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REGISTRATION OF FOREIGN LOANS IN VIETNAM



## Registration of Foreign Loans in Vietnam

In the context of economic development, the ever-increasing growth of enterprises has and continues to demand capital to serve their business. However, domestic capital does not meet the requirements of enterprises, therefore, foreign capital is extremely necessary.

Encouragement for enterprises to develop their businesses required the Vietnamese Government to expand the regulations on foreign loan registration to create effective capital mobilization channels to support enterprises. However, knowing how to register foreign loans in Vietnam is an issue presenting challenges for enterprises. CNC appreciates this problem and has prepared this detailed, step-by-step guide to equip enterprise clients with information related to the Registration of Foreign Loans in Vietnam.

Included is important content related to foreign loan registration, such as:

- i) Loans subject to registration;
- ii) Cases need to register loan changes;
- iii) Entities subject to application for registration or registration for loan changes;
- iv) Processes for loan registration;
- v) Loan registration dossier;
- vi) Opening and use of foreign borrowing and foreign debt repayment accounts;
- vii) Disbursements, fund withdrawals, money transfer for foreign loan arrangement, and
- viii) Reporting Regulations.

### What is a foreign loan?

The term foreign loan is generic and refers to the various types of foreign loans, including:

Foreign loans NOT guaranteed by the Government



- Conventional loan

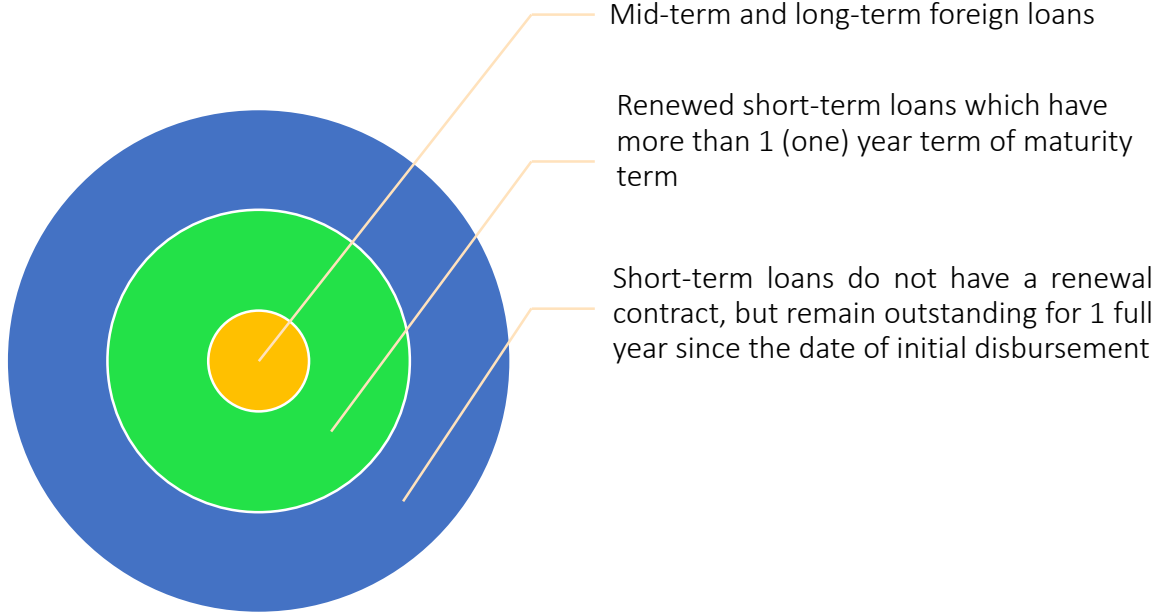
Foreign loans guaranteed by the Government



- Borrowing contracts
- Deferred payment contracts for import of goods
- Lending entrustment contracts
- Contracts for finance leasing, or
- Debt instrument issuance on the international market of the borrower

Registration of foreign loans - NOT guaranteed by the Government.

