

DECREE

On state investment credit¹

Pursuant to the June 19, 2015 Law on Organization of the Government;

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

Pursuant to the November 26, 2014 Law on Investment;

Pursuant to the June 18, 2014 Law on Public Investment;

Pursuant to the June 17, 2009 Law on Management of Public Debts;

Pursuant to the June 16, 2010 Law on Credit Institutions;

At the proposal of the Minister of Finance;

The Government promulgates the Decree on state investment credit.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation and subjects of application

1. This Decree prescribes the policy on state investment credit to be implemented by the Vietnam Development Bank.

2. This Decree applies to:

a/ Enterprises and non-business units enjoying financial autonomy and other economic organizations acting as owners of projects on the list of projects eligible for state investment loans;

b/ The Vietnam Development Bank;

c/ Agencies, organizations and individuals involved in the state investment credit facilitation.

Article 2. Principles of provision of state investment loans

¹ Công Báo Nos 263-264 (15/4/2017)

1. These loans shall be provided to the entities eligible for state investment loans specified in this Decree.

2. Projects eligible for state investment loans are those that have been appraised and evaluated by the Vietnam Development Bank as being efficient and capable of fully paying loan principals and interests.

3. Loans shall be granted according to the procedures prescribed by law.

4. Borrowers shall use loans for proper purposes; fully pay loan principal and interest within time limits stated in signed credit contracts; fulfill all of their commitments in credit contracts and fully comply with the provisions of this Decree.

5. State investment loan interest rate must proceed to cover capital costs, operation expenses and credit risk provisions in operations of the Vietnam Development Bank.

Article 3. Interpretation of terms

In this Decree, the terms and expressions below are construed as follows:

1. “Borrowers” include enterprises and non-business units enjoying financial autonomy and other economic organizations borrowing state investment loans from the Vietnam Development Bank.

2. “Affiliated persons” means organizations and individuals defined in Clause 28, Article 4 of the Law on Credit Institutions.

3. “Loan term” means a period of time counted from the time the Vietnam Development Bank disburses a loan to the time the borrower has to fully pay the loan principal and interest as agreed upon in the credit contract between the Vietnam Development Bank and such client.

4. “Grace period” means a period of time counted from the time the Vietnam Development Bank disburses a loan to the time the borrower starts paying the loan principal as agreed upon in the credit contract. During the grace period, the borrower is not yet required to pay the loan principal but shall pay the loan interest under the signed credit contract, unless otherwise prescribed by the Prime Minister.

5. “Debt payment time limit” means a period of time from the time a borrower has to start repaying a loan to the time such loan is fully repaid under the credit contract.

6. “Debt payment terms” means periods of time within the debt payment time limit as agreed upon between the Vietnam Development Bank and a borrower at the end of which such borrower has to repay part of or the whole loan to the Vietnam Development Bank.

7. “Adjustment of debt payment terms” means the agreement between the Vietnam Development Bank and a borrower to change debt payment terms already stated in their credit contract without changing the debt payment time limit.

8. “Debt rescheduling” means the agreement of the Vietnam Development Bank to prolong the time limit for payment of a loan principal and/or loan interest beyond the loan term already stated in the credit contract.

Article 4. State investment credit plans

1. An annual or medium-term state investment credit plan to be assigned to the Vietnam Development Bank must state:

a/ Overall state investment credit growth level;

b/ Funding sources for state investment credit facilitation;

c/ State budget funds for paying interest rate difference, providing post-investment support and covering management expenses.

2. The Vietnam Development Bank shall make reports on annual and medium-term state investment credit plans and send them to the Ministry of Finance and Ministry of Planning and Investment in accordance with the Law on Public Investment and relevant legal documents.

3. The Ministry of Planning and Investment shall assume the prime responsibility for, and coordinate with the Ministry of Finance in, appraising state investment credit plans made by the Vietnam Development Bank. The Ministry of Planning and Investment shall sum up and report on state investment credit plans to the Prime Minister for consideration and decision of incorporation of such plans in socio-economic development plans.

Chapter II

STATE INVESTMENT CREDIT

Article 5. Eligible borrowers

1. Eligible for state investment loans are clients having investment projects on the list of projects eligible for state investment loans issued together with this Decree.

2. A project mentioned in Clause 1 of this Article that has borrowed preferential loans from other state financial institutions may not borrow state investment loans under this Decree.

