

Hanoi, November 07, 2023

DECREE

Amending and supplementing a number of articles of the Government's Decree No. 32/2017/ND-CP dated March 31, 2017, on state investment credit

Pursuant to the Law on Organization of the Government dated June 19, 2015; the Law Amending and Supplementing a Number of Articles of the Law on Organization of the Government and the Law on Organization of Local Administration dated November 22, 2019;

Pursuant the Law on the State Budget dated May 26, 2015;

Pursuant to the Law on Public Debt Management dated November 23, 2017;

Pursuant to the Law on Investment dated June 17, 2020;

Pursuant to the Law on Public Investment dated June 13, 2019;

Pursuant to the Law on Credit Institutions dated June 16, 2010, and the Law Amending and Supplementing a Number of Articles of the Law on Credit Institutions dated November 20, 2017;

At the proposal of the Minister of Finance;

The Government hereby promulgates the Decree amending and supplementing a number of articles of the Government's Decree No. 32/2017/ND-CP dated March 31, 2017, on state investment credit.

Article 1. Amending and supplementing a number of articles of the Government's Decree No. 32/2017/ND-CP dated March 31, 2017, on state investment credit

1. To amend and supplement Clause 7 Article 3 as follows:

“7. Debt rescheduling means the adjustment of the debt repayment term or extension of a debt approved by the Vietnam Development Bank as follows:

a) Adjustment of the debt repayment term means the extension of the agreed term period for partial or full repayment of a loan principal and/or interest (including no change in the number of agreed debt repayment terms) approved

by the Vietnam Development Bank, without changing the loan term;

b) Extension of debt means the extension of the repayment of the loan principal and/or interest for a period exceeding the agreed loan term, which is approved by the Vietnam Development Bank.”

2. To amend and supplement Article 4 as follows:

“Article 4. State investment credit capital plans

1. Before July 31 every year, the Vietnam Development Bank shall develop the State investment credit capital plan for the following year, and send it to the Ministry of Planning and Investment, and the Ministry of Finance, including the following information:

a) The implementation and results of implementing the State investment credit capital plan for the year of implementation, expected State investment credit capital plan for the following year;

b) Ability to mobilize capital and balance capital sources to implement the State investment credit capital plan;

c) Plan to compensate for preferential credit interest rates, management fees, and charter capital of the Vietnam Development Bank to implement the State investment credit capital plan for the following year;

d) Management solutions, implementation organization and expected results.

2. Before August 31 every year, the Ministry of Planning and Investment shall assume the prime responsibility for, and coordinate with the Ministry of Finance and the Vietnam Development Bank in, reviewing and completing the State investment credit capital plan for the following year, which is developed by the Vietnam Development Bank.

3. Before December 31 every year, the Ministry of Planning and Investment shall assume the prime responsibility for, and coordinate with the Ministry of Finance in, reporting the Prime Minister for allocation of the targets of total investment credit growths of the State or the total State investment credit capital plans for the following year for the Vietnam Development Bank.”

3. To amend Clauses 3 and 4 Article 6 as follows:

“3. Having its investment project in need of a state investment loan appraised and evaluated by the Vietnam Development Bank as being efficient and having financial capability to repay debt by the time the Vietnam Development Bank considers and makes decisions on provision of a loan.

4. Having an equity capital for the project implementation equal to at least 20% of the total project investment capital (excluding liquid capital). The specific level shall be considered and decided by the Vietnam Development Bank to suit

the financial capability of the project owner and conform to the project's debt payment plan.”

4. To amend Clause 6 Article 6 as follows:

“6. Having no non-performing loan owed to any credit institutions, foreign bank's branches by the time the Vietnam Development Bank considers and makes decisions on provision of a loan.”

5. To amend and supplement Clause 2 Article 7 as follows:

“2. The total outstanding loan balance of the Vietnam Development Bank (excluding the credits of which the risk is not bear by the Vietnam Development Bank), for a client, and for a client and its affiliated persons, except for the cases specified in Clause 4 of this Article, must not exceed 15% and 25% of the Bank's equity capital and the balance of the bonds guaranteed by the Government with the remaining term of 5 years or more, respectively.”

