to grant a certificate if the credit information company satisfies all the conditions specified in Decree No. 10 and this Circular; or

ii) Issuing a document on refusal to grant a certificate if the company fails to satisfy the conditions specified in Decree No. 10 and this Circular.

**Article 8. Competence to grant or re-grant certificates**

1. Certificates granted by the Governor shall be made according to a set form (not printed herein).

2. Credit information companies shall preserve their certificates in good conditions through their operations. In case its certificate is lost, burnt, torn or otherwise damaged, a credit information company shall make a dossier to request the State Bank (through the Credit Information Center) to consider and re-grant the certificate, specifically as follows:

a/ In case the certificate is lost or burnt, a dossier comprises:

i) An application for re-grant of the certificate, clearly stating the cause of loss or burning;

ii) A written certification by a competent police office that the credit information company has declared the loss or burning of the certificate.

b/ In case the certificate is torn or otherwise damaged, a dossier comprises:

i) An application for re-grant of the certificate, clearly stating the cause of tearing or damage;

ii) The torn or damaged certificate.

c/ Within 15 working days after receiving a complete dossier of a credit information company, the Credit Information Center shall submit the dossier to the Government for consideration and re-grant of the certificate.

**Article 9. Changes in contents of certificates**

1. Any change in contents of a certificate must be approved in writing by the Governor.

2. A decision modifying or supplementing contents of a certificate constitutes an integral part of the certificate.

**Article 10. Dossiers of request for changes in contents of certificates**

1. A dossier of request for a change in contents of a certificate comprises:

a/ A report of the representative at law of the credit information company to the State Bank (through the Credit Information Center), clearly stating the reason for and necessity of the change in contents of the certificate;

b/ A resolution of the Shareholders' General Meeting or the Members' Council on the change in contents of the certificate.

2. The original papers specified in Clause 1 of this Article.

3. Within 10 working days after receiving a complete and valid dossier, the Credit Information Center shall submit the change in contents of the certificate to the Governor for consideration and decision. In case the request for a change in contents of a certificate is incompliant with Decree No. 10 or this Circular, the State Bank shall request in writing the credit information company to reconsider its request for change.

**Article 11. Contents of transformation of companies which provide, in addition to other business lines, credit information services, and were operating before the effective date of Decree No. 10**

1. Companies which provide, in addition to other business lines, credit information services and were operating before April 15. 2010. shall satisfy all the operating conditions specified in Article 7 of Decree No. 10 and Article 4 of this Circular, and make dossiers of application for certificates to be granted by the State Bank under Article 8 of Decree No. 10 and Article 5 of this Circular.

2. From April 15, 2011, companies which fail to satisfy the said operating conditions and are not granted certificates by the State Bank shall terminate their credit information-related activities and carry out procedures for removing the business line of credit information service provision from their business registration certificates under law.

**Chapter HI**

**PROFESSIONAL OPERATIONS OF CREDIT INFORMATION COMPANIES**

**Article 12. Information sources**

1. Credit information companies may acquire information from the following sources:

a/ Credit providers;

b/ Borrowers of credit providers that have committed to supply information;

c/ Other credit information companies;

d/ The Credit Information Center;

e/ Other state agencies;

f/ Public information sources from press agencies;

g/ Other lawful information sources.

2. Credit information companies shall take measures to verify the reliability and truthfulness of credit information collected from the sources specified in Clause 1 of this Article before using it.

**Article 13. Scope of information collection**

1. Credit information companies may only collect credit information and related information as specified in Clause 1, Article 11 of Decree No. 10 on borrowers defined in Clause 2, Article 3 of Decree No. 10.

At present, the provisions of Article 3 of the Government's Decree No. 56/2009/ND-CP of June 30, 2009, on supports for development of small- and medium-sized enterprises, are applicable to those defined in Clause 2, Article 3 of Decree No. 10.

2. Credit providers may supply information specified in Clause I, Article 11 of Decree No. 10 to credit information companies only after reaching agreement with borrowers.

**Article 14. Creation of credit information products**

Except for identification information, credit information companies may use information on credit relation histories of borrowers in the last 5 years to create credit information products.

For example: If the date of provision of a product of credit information on borrower A is March 20. 2010, a credit information company may use information on the credit relation history of borrower A in the period from March 20, 2005, to March 20. 2010.

**Article 15. Principles and scope of use of credit information products**

1. A credit information product may be used as a reference document for provision of additional information to product users. Users are responsible for their decisions upon using credit information products. Credit information companies shall give warnings about the principles and scope of use of credit information products to users.

2. Organizations and individuals may not modify or copy credit information products for providing them to a third party, except the cases specified in Clauses 2, 3 and 4, Article 14 of Decree No. 10.

3. The copying, exploitation and use of credit information products within organizations of users must comply with contracts signed with credit information companies.

**Chapter IV**

**STATE MANAGEMENT OF CREDIT INFORMATION-RELATED ACTIVITIES**

**Article 16. Inspection of credit information-related activities**

1. The Banking Inspection and Supervision Agency shall act as the focal point in inspecting operations of credit information companies once a year. When necessary, the Banking Inspection and Supervision Agency shall conduct extraordinary inspections of operations of credit information companies under law.

2. During inspection of operations of a credit information company, the Banking Inspection and Supervision Agency may request the Information Technology Department, the Credit Information Center and the Legal Department to appoint their officers to join the inspection team.

**Article 17. Reports on credit information-related activities**

1. A credit information company shall send to the State Bank the following reports and statements:

a/ Quarterly and annual financial statements made under law;

b/ Operation report, covering: list and structure of products; a detailed list of information sources; a list of credit providers committing to provide information; number of borrowers by group (small- and medium-sized enterprises, households and individuals); number of products provided to each group of users;

c/ Operation of technological equipment, assurance of data and information safety and remedy of incidents.

d/ Report on any change in the charter capital managerial staff, the agreement on the process of collection, processing, storage and provision of credit information between the credit information company and credit providers having committed to provide information; or information technology infrastructure;

e/ Report on occurrence of any major information technology-related problem;

f/ Other reports as requested by the State Bank.

2. The reports specified at Points b and c. Clause I of this Article shall be sent quarterly or annually. A quarterly report shall be sent to the State Bank before the 20lh day of the month following the reporting quarter. An annual report shall be sent to the State Bank before February 15th of the year following the reporting year.

3. Credit information companies shall send periodical and extraordinary electronic reports to the State Bank. When necessary, credit information companies shall send paper reports at the request of the State Bank.

4. The Credit Information Center shall assume the prime responsibility for receiving periodical and extraordinary reports on operations of credit information companies and forward them to concerned units of the State Bank for the state management of credit information-related activities.

**Chapter V**

**IMPLEMENTATION PROVISIONS**

**Article 18. Effect**

This Circular takes effect 45 days from the date of its signing.

**Article 19. Organization of implementation**

The Chief of the Office, the director of Credit Information Center, the heads of the units under the State Bank of Vietnam and the directors of the State Bank's branches in provinces and centrally run cities, chairmen of Boards of Directors and directors general of credit institutions and credit information companies, and concerned organizations and individuals shall implement this Circular.

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