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| **THE GOVERNMENT-------** | **SOCIALIST REPUBLIC OF VIET NAMIndependence - Freedom - Happiness----------** |
| No. 10/2010/ND-CP | *Hanoi, February 12, 2010* |

**DECREE**

ON CREDIT INFORMATION-RELATED ACTIVITIES

**THE GOVERNMENT**

*Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the December 12, 1997 Law on the State Bank of Vietnam, and the June 17, 2003 Law Amending and Supplementing a Number of Articles of the Law on the State Bank of Vietnam;
Pursuant to the November 29, 2005 Enterprise Law;
At the proposal of the Governor of the State Bank of Vietnam,*

**DECREES:**

**Chapter I**

**GENERAL PROVISIONS**

**Article 1.** Scope of regulation

1. This Decree provides credit information-related activities; and rights and obligations of involved organizations and individuals.

2. Credit information-related activities of the State Bank of Vietnam are not regulated by this Decree.

**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 Decree, the terms below are construed as follows:

1. Credit information means data, statistics, facts and news concerning borrowers of credit providers.

2. Borrower means a small- or medium-sized enterprise under law, or an individual or a household borrowing loans or having demands for loans, term discount of valuable papers, financial leasing and other forms of credit provision at credit institutions or having relations with other organizations in transactions on asset lease, purchase on installment or deferred payment, and other conditional transactions on interest rates, terms, rents and repayment assurance measures.

3. Credit provider means a credit institution operating under the Law on Credit Institutions; or an organization providing services on asset lease and purchase on installment and deferred payment and other services with conditions on interest rates, terms, rents and repayment assurance measures.

4. Credit information-related activities means the collection, processing and storage of credit information and provision of credit information products by credit information companies.

5. Credit information products means information reports and publications made by credit information companies on the basis of their collected credit information for provision to credit providers, other organizations and individuals.

6. Credit information company means an enterprise established under the Enterprise Law and operating in compliance with this Decree. The name of a credit information company must contain the phrase "credit information."

**Article 4.** Purposes of credit information-related activities

1. To share information among credit providers in order to prevent and mitigate credit risks, contributing to ensure banking operation safety.

2. To support credit providers in expanding and developing credit activities.

3. To support borrowers in accessing loans of credit providers, contributing to promoting socio-economic development.

**Article 5.** Principles on credit information-related activities

1. To strictly observe law.

2. To guarantee honesty and objectivity.

3. To guarantee rights and interests of organizations and individuals in the provision of credit information and exploitation of credit information products.

**Article 6.** Prohibited acts in credit information-related activities

1. Illegally collecting, providing and using information within the scope and list of state secrets.

Intentionally falsifying credit information, harming lawful rights and interests of involved organizations and individuals.

Exchanging credit information with other irrelevant organizations or individuals, or with improper recipients, or illegally.

Making use of credit information-related activities for self-seeking purposes, harming state interests and lawful rights and interests of organizations and individuals.

Obstructing organizations and individuals in lawfully collecting and exploiting credit information.

Providing credit information products for those not specified in Article 14 of this Decree.

**Chapter II**

**CREDIT INFORMATION COMPANIES**

**Article 7.** Conditions for a credit information company to obtain a certificate of eligibility for credit information-related activities

Having sufficient information technology infrastructure to meet operation requirements.

Having charter capital of at least VND 30 billion.

Having managers with qualifications in finance, banking and information technology.

Having feasible business plans and carrying out only credit information-related activities provided in this Decree.

Having at least 20 commercial banks which commit to provide credit information and make no similar commitment with other credit information companies.

6. Reaching written agreement with committing credit providers on the process to collect, process, store and provide credit information.

**Article 8.** Procedures to grant certificates of eligibility for credit information-related activities

1. A dossier of application for a certificate of eligibility for credit information-related activities to be submitted to the State Bank of Vietnam comprises:

a/ An application for such certificate:

b/ A copy of the business registration certificate;

c/ Papers evidencing the satisfaction of the conditions specified in Article 7 of this Decree.

2. Time limit for granting certificates of eligibility for credit information-related activities

Within 30 working days after receiving a complete and valid dossier, the State Bank of Vietnam shall grant a certificate of eligibility for credit information-related activities to the credit information company. In case of refusal, it shall reply the credit information company in writing, clearly stating the reason.