6. To add Clauses 4, 5, 6, 7, 8 and 9 Article 7 as follows:

“4. In special cases, to carry out the tasks of socio-economic development, national defense and security, while the joint lending capacity of the Vietnam Development Bank and other credit institutions does not meet the needs of a client, the Vietnam Development Bank shall prepare an application dossier for credit extension in excess of the prescribed limit prescribed in Clause 2 of this Article for each specific case and send it to the Ministry of Finance to summarize and report to the Prime Minister for consideration and decision.

5. A client borrowing loans and projects requested for credit extension in excess of the prescribed limit specified in Clause 4 of this Article by the Vietnam Development Bank must meet the following conditions:

a) Meeting the credit extension conditions according to the regulations on lending conditions of this Decree, the Law on Credit Institutions and guiding documents; having no non-performing loan in the last 3 years immediately preceding the year of request for credit extension in excess of the prescribed limit; having a liability ratio of no more than three times the equity capital recorded on the client's audited quarterly financial statements or annual financial statements at the time closest to the time of request for credit extension in excess of the prescribed limit;

b) Having capital needs to carry out projects with important and urgent socio-economic, national defense and security significance for the performance of the tasks of socio-economic development, national defense and security, serving the essential needs of people's lives, in priority and encouraged sectors and fields according to the Resolutions of the National Assembly, the Government, and the Prime Minister's directions in each period or to implement other programs and projects of which the investment policies are decided by the National Assembly or the Prime Minister.

6. The Vietnam Development Bank requesting the credit extension in excess of the prescribed limit specified in Clause 4 of this Article must meet the following conditions:

a) It has coordinated with other credit institutions to jointly lend to the project requested for credit extension in excess of the prescribed limit of the joint lending capacity of the Vietnam Development Bank and other credit institutions, that has not met a client's loan needs; or it has issued a joint loan invitation to at least 5 other credit institutions, and posted such on the official website of the Vietnam Development Bank, and mass media for at least 30 working days but there is no credit institution participating in lending;

b) By the time of requesting the credit extension in excess of the prescribed limit, the Vietnam Development Bank meets requirements on prudential ratios in its operations in accordance with laws applicable to the Vietnam Development Bank;

c) It ensures the limits for total outstanding loan balance not exceeding four times of the Bank's equity capital and the balance of the bonds guaranteed by the Government with the remaining term of 5 years or more, in case of including the credit extension in excess of the prescribed limit that is being requested.

7. The application dossiers for credit extension in excess of the prescribed limit submitted by the Vietnam Development Bank to the Ministry of Finance:

An application dossiers for credit extension in excess of the prescribed limit for a client, or a client and its affiliated persons, which is submitted by the Vietnam Development Bank to the Ministry of Finance, must comprise:

a) The Vietnam Development Bank's written request to the Ministry of Finance to report to the Prime Minister for grant of credit extension in excess of the prescribed limit for a client, or a client and its affiliated persons;

b) Documents proving the Vietnam Development Bank's satisfaction of the conditions specified in Clause 6 of this Article;

c) The Vietnam Development Bank's written appraisal of the clients and its' projects borrowing loans;

d) The client's written request for credit extension at the Vietnam Development Bank (a copy from the original or a copy certified by the Vietnam Development Bank);

dd) Legal documents related to the client requesting credit extension (copy from the original or copy certified by the Vietnam Development Bank), including: An enterprise registration certificate, or an establishment decision granted by the competent authority (for public non-business units enjoying financial autonomy), audited financial statements of 3 years immediately preceding the year of request and other relevant documents proving the client's

satisfaction of the conditions specified in Clause 5 of this Article;

e) Legal documents related to the project requesting credit extension (copy from the original or copy certified by the Vietnam Development Bank), including: An investment registration certificate, or a written approval of the project issued by the competent authority and other relevant documents (if any);

g) Reports on the credit relations and the demands for credit extension in excess of the prescribed limit of a client or a client and its affiliated persons.

8. The dossiers submitted by the Ministry of Finance for report to the Prime Minister must comprise the Ministry of Finance's proposal, enclosed with the following documents:

a) The Vietnam Development Bank's written request to the Ministry of Finance to report to the Prime Minister for grant of credit extension in excess of the prescribed limit for a client, or a client and its affiliated persons;

b) Written comments from ministries, branches and localities, if relevant;

c) Written explanation from the Vietnam Development Bank and client (if any);

d) Other relevant documents (if any).