**Loans subject to registration**



*Article 9, Circular No. 03/2016/TT-NHNN*

**Registering loan modifications**

In the event there are any changes to any foreign loans, those changes must be registered, by the borrower, with the State Bank of Vietnam. In some instances, the borrower need only notify the State Bank of Vietnam of any changes in writing. Such instances include:

The plan for disbursement fund withdrawal, debt repayment, and actual fee remittance is changed within 10 days as the plan which approved by the State Bank

Change of the borrower's address in the city or province where the borrower's head office is located

Change of related information about creditors

Change of the commercial transaction name of the account service provider

*Article 15, Circular No. 03/2016/TT-NHNN*

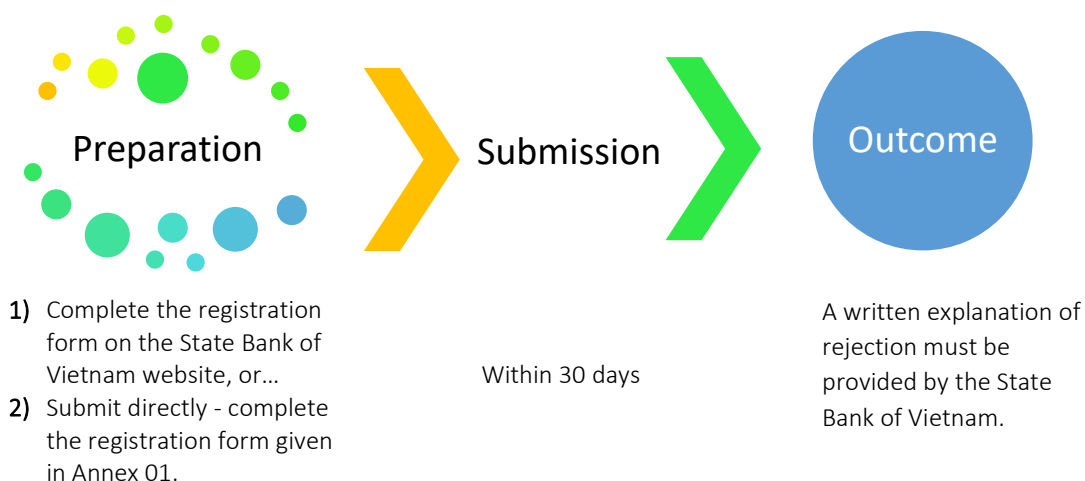
### Entities subject to application for registration or loan change registration

Borrowers subject to application for registration or loan change registration, include:

- 1 • Borrowers who are parties to foreign borrowing agreements and receive direct cash disbursements from non-resident creditors.
- 2 • Credit institutions, foreign bank branches entrusted with lending tasks by non-resident trust parties.
- 3 • Parties obligated to repay debts according to debt instruments issued to non-residents
- 4 • Lessees parties financing lease contracts with non-resident lessors

*Article 12, Circular No. 03/2016/TT-NHNN*

## Loan Registration Process



### Useful note:

Borrowers must beware of the term of the loan - any delay of registration affects the results of the application resulting in penalties.

Borrowers must submit their dossiers within a strict 30-day time period that starts after:

#### Mid-term and long-term loans, secured loans, framework agreements

- the date on which the mid-term or long-term agreement is concluded, or the written guarantee is signed, or the date of the written disbursement and/or fund withdrawal arrangements

#### Renewed short-term loans


- the date on which the agreement of renewal for a short-term foreign loan into a mid-term or long-term loan is affected