**Article 9.** Revocation of certificates of eligibility for credit information-related activities

1. A credit information company is subject to revocation of its certificate of eligibility for credit information-related activities when:

a/ It fails to meet the conditions specified in Article 7 of this Decree:

b/ It commits any of prohibited acts specified in Article 6 of this Decree;

c/ It fails to carry out credit information-related activities 24 months after it obtains a certificate.

2. A credit information company is subject to temporary revocation of its certificate of eligibility for credit information-related activities for 6 months if it violates Clause 1 of this Article for the first time. Subject to such revocation, the credit information company shall immediately stop credit information-related activities and remedy its violations.

The State Bank of Vietnam may not extend the time of revocation of a certificate of eligibility for credit information-related activities. During the temporary revocation, if the credit information company can remedy its violations, the State Bank of Vietnam shall consider and re-grant the certificate to the credit information company.

3. Past the time of temporary revocation, a credit information company which fails to completely remedy its violations under Point a, Clause 1, Article 9 of this Decree is subject to permanent revocation of its certificate of eligibility for credit information-related activities.

When the State Bank of Vietnam permanently revokes a certificate of eligibility for credit information-related activities, the credit information company shall immediately terminate credit information-related activities and carry out dissolution procedures within 6 months after the State Bank of Vietnam issues the revocation decision.

4. When a credit information company is dissolved, credit information currently stored at the company is considered as asset and shall be:

a/ Transferred to another credit information company at the approval of credit providers having provided credit information; or,

b/ Transferred to the State Bank of Vietnam or destroyed by the credit information company under the supervision of the State Bank of Vietnam.

**Article 10.** Rights and obligations of a credit information company

1. Rights

a/ To sign contracts on credit information collection and provision with organizations and individuals under law;

b/ To exchange credit information with other credit information companies;

c/ To charge on services to provide credit information products;

d/ To have other rights under law.

2. Obligations

a/ To ensure purposes, principles and contents of credit information-related activities;

b/ To meet the conditions specified in Article 7 of this Decree throughout its operation;

c/ To report on credit information-related activities as requested by the State Bank of Vietnam;

d/ To properly and fully perform signed contracts to provide credit information services;

e/ To guarantee lawful rights and interests of organizations and individuals in accessing credit information;

f/ Not to commit prohibited acts specified in Article 6 of this Decree;

g/ To perform other obligations under law.

**Chapter III**

**CREDIT INFORMATION-RELATED ACTIVITIES**

**Article 11.** Credit information collection

1. Credit information to be collected includes:

a/ Identified information on borrowers and their relatives (if any), including natural parents, spouse and children;

b/ Information on the history of credit provision, asset lease, purchase on installment or deferred payment and other transactions with conditions on interest rates, repayment deadline and rents;

c/ Information on the history of debt repayment, amount of undue and due debts, repayment deadline and credit limits of borrowers;

d/ Information on guarantee of borrowers' repayment obligations;

e/ Other related information which must not infringe upon borrowers' rights, excluding information on deposit accounts and information within the scope and list of state secrets.

2. From the effective date of this Decree, credit providers may provide the information specified in Clause 1 of this Article for credit information companies only when so consented by borrowers. Credit information arising before the effective date of this Decree without agreement with borrowers is not bound by this provision.

**Article 12.** Credit information processing

1. The process to check, classify and update credit information must not misrepresent the nature and contents of collected credit information.

2. On the basis of collected and stored credit information, credit information companies shall analyze, evaluate and summarize such information to create credit information products.

3. Credit information companies may use only credit information on borrowers within the latest 5 years to create credit information products.

**Article 13.** Credit information storage

1. Credit information shall be stored safely and confidentially to prevent possible incidents or catastrophes and illegal intrusion and access from outside.

2. Credit information on borrowers shall be stored for at least 5 years after a credit information company receives such information.

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

A credit information company may provide credit information products for the following entities:

1. Credit providers having provided information for the credit information company, for consideration of credit provision for borrowers, control of credit amounts and debt recovery and for other lawful purposes.

2. Borrowers, for check of personal information in the database of the credit information company or as supplementary documents for credit application.

3. Other credit information companies, for provision of services to organizations and individuals under law.

4. Competent state agencies under law.

**Chapter IV**

**RIGHTS AND OBLIGATIONS OF ORGANIZATIONS AND INDIVIDUALS INVOLVED IN THE OPERATION OF CREDIT INFORMATION COMPANIES**

**Article 15.** Rights and obligations of a credit provider

1. To fully, accurately and promptly provide credit information for a credit information company under the contract signed between the two parties.