9. Procedures for considering extending credit in excess of the prescribed limit:

a) The Vietnam Development Bank shall send the Ministry of Finance one set of dossiers as prescribed in Clause 7 of this Article directly or by post;

b) Within 15 working days from the date of receiving complete and valid dossiers from the Vietnam Development Bank, the Ministry of Finance shall send a written request for opinions from relevant ministries, branches and localities on the economic - technical - legal aspects of the project and the client requesting credit extension in excess of the prescribed limit.

In case the Vietnam Development Bank's dossier does not meet the conditions specified in Clauses 5 and 6 of this Article, the Ministry of Finance shall notify the Vietnam Development Bank in writing of the conditions unsatisfied by the client, projects and the Vietnam Development Bank;

c) Within 10 working days from the date of receiving the written request for opinions from the Ministry of Finance, ministries, branches and localities shall send written opinions on the contents within their management to the Ministry of Finance. In case of necessity, the Ministry of Finance shall requests the Vietnam Development Bank and client to explain issues that ministries, branches and localities have commented on within 7 working days from the date the Ministry of Finance receives full comments from ministries, branches and localities. Within 7 working days from the date of receiving the request from the Ministry of Finance, the Vietnam Development Bank and client must send a

document to the Ministry of Finance explaining the issues commented by the ministries, branches and localities;

d) Within 10 working days from the date of receiving full comments from ministries, branches, localities or explanations from the Vietnam Development Bank and client, the Ministry of Finance shall submit to the Prime Minister for consider and make decision on the Vietnam Development Bank's request for credit extension in excess the limit;

dd) Within 5 working days from the date of receiving the Prime Minister's written opinion, the Ministry of Finance shall notify the Prime Minister's opinion to the Vietnam Development Bank for implementation.”

7. To amend Article 8 as follows:

“Article 8. Loan term

The Vietnam Development Bank shall, based on the project appraisal results, production and business characteristics, capital recovery ability of each project and client’s debt repayment capability, decide the loan term for each project.”

8. To amend and supplement Article 9 as follows:

“Article 9. Loan interest rate

1. The state investment loan interest rate shall be decided by the Vietnam Development Bank, ensuring the principle of being sufficient to offset capital mobilization costs, apparatus operating costs and risk provision costs for loans signed in credit contracts since December 22, 2023, but not lower than 85% of the average lending interest rate of domestic commercial banks in the same period. The state budget shall not subsidize interest rates and management fees for these loans.

2. Procedure for deciding the state investment loan interest rates:

a) Before January 25 every year, the State Bank of Vietnam shall send a document to the Ministry of Finance providing data on average lending interest rates of domestic commercial banks in the same period for the Ministry of Finance to supply to Vietnam Development Bank;

b) No later than 3 working days after receiving the document from the State Bank of Vietnam as specified at Point a of this Clause, the Ministry of Finance shall send a document to the Vietnam Development Bank on the average lending interest rate data of domestic commercial banks in the same period that is provided by the State Bank of Vietnam;

c) Within 3 working days after receiving the document from the Ministry of Finance as prescribed at Point b of this Clause, the Vietnam Development Bank shall, based on the principles for determining the state investment loan interest rates specified in Clause 1 of this Article, decide the state investment loan interest

rates;

d) In case the lending interest rates of domestic commercial banks have large fluctuations during the year, the Vietnam Development Bank shall report to the Ministry of Finance and send a document to the State Bank of Vietnam, requesting to provide the average lending interest rate of domestic commercial banks at the time of request for the Vietnam Development Bank to decide the state investment loan interest rates.

3. The state investment loan interest rates that are decided by the Vietnam Development Bank under Clause 2 of this Article shall be applied to all undue outstanding loans and new disbursements of contracts for borrowing of state investment loans signed since December 22, 2023 .