#### Short-term loans do not have renewal contracts, but remain outstanding

- the date of rounding 1 year from the first withdrawal date

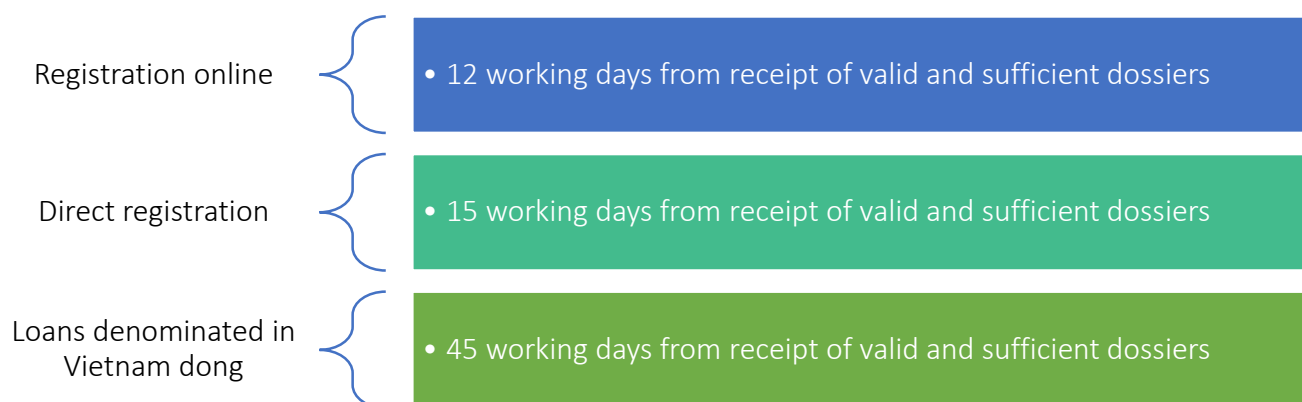
*Article 13.3, Circular No. 03/2016/TT-NHNN*

## Loan registration dossier

No.	Documents	Qty.	Status				
1	Loan registration form	01	 Form_ in the Annex 01.docx				
2	Legitimate dossiers of both the borrower and the loan user when a borrower is not a loan user, including: <ul style="list-style-type: none"> <li>(i) Establishment permit(s),</li> <li>(ii) Business registration certificate(s),</li> <li>(iii) Enterprise registration certificate(s),</li> <li>(iv) Investment registration certificate(s), or</li> <li>(v) Cooperative federation registration certificate in accordance with laws and amendment(s) or supplementation documents (if applicable).</li> </ul>	01	Copy (countersigned by the borrower)				
3	Written proof of borrowing purposes, include: <table border="1" data-bbox="245 1056 1143 1644"> <tr> <td data-bbox="245 1056 618 1283">Mid-term and long-term foreign loans.</td> <td data-bbox="618 1056 1143 1283"> <ul style="list-style-type: none"> <li>(i) Production and business plans, investment projects;</li> <li>(ii) Borrower's foreign debt restructuring plans of the.</li> </ul> </td> </tr> <tr> <td data-bbox="245 1283 618 1644">Renewed short-term loans and Short-term loans don't have renewal contracts but remain outstanding for 1 full year from the date of the initial disbursement.</td> <td data-bbox="618 1283 1143 1644"> <ul style="list-style-type: none"> <li>(i) A report that outlines the use of short-term loans conformity to eligibility regulations and conditions for short-term foreign borrowing (documentary evidence attached hereto), and</li> <li>(ii) A debt repayment plan.</li> </ul> </td> </tr> </table>	Mid-term and long-term foreign loans.	<ul style="list-style-type: none"> <li>(i) Production and business plans, investment projects;</li> <li>(ii) Borrower's foreign debt restructuring plans of the.</li> </ul>	Renewed short-term loans and Short-term loans don't have renewal contracts but remain outstanding for 1 full year from the date of the initial disbursement.	<ul style="list-style-type: none"> <li>(i) A report that outlines the use of short-term loans conformity to eligibility regulations and conditions for short-term foreign borrowing (documentary evidence attached hereto), and</li> <li>(ii) A debt repayment plan.</li> </ul>	01	Copy (countersigned by the borrower) or original
Mid-term and long-term foreign loans.	<ul style="list-style-type: none"> <li>(i) Production and business plans, investment projects;</li> <li>(ii) Borrower's foreign debt restructuring plans of the.</li> </ul>						
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4	Foreign loan agreements and agreements on renewals of short-term loans into mid-term or long-term loans (if applicable); or a written document of disbursement attached to the framework agreements.	01	Copy and Vietnamese translation (countersigned				

