

Hanoi, March 9th, 2004

DECREE OF THE GOVERNMENT

On organization and operation of micro finance institutions in Vietnam

THE GOVERNMENT

- Pursuant to the Law on the Organization of the Government dated 25th December 2001;
- Pursuant to the Law on the State Bank of Vietnam No. 01/1997/QH10 dated 12th December 1997 and the Law on some amendments and supplements to the Law on the State Bank of Vietnam No.10/2003QH11 dated 17th June 2003;
- Pursuant to the Law on credit institutions dated 02/1997QH10 dated 12th December 1997, and the Law on some amendments and supplements of the Law on credit institutions No.20/2004QH11 dated 15th June 2004;
- At the request by the Governor of the State Bank of Vietnam,

DECREE

Chapter 1
GENERAL PROVISIONS

Article 1: Scope of regulation and objects of application

1. This Decree regulates organization and operation of micro finance institutions in Vietnam.
2. Those who can establish micro finance institutions:

Organizations and individuals that can establish micro finance institutions in Vietnam according to stipulations of the laws include:

- a) Socio-political organizations, social organizations, socio- professional organizations of Vietnam, charity funds and social funds.
 - b) Vietnamese non-governmental organizations.
3. Other organizations and individuals inside and outside Vietnam can contribute capital to the organisations specified in Item 2 of this Article.

Article 2: Definitions and definitions

In this Decree, the following terms are interpreted as:

1. **Micro finance:** is the activity to provide some simple banking services to low-income households and people, especially the poor ones.
2. **Micro - finance institutions:** is an organization operating in financial and banking sector with the main functions of using owner's equity, loan capital and savings to provide small and simple financial and banking services to low-income households and people, especially the poor ones.
3. **Simple micro financial and banking services include:** micro credit; receiving compulsory and voluntary savings; money transferring agent; insurance, collecting, paying agent for low-income households and people.
4. **Micro credit:** is a credit of low value, with or without property mortgage provided to low-income households and people so that they can use in income generating activities and life improvement.
5. **Poor or low-income households and people:** are defined from area to area in Vietnam or determined by the micro finance institutions themselves.
6. **Compulsory savings:** are savings of individuals and organizations deposited at micro finance institutions to be used as mortgage for the loans they get from micro finance institutions.
7. **Voluntary savings:** are the voluntary savings of individuals deposited at micro finance institutions.
8. **Legal capital:** is the minimum charter capital to be available as required by relevant regulations so that micro finance institutions can be established.
9. **Charter capital:** is the capital contributed so that micro finance institutions can be established. This amount is recorded in the charter of a micro finance institution.
10. **Owner's equity:** is the charter capital plus unused profits.
11. **License:** is the license to the establishment and operations of micro finance institutions granted by the State Bank of Vietnam.

Article 3: Legal capital

- a) For micro finance institutions that cannot accept voluntary savings: 500 million VND.
- b) For micro finance institutions that can accept voluntary savings: 5 billion VND.

Article 4: Term of operation

1. The maximum operation time of micro finance institutions is 50 years.
2. Micro finance institutions may extend their term of operation by the length of each extension may not exceed the term of operation provided in the first license.

Article 5: Area of operation

1. Area of operation of a micro finance institution is limited to the province or city specified in the license.
2. In the case that micro finance institutions want to extend their operation areas outside the area permitted in the license, they have to establish branches in the new areas. Establishing branches must meet conditions on increased charter capital in accordance with the scope of extension and acceptance of the State Bank of Vietnam.

Article 6: Principles of operation and finance management

Micro finance institutions are legal entities, having charter capital, properties, their own stamps, operating based on the principle of financial autonomy, self creating capital, self recovering operation costs and being held accountable with their capital and properties.

Article 7: State policies

The State protects lawful ownership, rights and interests of micro finance institutions, ensure the right to equality and other rights of micro finance institutions in their; issues legal regulations and incentives promoting the development of micro finance institutions. The State respect autonomy and self - responsibility of micro finance institutions in their operation, and does not interfere in the lawful management and activities of micro finance institutions.