4. For the entire overdue loan principal balance converted into an overdue debt of each loan:

a) The overdue interest rate shall be considered and decided by the Vietnam Development Bank but must not exceed 150% of the undue loan interest rate;

b) The undue loan interest rate specified at Point a of this Clause shall be adjusted according to the state investment loan interest rates decided by the Vietnam Development Bank in accordance with Clause 2 of this Article.”

9. To amend and supplement Article 13 as follows:

“Article 13. Loan security

1. When borrowing state investment loans for investment in projects, borrowers shall provide loan security at the Vietnam Development Bank in accordance with the law on assurance of the fulfillment of obligations and other relevant laws. For every project, the Vietnam Development Bank shall consider and reach an agreement with the clients for decision-making, and take responsibility for loan security measures in accordance with law on assurance of the fulfillment of obligations.

2. The Vietnam Development Bank and clients shall carry out the procedures for loan security in accordance with the law on assurance of the fulfillment of obligations and other relevant laws.

3. The Vietnam Development Bank may realize security property to recover loans in accordance with the law on assurance of the fulfillment of obligations and other relevant laws.”

10. To amend and supplement Article 15 as follows:

“Article 15. Debt rescheduling, exemption from, and reduction of loan interest

1. The Vietnam Development Bank may consider and decide to reschedule a client’s debt at the latter’s request and on the basis of the result of the Bank's

evaluation of the client's debt

repayment capability as follows:

a) If the client fails to make due payment of his/her loan principal and/or interest and is evaluated by the Vietnam Development Bank as having capability of paying off the loan principal and/or interest according to the to-be-adjusted debt payment term, the Vietnam Development Bank may consider and decide on adjusting the payment term of his/her loan principal and/or interest suitable to the client's sources for debt payment without changing the loan term;

b) If the client fails to pay off his/her loan principal and/or interest within the agreed loan term and is evaluated by the Vietnam Development Bank as having capability of paying off loan principal and/or interest within a certain period following the loan term, the Vietnam Development Bank may consider and decide on an extension suitable to the client's sources for debt payment.

2. The Vietnam Development Bank may consider and decide on exemption from, and reduction of clients' loan interest, based on financial capability of the Bank and debt repayment capability of clients.

3. The Vietnam Development Bank shall guide dossiers, order and procedures for debt rescheduling, exemption from, and reduction of loan interest in accordance with Clauses 1 and 2 of this Article."

11. To add Article 15a after Article 15 as follows:

"Article 15a. Setting aside of risk provisions

1. For credit loan contracts signed from December 22, 2023, the Vietnam Development Bank shall set aside risk provisions according to the guidance of the State Bank of Vietnam for commercial banks, which shall be included in the operating expenses of the Vietnam Development Bank and used to handle risks for loans under these contracts.

2. For credit loan contracts signed before December 22, 2023, the Vietnam Development Bank shall set aside risk provisions and use such provisions under the Government's Decree No. 46/2021/ND-CP dated March 31, 2021, on financial management regime and operational efficiency assessment of Vietnam Development Bank, and the amending, supplementing or replacing documents (if any)."

12. To amend Article 17 as follows:

"Article 17. Handling of credit risks

1. Principles for handling of credit risks:

a) The handling of credit risks by the Vietnam Development Bank must be compliant with the law provisions, fully satisfy conditions, with sufficient dossiers and documents in accordance with law provisions;

b) The handling of credit risks by the Vietnam Development Bank must attach responsibilities to the Vietnam Development Bank, borrowers and relevant organizations and individuals in lending, debt recovery and handling;

c) The Vietnam Development Bank shall credit risk provisions to handle risks.

2. Competence to handle credit risks: The Vietnam Development Bank shall consider and decide on credit risk handling in accordance with the Decision on credit risk handling mechanism at the Vietnam Development Bank issued by the Prime Minister.”

13. To amend Clause 3 Article 19 as follows:

“3. To coordinate with the Ministry of Planning and Investment to report the Prime Minister for allocation of the annual targets of total investment credit growths of the State or the total State investment credit capital plans for the Vietnam Development Bank.”

14. To amend Clause 1 Article 20 as follows:

“1. To assume the prime responsibility for, and coordinate with the Ministry of Finance to report the Prime Minister for allocation of the annual targets of total investment credit growths of the State or the total State investment credit capital plans for the Vietnam Development Bank.”

