

# Legal Update

August 2023

## NEW LENDING RULES UNDER CIRCULAR 06 ARE SUSPENDED

**Certain prohibited lending purposes under Circular 39/2016/TT-NHNN dated 30 December 2016 (“Circular 39”) on lending activities of credit institutions and branches of foreign banks in Vietnam which was amended and supplemented by Circular 06/2023/TT-NHNN dated 28 June 2023 (“Circular 06”) that was issued by end of June 2023 and expected to come into effect on 1 September 2023, are now suspended.**

Circular 06 prohibited the following lending purposes that soon after its issuance became controversial and pushed back by businesses, especially within the real estate business sector:

1. For capital contribution or acquisition of shares in target companies (i.e., for a M&A transaction)
2. For contributing capital under a capital contribution contract or a business cooperation contract for the implementation of an investment project that is not yet qualified for business; and
3. For financial reimbursement with exceptions made for the loans that meet the following conditions:
  - the borrower has used their own capital to fund and pay for its project implementation and these expenses had been incurred less than 12 months prior to the date the loan is granted; and
  - the advanced payment made for the borrower’s business activities includes the borrower’s own funds and the loan granted by a credit institution under a loan use plan that has been submitted to and evaluated by such credit institution for a loan for such business activities.

Taking note of feedback from businesses, on 23 August 2023 the State Bank of Vietnam (“**SBV**”) released Circular 10/2023/TT-NHNN suspending the validity of the clauses stipulating above mentioned lending purpose restriction in Circular 06 until further guidance. In the meantime, SBV is believed to work under time constraint to issue an amendment to these restrictions that would address the concerns that have been raised.

No change to the rest of Circular 06 has been made.

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