Chapter II

ISSUING ESTABLISHMENT AND OPERATION LICENSES OF MICRO FINANCE INSTITUTIONS

Article 8: Conditions to be met so that micro finance institutions can obtain operation licenses

1. There is a need for micro finance activities.
2. Provincial/city People's Committees having endorsement to the establishment of the micro finance institutions in their localities.
3. Having enough charter capital as specified in Article 3 of this Decree;
4. Office and facilities being suitable to the expected micro finance activities;
5. Having administrators, auditors and managers as stipulated in Chapter III of this Decree;
6. Having workable feasibility studies;
7. For micro finance institutions that can accept voluntary savings, beside the stipulations in Items 1, 2, 3, 4, 5 and 6 of this Article, they must meet the followings conditions:

- a) Licensed by the State Bank of Vietnam to operate in micro finance. This condition is not applied to the objects stipulated in Article 36 of this Decree.
- b) Having received compulsory savings in the last 3 years;
- c) The administrators, controllers and managers perform efficiently.
- d) Having sound operation in the last 3 years in accordance with requirements of the State Bank of Vietnam.
- e) Having information system sufficient to management needs;
- f) Meeting conditions on safety in banking operation and other legal regulations.

Article 9: Licensing dossiers

The licensing dossier submitted to the State Bank of Vietnam includes:

- 1. Application letter for being licensed which specifies expected operation activities and areas of operation;
- 2. Written acceptance of the relevant provincial/city People's Committee on the need to establish the micro finance institution in its locality.
- 3. Drafted charter;
- 4. Feasibility study specifying economic efficiency and interest;
- 5. Lists, curriculum vitae and certificates proving abilities and qualifications of members of Management Board, Audit Committee and manager (director or general director) of the micro finance institution.
- 6. Documents certifying the amount of charter capital; list and addresses of institutional and individual capital contributors; the ratio of contributed capital in charter capital; financial situation and other related information of institutional and individual capital contributors;
- 7. For micro finance institutions that can accept voluntary savings, the auditing reports in the last 3 years must be available.

Article 10: Charges on issuing licenses

Micro finance institutions that are granted licenses by the State Bank of Vietnam have to pay charges in accordance with regulations of the Ministry of Finance.

Article 11: Procedures of issuing and using the license

- 1. Within 90 days from the date of receiving sufficient legitimate dossiers satisfying provisions in Article 9 of this Decree, the State Bank of Vietnam considers issuing the license. If it does not allow the license, there must be written notice specifying the reasons.
- 2. The license of a micro finance institution is issued by the State Bank of Vietnam, which specifies term of operation, area of operation and activity the micro finance institution may implement.

3. Micro finance institutions granted with licenses must operate under the name and activities stipulated in their licenses. There must not be any fabrication, erasing, transfer, and rent of the licenses.

Article 12: Starting to operate

1. To start its operation, a licensed micro finance institution must have the following conditions:
 - a) Having its charter approved by the State Bank of Vietnam;
 - b) Having business registration certificate; having sufficient legal capital;
 - c) The part of legal capital in cash must be deposited in a blocked account in the State Bank of Vietnam at least 30days before the date of starting business. This capital can only be released after the micro finance institution starts its operation. This stipulation is not applied to the micro finance institutions that have operated before the date this Decree takes effect.
 - d) There are documents certifying ownership or the right to use the head office of the micro finance institution.
 - e) There are advertisements in local newspapers in accordance with the laws specifying contents of the license. This stipulation is not applied to micro finance institutions that cannot accept voluntary savings.
2. At least 30 days before the date of starting operation, micro finance institutions must have written notice to the State Bank of Vietnam and provincial/city People's Committees on the operation start.
3. In 12 months since the date of receiving licenses, if micro finance institutions fail to start their operation, their licenses will automatically expire.

Article 13: Extension and canceling licenses

1. Extension of licenses
 - a) Application dossiers of micro finance institutions for extension of licenses must be submitted to the State Bank of Vietnam at least 2 months before the date the licenses expire. The dossier applying for extension should contain:
 - Application letter for extension;
 - Report on operation in the last 3 consecutive years.
 - b) In 30 days from the date of receiving sufficient dossiers applying for extension, the State Bank of Vietnam considers issuing the decision permitting extension of licenses, or refusing extension. If refusing, the State Bank of Vietnam has to reply in writing specifying reasons.
2. Micro finance institutions have their licenses cancelled in the following cases:
 - a) There are evidences that the application dossiers have intentionally distorted information.

- b) Micro finance institutions do not start their operation after 12 months from the date they receive licenses.
- c) Micro finance institutions are voluntarily dissolved or they are dissolved by competent authorities;
- d) Splitting, merge, bankruptcy;
- e) Receiving voluntary savings without remittance of the State Bank of Vietnam;
- f) Having activities different from those stipulated in their licenses.