15. To add Clause 6 Article 21 as follows:

“6. Before January 25 every year, to send a document to the Ministry of Finance providing data on average lending interest rates of domestic commercial banks in the same period for the Ministry of Finance to supply to Vietnam Development Bank for use as a basis for deciding the state investment loan interest rates.”

16. To amend and supplement Clauses 3 and 6 Article 23 as follows:

“3. To make decisions on state investment loan interest rates under this Decree.

6. To inspect and supervise clients in using loans efficiently for proper purposes and fully paying loan principals and interests on time to the Vietnam Development Bank. In case clients have non-performing debts at the Vietnam Development Bank and/or credit institutions and foreign bank branches at the time the Vietnam Development Bank disburses the loan, the Vietnam Development Bank shall evaluate the client's financial capability to repay debt to consider and decide on continued disbursement to the client and take responsibility before the law for this decision.”

17. To add Clause 5 Article 25 as follows:

“5. To observe the regulations on accounting, annual financial statements

and audit of annual financial statements in accordance with law.”

Article 2. Annulment and replacement

1. To replace the List of projects eligible to borrow investment loans promulgated together with the Government’s Decree No. 32/2017/ND-CP dated March 31, 2017, on state investment credit, with the List of projects eligible to borrow investment loans provided in Appendix to this Decree.

2. To replace the phrase “non-business units enjoying financial autonomy” with the phrase “public non-business units enjoying financial autonomy” at Point a Clause 2 Article 1 and Clause 1 Article 3 of the Government’s Decree No. 32/2017/ND-CP dated March 31, 2017, on state investment credit.

3. To annul the phrase “unless otherwise prescribed by the Prime Minister” in Clause 4 Article 3 of the Government's Decree No. 32/2017/ND-CP dated March 31, 2017, on state investment credit.

4. To annul Clause 5 Article 2, Clause 8 Article 3, Clause 2 Article 5 , Clauses 7 and 8 Article 6, Clauses 2 and 3 Article 20, Article 29 of the Government's Decree No. 32/2017/ND-CP dated March 31, 2017, on state investment credit.

Article 3. Transitional provisions

1. For contracts on post-investment interest rate support signed before the effective date of this Circular, the Vietnam Development Bank, its clients and involved parties may continue to perform them according to commitments, rights, powers and responsibilities as stated in the signed contracts.

2. For contracts for borrowing of investment loans signed before the effective date of this Decree:

a) The state budget shall not subsidize interest rates and management fees for the entire outstanding loans and remaining disbursements (if any) of these credit contracts in the case the Vietnam Development Bank, its clients and involved parties agree to apply one of the regulations on loan term specified in Clause 7 Article 1, loan interest rate specified in Clause 8 Article 1, and debt rescheduling, exemption from, and reduction of loan interest specified in Clause 10 Article 1 of this Decree, according to the principle that the Vietnam Development Bank appraises, evaluates and takes responsibility for the clients’ debt repayment capability and plans;

b) In case the Vietnam Development Bank, its clients and involved parties fail to have an agreement on the application of the provisions at Point a of this Clause, they shall continue to comply with the commitments in the signed credit contract and shall receive compensation for interest rates and management fees from the state budget. As for the interest rate for the remaining disbursements from the effective date of this Decree, the lending interest rate decided by the

Vietnam Development Bank under Clause 8 Article 1 of this Decree shall apply for each disbursement.

3. For investment credit loan contracts and export credit loan contracts signed before the effective date of this Decree, the Vietnam Development Bank stops calculating interest on late payment of outstanding interests from the date this Decree takes effect and cancel the interest on late payment of outstanding interests that has not been collected up to the time of stopping calculating interest on late payment of outstanding interests.