No.	Documents	Qty.	Status
			by the borrower)
5	Secured loan written guarantee of commitment: (i) Letter of guarantee, or (ii) Contract of guarantee - or other commitment.	01	Copy and Vietnamese translation (countersigned by the borrower)
6	Written approval of the competent authority (When a borrower is a state-owned enterprise, apart from a commercial bank in which 100-percent of the charter capital is held by the State)		Copy (countersigned by the borrower)
7	Report of compliance with the regulations of the State Bank of Vietnam regarding credit limits and safety ratios of credit institutions, foreign bank branches of the latest month-end date prior to the date of effecting foreign loan agreements, and Written proof of incompliance with the laws on credit limits and safety ratios approved by the Prime Minister or the Governor of the State Bank of Vietnam in accordance with applicable laws. (Borrowers present as credit institutions or foreign bank branches.)	01	Original
8	Account service provider confirmation	01	Original
9	Documents or invoices indicating legally distributed Vietnam-dong profits gained from direct investments of the creditor who is the foreign investor making the capital contribution to the borrower, and A statement of account service providers on distribution and transmission of profits to the home country of the creditor. (respective of foreign borrowing in Vietnam dong (VND))	01	Original
10	Explanatory statement on demands for foreign borrowing in Vietnam dong (VND) respective of foreign borrowing in Vietnam dong under permission of the Governor.	01	Original

Once submission is complete, The State Bank will approve or reject confirmation of loan registration, in writing, within the following permitted periods:



### Opening/Use of Foreign Borrowing and Foreign Debt Repayment Accounts

Foreign borrowing and foreign debt repayment accounts refers to the payment account that the borrower opens at an account service provider to disburse and/or withdraw funds, and repay debts incurred from foreign loans and other money transfer activities related to foreign borrowing and foreign debt repayment and foreign loan guarantees.

No.	Borrowers	Type of loan	Type of account	Notes
1	Foreign direct investment enterprises borrowers	Medium-term and long-term foreign borrowing	Direct investment account	Each foreign loan shall be allowed to open its account at only 01 account service provider. Except medium-term and long-term foreign direct investment enterprises, Borrowers may own 1 account for
		Short-term foreign borrowing	An account for direct investment or an account for foreign borrowing and repayment (distinct from the account for direct investment)	
2	Indirect/non-direct foreign-invested	All loans	must open a foreign borrowing and foreign debt repayment account at an account service provider in order to	



	enterprise borrowers		perform money transfers relating to foreign loans (including disbursements, fund withdrawals, principal and interest payments).	1 or multiple foreign loans.
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**Disbursements, Fund Withdrawals, and Money Transfers for Foreign Loan Arrangement**