Article 14: Merge, splitting and dissolution

In the cases of merge, splitting, or dissolution are needed, micro finance institutions have to submit application letters and relevant dossiers to the State Bank of Vietnam. In 30 days after receiving sufficient dossiers, the State Bank of Vietnam has to reply in writing to micro finance institutions. If the State Bank of Vietnam refuses, there must be specification of reasons.

Dossiers and procedures of merge, splitting, or dissolution of micro finance institutions are guided by the State Bank of Vietnam.

Article 15: Bankruptcy and liquidation

The procedure of bankruptcy and liquidation of micro finance institutions is implemented according to guidance of the State Bank of Vietnam and legal regulations on bankruptcy.

Chapter III

ORGANIZATION, ADMINISTRATION, CONTROL, AND MANAGEMENT OF MICRO FINANCE INSTITUTIONS

Article 16: Structure of micro finance institutions

1. Micro finance institutions licensed by the State Bank of Vietnam must have a Board of Management, an Audit Committee and a (General) Director.
2. Management Board of a micro finance institution that cannot receive voluntary savings has at least 3 members; the Audit Committee has at least 1 member.
3. Management Board of a micro finance institution that can receive voluntary savings has at least 3 members; so does the Audit Committee.
4. Board of management, Audit Committee and (general) directors of micro finance institutions have to meet requirements on qualifications, ethics and profession set by the State Bank of Vietnam.

5. Voting, appointing and dismissal of boards of management, Audit Committee, and (general) directors of micro finance institutions are implemented in compliance with regulations of the State Bank of Vietnam.

Article 17: Functions and responsibilities of Boards of Management, Executive Committee and Audit Committee

1. Boards of management are responsible for managing micro finance institutions in accordance with legal regulations; deciding policies and directions in the operation of micro finance institutions and perform other rights and responsibilities that may be stipulated in charters of micro finance institutions.
2. The Executive Committee includes the (General) Director and vice directors (if any) who, on behalf of the management board, manage and run the micro finance institutions. The director is the legal representative of a micro finance institution.
3. The Audit Committee, on behalf of the management board controls financial activities of a micro finance institution and management activities of the director; and perform other rights and responsibilities that may be stipulated in charters of micro finance institutions.

Article 18: Those who cannot become members of board of management, Audit Committee and (general) director:

1. Under criminal investigation;
2. Having been sentenced for seriously violating national security, socialist ownership and citizen ownership; other serious economic crimes;
3. Having been sentenced for their crimes and the sentence has not been abolished;
4. Used to be a member of management board or the director of a bankrupt company, except the cases stipulated in the Law on bankruptcy.
5. Used to be the legal representative of a company that has been stopped from operation for seriously violating laws.
6. Being father, mother, wife, husband, son or daughter, brother, sister of members of management board, Audit Committee or (general) director of micro finance institutions.

Article 19: Opening and stopping operation of branches

1. Micro finance institutions may open branches in localities where they need to have operation. Opening and stopping operation of branches must be accepted in writing by the State Bank of Vietnam.
2. Conditions, dossiers, and procedures applied to opening and stopping operation of branches of branches of micro finance institutions are guided by the State Bank of Vietnam.

Article 20: Capital contribution and transfer of contributed capital

1. Organizations and individuals make capital contribution to micro finance institutions based on capital contribution contracts.
2. Capital contribution and transfer of contributed capital are implemented in accordance with regulations of the State Bank of Vietnam.

Chapter IV

REGULATIONS ON OPERATION

Article 21: Regulations on operation of micro finance institutions

1. Micro finance institutions may implement some or all activities stipulated in Article 22, 23, 24, 25 and 26 of this Decree.
2. The State Bank of Vietnam provides details of activities in licenses of micro finance institutions.

Article 22: Capital mobilization

Micro finance institutions may mobilize capital from the following sources:

1. Savings:
 - a) Compulsory savings
 - b) Voluntary savings
2. Loans
 - a) Loans from credit institutions than are permitted to operate in Vietnam.
 - b) Loans from foreign organizations and individuals when permitted by the State Bank of Vietnam.
3. Micro finance institutions may receive trusted capital from programmes and projects of the Government, foreign and domestic organizations and individuals.

Article 23: Credit activities

1. Making loans
2. Making loans using trusted funds.

Article 24: Other activities

Micro finance institutions may work as agents in banking and insurance related fields.