Article 6. Lending conditions

A borrower must fully satisfy the following conditions:

1. Being specified in Article 5 of this Decree.
2. Having full legal capacity and having carried out the prescribed investment procedures.
3. Having its investment project in need of a state investment loan appraised and evaluated by the Vietnam Development Bank as being efficient and capable of repaying the loan.
4. Having an equity capital for the project implementation equal to at least 20% of the total project investment 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, except for special projects decided by the Prime Minister.
5. Providing loan security under this Decree and relevant regulations.
6. Having no non-performing loan owed to any credit institutions by the time the Vietnam Development Bank considers the provision and disbursement of a loan.
7. Having purchased property insurance from an insurance business lawfully operating in Vietnam for the loan security property.
8. Observing the regulations on accounting, annual financial statements and audit of annual financial statements in accordance with law.

Article 7. Loan limit

1. The maximum state investment loan for a project is 70% of the total investment capital of such project (excluding liquid capital).
2. The total outstanding loan balance of the Vietnam Development Bank (including state investment loans) for a borrower, and for a borrower and its affiliated persons, except for special projects decided by the Prime Minister, must not exceed 15% and 25% of the Bank's equity capital, respectively.
3. The Vietnam Development Bank may decide on a specific loan amount to be provided for an investment project based on the project's appraisal result and the credit limit specified in Clauses 1 and 2 of this Article.

Article 8. Loan terms

1. Loan terms shall be determined according to the capital recoverability of projects and debt payment ability of borrowers to suit

production or business characteristics of projects but must not exceed 12 years. Particularly for group-A investment projects, the maximum loan term is 15 years.

2. The Vietnam Development Bank may decide on loan terms for each project based on project appraisal results and under Clause 1 of this Article.

3. Special projects that need loans with a term exceeding the maximum loan term specified in Clause 1 of this Article may be appraised and proposed by the Vietnam Development Bank to the Prime Minister for consideration and decision.

Article 9. Loan interest rate

1. The state investment loan interest rate is equal to the weighted average of bid-winning interest rates of Vietnam Development Bank's bonds with 5-year government guarantee within 1 year before the date of announcement of such interest rate under this Decree plus (+) a percentage of operation management expenses and a risk provision of the Vietnam Development Bank.

The Ministry of Finance shall submit to the Prime Minister for decision a management expense percentage to be kept unchanged for 3 years, which must enable the Vietnam Development Bank to have a sufficient operation funding source and set aside a risk provision under regulations. When there appears a big change, the Vietnam Development Bank shall report an appropriate operation management expense percentage to the Ministry of Finance for submission to the Prime Minister for consideration and decision.

2. On the last day of every quarter, based on the principle of interest rate determination prescribed in Clause 1 of this Article, the Vietnam Development Bank shall determine and announce the state investment loan interest rate.

3. The state investment loan interest rate for a project referred to in Clause 2 of this Article shall be applied to all outstanding loans of such project from the time of adjustment.

4. The overdue debt interest rate for a project shall be considered and decided by the Vietnam Development Bank but must not exceed 150% of the undue loan interest rate.

Article 10. Loan currency

1. Loans shall be provided and recovered in Vietnam dong.

2. For ODA-funded projects and foreign loan-funded projects, the Vietnam Development Bank may provide and recover loans in a foreign

currency in accordance with regulations on the mechanism of on-lending the Government's foreign loans and the State Bank of Vietnam's guidance.

Article 11. Grace period

The grace period shall be decided by the Vietnam Development Bank to suit the period of project investment and operation and debt payment sources of borrowers.

Article 12. Loan disbursement and recovery

The Vietnam Development Bank may directly disburse and recover loans or entrust credit institutions lawfully operating in Vietnam to do so, manage security property and comply with regulations on entrustment, entrustment taking, provision of syndicated loans by credit institutions.

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 secured transactions. For every project, the Vietnam Development Bank shall consider and decide on specific loan security measures in accordance with law. For special projects, loan security shall be decided by the Prime Minister.

2. The Vietnam Development Bank and borrowers shall carry out the procedures for loan security in accordance with the law on secured transactions.

3. The Vietnam Development Bank may realize security property to recover loans in accordance with the law on secured transactions.