Article 4. Effect

1. This Decree takes effect from December 22, 2023.

2. Regarding decisions on state investment loan interest rates issued after the effective date of this Decree:

a) Within 15 working days from the effective date of this Decree, the State Bank of Vietnam shall send a document to the Ministry of Finance providing data on average lending interest rates of domestic commercial banks in the same period for the Ministry of Finance to supply to Vietnam Development Bank;

b) Within 3 working days after receiving the document from the State Bank of Vietnam as specified at Point a of this Clause, the Ministry of Finance shall send a document to the Vietnam Development Bank on the average lending interest rate data of domestic commercial banks in the same period that is provided by the State Bank of Vietnam;

c) Within 3 working days after receiving the document from the Ministry of Finance as prescribed at Point b of this Clause, the Vietnam Development Bank shall, based on the principles for determining the state investment loan interest rates specified in Clause 8 Article 1 of this Decree, decide the state investment loan interest rates.

3. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairperson of provincial-level People's Committees, and the Chairperson of the Management Board and Director General of the Vietnam Development Bank shall implement this Decree.

**ON BEHALF OF THE GOVERNMENT
FOR THE PRIME MINISTER
THE DEPUTY PRIME MINISTER**

Le Minh Khai

Appendix

LIST OF PROJECTS ELIGIBLE TO BORROW INVESTMENT LOANS

(Attached to the Government's Decree No. 78/2023/ND-CP dated November 07, 2023)

No.	SECTORS AND FIELDS	SIZE LIMIT
I SOCIO-ECONOMIC INFRASTRUCTURE		
1	Investment projects on clean water exploitation, treatment and supply to serve production and residence.	Groups A, B and C
2	Investment projects on building wastewater treatment and garbage disposal facilities in urban centers, industrial parks, economic zones, export processing zones, hi-tech parks, hospitals, industrial clusters and craft villages.	Groups A and B
3	Investment projects on building and development of social houses in accordance with law	Groups A, B and C
4	Investment projects on infrastructure of industrial parks, support industry zones, export processing zones, hi-tech parks, hi-tech application agricultural parks and hi-tech application rural areas.	Groups A and B
5	Investment projects on building, expansion, renovation or procurement of equipment for hospitals and higher education institutions.	Groups A, B and C
6	Investment projects on building, expansion, renovation or upgrading of road, railway facilities, inland waterway ports, seaports and airports.	National important projects; Groups A, B and C
II AGRICULTURE AND RURAL AREAS		
1	Investment projects on seafood and agricultural product processing plants using high technologies in which development investment is prioritized under the Prime Minister's decisions.	Groups A and B
2	Investment projects on industrial salt production plants.	Groups A and B

3	Projects on concentrated cattle and poultry slaughtering.	Groups A and B
4	Infrastructure investment project for livestock and aquatic breed production, and aquaculture.	Groups A and B
III INDUSTRY		
1	Investment projects on production of antibiotics, detoxification drugs, commercial vaccines and medicines for HIV/AIDS treatment; or production of veterinary drugs attaining GMP standards.	Groups A and B
2	Investment projects on building power plants using wind or solar power, geothermic, biological or biomass energy, liquefied natural gas (LNG) and other renewable energy resources; manufacturing projects applying environmental protection inventions or utility solutions patented by the State in accordance with law.	Groups A, B and C
3	Investment projects on manufacture of key mechanical products under the Prime Minister's decisions.	Groups A, B and C
4	Investment projects on manufacture of energy-efficient devices and equipment; investment in upgrading production lines or scaling up production with energy-efficient technologies.	Groups A, B and C
5	Investment projects on the list of supporting industries under the Prime Minister's decisions.	Groups A, B and C
6	Investment projects on manufacture of products for mechanization of agriculture and rural areas.	Groups A and B
7	Investment projects on technological innovation toward using clean technologies; investment projects on buses using environment-friendly fuels.	Groups A, B and C
8	Projects on application of high technologies, investment projects on manufacture of hi-tech products on the list of high technologies issued by the Prime Minister; investment projects on manufacture of products being outcomes of scientific and technological research of science and technology enterprises in accordance with current laws.	Groups A, B and C
9	Investment projects under the Program on development of national products under the Prime Minister's decisions.	Groups A, B and C
IV	Investment projects implemented in geographical areas with difficult or particularly difficult socio-economic conditions; projects in localities	

	densely inhabited by Khmer people, communes under Program 135 and border communes under Program 120, communes on coastal banks (excluding coal-fired thermal power, cement production and iron and steel projects).	
V	Offshore investment projects under the Government's regulations; lending projects under the Government's agreements.	Groups A and B

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