2. To notify borrowers of its conclusion of a contract on information provision with a credit information company.

3. To use credit information products of a credit information company under Article 14 of this Decree.

4. To coordinate with a credit information company in detecting and correcting errors of collected, stored and provided credit information: to settle borrowers' complaints about credit information.

5. To exercise other rights and perform other obligations under law.

**Article 16.** Rights and obligations of a borrower

1. To receive his/her/its own credit information free at least once a year from a credit information company upon request.

2. To request a credit information company to consider and correct his/her/its own credit information when detecting errors.

3. To lodge complaints when detecting errors in his/her/its own credit information under Article 19 of this Decree, but not to lodge untruthful complaints causing damage to a credit provider and credit information company.

4. In the course of complaint settlement, to fully and honestly provide credit information for a credit provider or credit information company.

**Chapter V**

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

**Article 17.** Competence to perform state management of credit information-related activities

The State Bank of Vietnam shall assist the Government in performing the unified state management of credit information-related activities nationwide.

**Article 18.** State management of credit information-related activities

1. To draft and submit to competent authorities for promulgation or promulgate according to competence legal documents on credit information-related activities.

2. To grant to and revoke from credit information companies certificates of eligibility for credit information-related activities.

3. To inspect operations of credit information companies.

4. To orientate credit information companies in adopting strategies to develop uniform and modem credit information systems.

**Chapter VI**

**SETTLEMENT OF COMPLAINTS. HANDLING OF VIOLATIONS**

**Article 19.** Procedures for borrowers to lodge complaints

When detecting errors in credit information, a borrower shall lodge a written complaint enclosed with relevant documents with a credit information company, requesting correction of errors. When a credit provider has decided to provide or not provide credit on the basis of wrong credit information unfavorable for the borrower, the borrower may request the credit information company to notify the credit information recipient of such errors. After receiving the credit information company's notice of errors, the credit provider shall re­consider its initial decision and notify its new decision to the borrower.

2. When receiving a borrower's complaint under Clause 1 of this Article, the credit information company shall check the information in its system and issue a written reply within 5 working days after receiving such complaint. If the errors are caused by the credit information company's information processing, the company shall promptly correct errors as requested by the borrower. The credit information company's written reply may be sent by post or electronically.

3. If the credit information company determines that the errors arise from the information collected by the credit provider, the credit information company shall issue a written reply, clearly stating the source of errors within the time limit set in Clause 2 of this Article and proactively coordinate with the credit provider in correcting the errors within 10 working days.

4. Within 15 working days after receiving the credit information company's reply, the borrower, if unsatisfactory with such reply, may request the credit information company to hold a conciliation.

Within 20 working days after receiving the borrower's conciliation request, the credit information company shall hold a conciliation for the borrower's complaints, which is attended by the credit information company, borrower and involved credit provider.

5. If unsatisfactory with conciliation results or receiving no reply 20 working days after the time limit set in Clause 2 or 3 of this Article, the borrower may initiate a lawsuit at an arbitration or court under law.

**Article 20.** Handling of violations in credit information-related activities

1. Violators of the law on credit information shall, depending on the nature and se\erity of their violations, be disciplined, adminisiratively sanctioned or examined for penal liability, and pay compensation under law if causing damage.

2. Agencies or organizations violating the law on credit information shall, depending on the nature and severity of their violations, be administratively sanctioned or subject to operation termination and pay compensation under law and this Decree, if causing damage.

**Chapter VII**

**IMPLEMENTATION PROVISIONS**

**Article 21.** Effect

This Decree takes effect on April 15, 2010,

**Article 22.** Implementation responsibilities

1. The Governor of the State Bank of Vietnam shall guide the implementation of this Decree.

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees shall implement this Decree.

3. Within 12 months after the effective date of this Decree, operating credit information service providers shall meet operation conditions under Article 7 of this Decree. Past this time limit, enterprises which fail to meet the operation conditions and have not obtained a certificate of eligibility for credit information-related activities from the .State Bank of Vietnam shall terminate credit information-related activities and shift to appropriate business lines.-

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|   | **ON BEHALF OF THE GOVERNMENT PRIME MINISTER** **Nguyen Tan Dung** |