Article 14. Loan repayment

1. Borrowers are obliged and responsible to repay loans to the Vietnam Development Bank fully and on time under signed credit contracts.

2. During the grace period, borrowers are not yet required to repay loan principals but shall pay loan interests under signed credit contracts.

3. From the end of a debt payment term, if borrowers cannot pay debts of such term and do not have such term adjusted or rescheduled by the Vietnam Development Bank, unpaid due debt principals shall bear an overdue interest rate under regulations.

Article 15. Adjustment of debt payment terms and debt scheduling

1. The Vietnam Development Bank may decide on adjustment of debt payment terms, debt amount to be paid in each term and debt

scheduling based on financial capability of the Bank and debt payment ability of borrowers.

2. The total period of debt rescheduling for a project borrowing state investment loans shall be decided by the Vietnam Development Bank but must not exceed one-third of the maximum loan term specified in Clause 1, Article 8 of this Decree.

3. The Vietnam Development Bank shall guide dossiers and procedures for adjusting debt payment terms, debt amount to be paid in each term and debt scheduling for borrowers.

Article 16. Classification of debts and setting aside of risk provision

1. The classification of debts by the Vietnam Development Bank must comply with regulations of the State Bank of Vietnam.

2. The Vietnam Development Bank may set aside a credit risk provision from its operation expenses to offset risks when borrowers default on their debts, specifically as follows:

a/ The general risk provision must be equal to 0.75% of the total outstanding debt balance;

b/ A specific risk provision shall be decided by the Vietnam Development Bank but must not exceed the level of provision to be set aside for each group of debts as prescribed by the State Bank of Vietnam for commercial banks on the basis of debt classification results and financial revenues and expenditures.

Article 17. Risk offsetting and competence to offset risks

1. The risk offsetting by the Vietnam Development Bank must ensure the principles of strictly complying with law, minimizing loss caused to the State and holding the Vietnam Development Bank, borrowers and related agencies jointly responsible for the loan provision and recovery and debt settlement.

2. Measures to offset state investment credit risks include: prolonging debt payment time limit, adjusting debt payment terms, debt payment rescheduling, realizing security property, debt freezing, off-balance sheet transfer for settlement or writing off of debt principals, writing off of debt interests, and sale of debts.

3. The use of the risk provision to offset risks and competence to offset risks must comply with the Prime Minister's regulation on offsetting of credit risks at the Vietnam Development Bank.

Article 18. Funding sources for implementation of the state investment credit policy

The Vietnam Development Bank may use its equity capital, capital raised at home and abroad, state budget allocations and other lawful funding sources to implement the state investment credit policy in accordance with law.

Chapter III

RESPONSIBILITIES OF AGENCIES AND BORROWERS OF THE VIETNAM DEVELOPMENT BANK

Article 19. The Ministry of Finance

1. To perform the state management of finance in investment credit activities of the Vietnam Development Bank; to assume the prime responsibility for, and coordinate with related ministries and agencies in, submitting to the Government and Prime Minister for promulgation mechanisms and policies related to state investment credit.

2. To guide or promulgate according to its competence mechanisms and policies related to state investment credit falling under its competence.

3. To join the Ministry of Planning and Investment in appraising annual and medium-term state investment credit plans made by the Vietnam Development Bank.

4. Based on annual reports of the Vietnam Development Bank, to assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment, Ministry of Industry and Trade, Ministry of Agriculture and Rural Development, Ministry of Transport, State Bank of Vietnam and related ministries and sectors in, assessing the implementation of the state investment credit policy and operation results of the Vietnam Development Bank for reporting to the Prime Minister.

Article 20. The Ministry of Planning and Investment

1. To perform the function of state management of planning and development investment regarding investment credit activities of the Vietnam Development Bank; to assume the prime responsibility for appraising annual and medium-term state investment credit plans made by the Vietnam Development Bank.

2. To sum up and include funds for allocating charter capital, paying interest rate differences and covering management expenses in development investment expenditure estimates of the state budget.

3. To assume the prime responsibility for, and coordinate with the Ministry of Finance in, determining total investment funds from the state

budget and state investment credit capital in annual and medium-term public investment plans.

4. To coordinate with the Ministry of Finance in formulating, and monitoring and assessing the implementation of, the state investment credit policy and operation results of the Vietnam Development Bank.