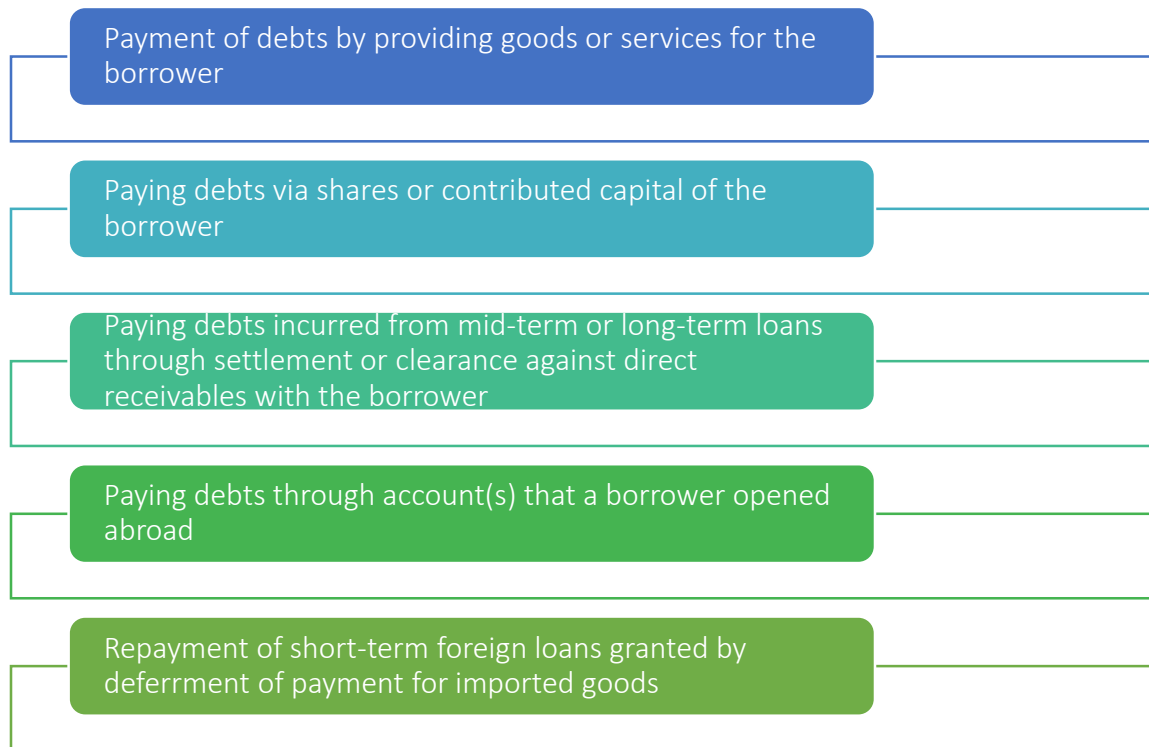
Borrowers that are not a commercial bank or foreign bank branch, must perform every money transfer (disbursements, fund withdrawals or debt repayments) relating to foreign loans through foreign borrowing and foreign debt repayment accounts of the borrower, except in the following situation:

*A fund withdrawal is not carried out through foreign borrowing and foreign debt repayment accounts, including:*

- Direct payment(s) to a non-resident beneficiary providing goods or services under goods or services sale and purchase contracts with residents
- Withdrawal of funds in the form of deferred payment(s) for imports of goods from the borrower
- Withdrawal of foreign loan funds in the form of a finance lease
- Through an account that the borrower opens abroad
- Mid-term/long-term foreign loans through settled or cleared against direct payment obligations to the creditor

*Article 34.1, Circular No. 03/2016/TT-NHNN*

*Situations in which debt repayment is not carried out through foreign borrowing and foreign debt repayment accounts, including:*



*Article 34.2, Circular No. 03/2016/TT-NHNN*

### **Notes when transferring money for effecting of foreign loans**

Borrowers of foreign loans subject to registration with the State Bank of Vietnam can withdraw funds and repay debts (principal and interest) of foreign loans, only after registration for such loans is certified by the State Bank of Vietnam, except when the withdrawal funds or payment of a part of principal or interest occurs within the first year of a mid-term or long-term loan.

Borrowers are only allowed to receive disbursed loans and transfer money to pay debts (principal and interest) through the account of the creditor, representative for the creditor, or bank payment agents for the creditors.

When disbursement and transfer of funds are carried out through the account of the non-resident third party that not related to these subjects, this content must be clearly defined in the loan and/or loan change agreements. When foreign loans are subject to registration with the State Bank of Vietnam, this content must be confirmed in the statement on confirmation of registration or registration for changes of foreign loans.

### **Reporting Regulations**

Time: On a quarterly basis, no later than the 5<sup>th</sup> day of the month and immediately after the reporting period.

## Online Registration



- Prepare an online review report on short-term, mid-term and long-term loans on the website.
- The State Bank of Vietnam branches must approve such reports on websites and send notices via email

## Conventional Registration



- Apply for the review report on short-term, mid-term and long-term loans

*Article 39 and Article 40, Circular No. 03/2016/TT-NHNN*

### Ad-hoc reporting

Upon the request of The State Bank of Vietnam, borrowers or the account service providers must submit reports.

#### Support:

CNC is honored to receive and respond to any and all inquiries to support effective and efficient registration of your foreign loans in Vietnam.

Requests can be made by email or phone according to the information below:

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