Article 25: Opening accounts

Micro finance institutions may open accounts and deposit their funds at the State Bank of Vietnam, commercial banks and other credit institutions.

Article 26: Payment activities

Micro finance institutions may, on a limited basis, provide some payment services in accordance with regulations of the State Bank of Vietnam.

Article 27: Limits on credit and mobilization of savings

1. Micro finance institutions must observe the following regulations on credit – savings limit:
 - a) The maximal amount of a micro credit;
 - b) The maximal amount loaned to a single client;
 - c) Restrictions on deposits and savings;
 - d) The maximal amount of deposits and savings by a single client.
2. The State Bank of Vietnam is responsible for guiding restrictions on credits – savings in accordance with each kind of micro finance institutions.
3. Micro finance institutions that can receive voluntary finance must insure their deposits as required by the laws.

Article 28: Changes that must be approved

1. Micro finance institutions must receive acceptance in writing of the State Bank of Vietnam before changing one of the followings:
 - a) Their name;
 - b) The amount of charter capital;
 - c) Locations of head offices and branches;
 - d) Contents, scope and term of operation;
 - e) Members of board of management, (general) director and member of the controlling board.
2. The State Bank of Vietnam guides dossiers and procedures in the aforementioned cases.
3. After having acceptance from the State Bank of Vietnam, micro finance institutions must inform competent authorities on the changes specified in Item 1 of this Article.

Chapter V

FINANCE, ACCOUNTING AND REPORTING

Article 29: Finance

1. Financial year of micro finance institutions starts on 1st January and ends on 31st December of a solar year.
2. Revenues and expenditures of micro finance institutions are based on Vietnam's regulations and guidance of the Ministry of Finance.

Article 30: Accounting

Micro finance institutions do the accounting based on the account system and the voucher regime as regulated by prevailing laws on accountancy and statistics, and guided by the State Bank of Vietnam.

Article 31: Establishment of (social) funds

Establishing and maintaining funds of micro finance institutions are regulated by prevailing laws and guided by the Ministry of Finance.

Article 32: Reporting

Micro finance institutions implement the reporting and statistics regime in accordance with regulations of the State Bank of Vietnam and the Ministry of Finance.

Chapter VI

INSPECTION, SPECIAL CONTROL, BANKRUPTCY, DISSOLUTION AND LIQUIDATION

Article 33: Inspection

1. Micro finance institutions are under inspection of the State Bank of Vietnam as regulated by the prevailing laws.
2. Implementation of rights and obligations of micro finance institutions are inspected as regulated by the prevailing laws and guidance of the State Bank of Vietnam.

Article 34: Special control, bankruptcy, dissolution and liquidation

Special control, bankruptcy, dissolution and liquidation in micro finance institutions are implemented as regulated by the prevailing laws and guidance of the State Bank of Vietnam.

Article 35: Rewards and penalties

Rewards and penalties in micro finance institutions are implemented as based on relevant regulations of the State Bank of Vietnam.

Chapter VII

IMPLEMENTATION PROVISION

Article 36: Exemption

1. Organization having micro finance activity before this Decree takes effect are exempted from stipulations in Point a, Item 7 of Article 8 of this Decree when they have their licensed considered for granting.
2. This exemption is effective only within 24 months from the date this Decree takes effect.

Article 37: Implementation effect

1. This Decree takes effect after 15 days since the date it is printed in the Official Gazette and replaces other previous regulations that are contrary to this Decree.
2. In 24 months from the date this Decree takes effect, organizations that are implementing micro credit activities in Vietnam have to follow the procedures to be licensed by the State Bank of Vietnam in accordance with stipulations in this Decree or stop micro finance activities;

Article 38: Implementation responsibility

1. Governor of the State Bank of Vietnam is responsible for guiding the implementation of this Decree;
2. Ministers, heads of ministerial agencies and other agencies of the Government, Chairmen of provincial/municipal People's Committees are responsible for the implementation of this Decree.

ON BEHALF OF THE GOVERNMENT PRIME MINISTER

Recipients:

- Party's Secretary boards
- Prime Minister, Deputy Prime Ministers
- Ministries and ministerial agencies
- Agencies of the Government
- People's Councils and People's Committees of centrally-run provinces/cities
- National Assembly's Office
- President's Office
- Party's Central Office and Offices of Party's boards.
- Supreme People's Procuracy
- Supreme People's Court
- Government's Office: functional divisions, and departments
- Official Gazette
- Filed: General Economic Department (5b), and Archives