Article 21. The State Bank of Vietnam

The State Bank of Vietnam shall perform the function of state management of money and banking activities regarding state investment credit activities, including:

1. To guide the Vietnam Development Bank in classifying debts under Clause 1, Article 16 of this Decree.

2. To issue regulations on capital and operation safety for the Vietnam Development Bank.

3. To guide the Vietnam Development Bank in providing banking and foreign exchange services and carrying out entrustment and entrustment taking activities.

4. To inspect and supervise the Vietnam Development Bank in observing the regulations on monetary and banking activities under its management.

5. To coordinate with the Ministry of Finance in formulating, and monitoring and assessing the implementation of, the state investment credit policy and operation results of the Vietnam Development Bank.

Article 22. The Ministry of Science and Technology

1. To guide the implementation of regulations on high technologies to serve as a basis for considering the provision of state investment loans.

2. To coordinate with the Ministry of Finance in formulating the state investment credit policy according to its functions and fields assigned by the Government for management.

Article 23. The Vietnam Development Bank

1. To make and report on annual and medium-term state investment credit plans to the Ministry of Finance and Ministry of Planning and Investment for submission to competent agencies for consideration and decision.

2. To organize the implementation of the state investment credit policy under this Decree and relevant regulations.

3. To determine and announce state investment loan interest rates on a quarterly basis under this Decree.

4. To issue the regulation on provision of loans and relevant regulations on state investment credit activities.

5. To appraise and take responsibility for decisions on provision of loans to, and recovery of loan principals and interests from, projects borrowing state investment loans.

6. To inspect and supervise borrowers in using loans efficiently for proper purposes and fully paying loan principals and interests on time to the Vietnam Development Bank.

7. To recover state investment loan principals and interests.

8. To offset risks according to its competence and assume responsibility for the accuracy, truthfulness and transparency of its risk offsetting recommendations to competent agencies for consideration and decision.

9. To report to competent agencies on issues related to the implementation of the state investment credit policy.

Article 24. Ministries, ministerial-level agencies, government-attached agencies and provincial-level People's Committees

Ministries, ministerial-level agencies, government-attached agencies and provincial-level People's Committees shall perform their respective functions and exercise their respective powers:

1. To coordinate with the Ministry of Finance in formulating the state investment credit policy and monitor and assess the implementation of this policy.

2. To announce development master plans, plans and orientations and processes, regulations, standards and economic-technical norms of sectors, fields, products and territorial areas for use as a basis for implementation of the state investment credit policy.

3. To direct, inspect and supervise project owners in making investment strictly according to the State's investment regulations; to solve problems related to the implementation of the state investment credit policy according to its functions and assigned tasks and within the scope of assigned state management.

4. To advise the Vietnam Development Bank on the elaboration and assignment of annual state investment credit growth targets, supervise the use of loans, and assist in the collection of debts and settlement of non-performing state investment loans in localities.

Article 25. Responsibilities of borrowers

1. To accurately, adequately, truthfully and promptly provide information and documents related to the borrowing and use of loans and loan security to the Vietnam Development Bank and take responsibility before law for such information and documents.

2. To use loans for proper purposes, pay debts fully and on time and fulfill all of their commitments in credit contracts.

3. To notify in writing the Vietnam Development Bank of their ownership conversion before effecting it in order to repay state investment loans in accordance with law.

4. To complete the cost finalization of their completed projects upon commissioning these projects under regulations and complete the relevant procedures for establishing use and ownership rights over security property formed from loans in accordance with law and under their agreements with the Vietnam Development Bank. If failing to comply with the provisions of this Article, to be penalized under regulations of the State and the Vietnam Development Bank.

Chapter IV

INSPECTION, EXAMINATION, REPORTING, AND HANDLING OF VIOLATIONS

Article 26. Inspection, examination and reporting

1. State investment credit activities mentioned in this Decree are subject to inspection and examination by competent state agencies in accordance with law. Such inspection and examination may be carried out at each stage or at all stages of the process of construction investment, production, business and repayment of loans.

2. Ministers, heads of ministerial-level agencies, government-attached agencies and chairpersons of provincial-level People's Committees shall examine and supervise the implementation of the state investment credit policy in fields and areas under their respective management.

3. On a quarterly basis or an irregular basis, the Vietnam Development Bank shall sum up and report to the Prime Minister on the provision of state investment loans, and at the same time report it to the Ministry of Finance, Ministry of Planning and Investment and State Bank of Vietnam.

In the course of implementation, the Vietnam Development Bank shall report on the provision of state investment loans at the request of

the Prime Minister, Ministry of Finance, Ministry of Planning and Investment or State Bank of Vietnam.

Article 27. Handling of violations

1. Borrowers that violate the provisions of this Decree, causing property damage or capital loss, shall pay compensations and be handled in accordance with law.

2. The Vietnam Development Bank shall take responsibility before law for the implementation of the state investment credit policy. Any violation of the provisions of this Decree shall be handled in accordance with law.

Chapter V

IMPLEMENTATION PROVISIONS

Article 28. Effect

This Decree takes effect on May 15, 2017, and replaces the Government's Decree No. 75/2011/ND-CP of August 30, 2011, on state investment credit and export credit; Decree No. 54/2013/ND-CP of May 22, 2013; and Decree No. 133/2013/ND-CP of October 17, 2013, supplementing Decree No. 75/2011/ND-CP.

Article 29. Transitional provisions

1. For contracts for borrowing of state investment loans or export loans, contracts for provision of investment loan guarantee or post-investment interest rate support which are signed before the effective date of this Decree, the Vietnam Development Bank, borrowers and related parties shall continue performing their commitments and responsibilities and exercising their powers specified in such contracts.

2. For projects borrowing state investment loans, if their total investment capital increases in the course of implementation and such increase is approved by a competent authority, the Vietnam Development Bank may continue providing additional loans under this Decree if it has re-appraised and found these projects efficient and capable of repaying loans. Total loans (including additional loans) must be within the credit facilitation limit specified in Article 7 of this Decree.

3. The adjustment of interest rates of state investment loans already disbursed under credit contracts signed before the effective date of this Decree shall be decided by the Prime Minister at the request of the Vietnam Development Bank and based on opinions of the Ministry of Finance and State Bank of Vietnam.

Article 30. Application of this Decree to lending projects under the Government's agreements which have no specific provisions on loans

In case the Vietnam Development Bank is required to provide project loans under the Government's agreements which have no specific provisions on lending conditions, loans interest rate, term and level and other related contents, the Vietnam Development Bank shall provide loans under this Decree's provisions on state investment credit.

Article 31. On-lending of foreign loans of or guaranteed by the Government with credit risks borne by the Vietnam Development Bank

1. The Vietnam Development Bank, when on-lending loans to projects/programs within the credit limit used for borrowing foreign loans of or guaranteed by the Government and under binding provisions on eligible borrowers, geographical areas, fields, on-lending interest rates and/or other related conditions and having to bear credit risks, shall comply with the provisions of the borrowing agreements with foreign donors and the on-lending mechanism approved by the Prime Minister.

2. The Vietnam Development Bank shall issue regulations specifying credit conditions, procedures, management mechanism, setting aside of risk provision, risk offsetting and other contents related to loans.

Article 32. Responsibility to guide and organize the implementation of this Decree

1. The Ministry of Finance, the State Bank of Vietnam and related ministries and sectors shall, within the ambit of their functions and competence, guide the implementation of this Decree.

2. 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
Prime Minister
NGUYEN XUAN PHUC

Appendix

LIST OF PROJECTS ELIGIBLE TO BORROW INVESTMENT LOANS

(To the Government's Decree No. 32/2017/ND-CP of March 31, 2017)

No.	Sectors and fields	Size limit
I	SOCIO-ECONOMIC INFRASTRUCTURE (regardless of investment locations)	
1	Investment projects on building clean water supply facilities 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 and hi-tech parks	Groups A and B
5	Investment projects on building or expansion of public hospitals	Groups A, B and C
II	AGRICULTURE AND RURAL AREAS (regardless of investment locations)	
1	Investment projects on seafood 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
III	INDUSTRY (regardless of investment localities)	
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 and other renewable energy resources; manufacturing projects applying environmental protection inventions or utility solutions patented by the State in accordance with law	Groups A and B

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 and B
9	Investment projects under the Program on development of national products under the Prime Minister's decisions	Groups A and B
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 thermo-power, cement production and iron and steel projects; investment projects on roads, road bridges, railways and railway bridges).	
V	Offshore investment projects under the Government's regulations; lending projects under the Government's agreements	Groups A and B