

THE GOVERNMENT

No. 46/2021/ND-CP

THE SOCIALIST REPUBLIC OF VIETNAM

Independence – Freedom - Happiness

Hanoi, March 31, 2021

DECREE

On financial management regime and operational efficiency assessment of Vietnam Development Bank

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 to the Law on the State Budget dated June 25, 2015;

Pursuant to the Law on Management and Use of State Capital Invested in Production and Business at Enterprises dated November 26, 2014;

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;

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

Pursuant to the Law on Enterprises dated November 26, 2014;

At the request of the Minister of Finance;

The Government hereby promulgates the Decree on financial management regime and operational efficiency assessment of Vietnam Development Bank.

Chapter I GENERAL PROVISIONS

Article 1. Scope of regulation

This Decree provides financial management regime and operational efficiency assessment of Vietnam Development Bank (hereinafter referred to as the Development Bank)

Article 2. Subjects of application

1. The Development Bank.
2. The agency representing the owner of state capital at the Development Bank.
3. Other relevant organizations and individuals.

Article 3. Interpretation of terms

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

1. “State investment credit and export credit” including:
 - a) Loans according to the Government’s regulations on the State’s investment credit policies;
 - b) Outstanding loans for export credit of the State for contracts which are signed before the effective date of the Decree No. 32/2017/ND-CP dated March 31, 2017 of the Government on state investment credit (hereinafter referred to as the Decree No. 32/2017/ND-CP);
 - c) Loans under programs and projects assigned by the Government or the Prime Minister, which are subsidized by the state budget with interest rates and/or management fees;
 - d) Loans received by the Development Bank from the predecessor organization.
2. “Loans with compulsory guarantee” are compulsory loans after the Development Bank fulfills its guarantee obligations for small and medium-sized enterprises to borrow capital at commercial banks under the Prime Minister’s decision on the guarantee mechanism for small and medium-sized enterprises.
3. “Other loans” are loans from the Development Bank re-lending from the Government’s foreign loans, which are subject to credit risk by the Development Bank, and other loans of the Development Bank at the agreed interest rate, without subsidy from the State budget for interest rates and management fees.

Article 4. Financial management principles

1. Development Bank is a policy bank, operating under the model of a single-member limited liability company in which 100% of charter capital is held by the State, it has legal status, charter capital, balance sheet, seal, is allowed to open accounts at the State Bank of Vietnam, the State Treasury, domestic and foreign commercial banks in accordance with law provision. Development Bank is a centralized accounting unit for the whole system; has financial autonomy, self-responsibility for their activities to the law; and comes toward self-compensation of costs and risks in operation. The Development Bank shall perform financial management in accordance with this Decree, for matters which are not specified in this Decree shall comply with the provisions of law for single-member limited liability companies of which 100% of charter capital is held by

the State.

2. The Development Bank operates for non-profit purposes in order to implement the State's credit policy and other tasks as prescribed by the Government and the Prime Minister; be subsidized by the state budget for interest rates and management fees as prescribed by laws and this Decree; be exempted from paying taxes and state budget payments; its solvency is guaranteed by the Government; be applied reserve ratio of 0% (zero percent) and be exempted from deposit insurance.

3. The Development Bank is granted a refinancing loan by the State Bank of Vietnam in accordance law provisions; is allowed participate in the interbank market, to participate in the open market, to organize internal payments, to provide payment services and other banking services to customers, to conduct foreign exchange activities; to participate in the domestic and international payment systems in accordance with law provisions.

4. Other loan activities: The State budget shall not subsidize for interest rate and management fee; other arising incomes, expenses and operating results are integrated with the results of the Development Bank's operations in accordance with the provisions of this Decree.

Article 5. Responsibility regime

The Board of Directors, the Supervisory Board, the Director General of the Development Bank shall take legally responsibility and responsibility to other state management authorities on safely manage the capital and assets of the Development Bank, ensure the proper, economical and efficient use of capital, and comply with the financial, accounting and auditing regulations of the Development Bank.

Chapter II CAPITAL, FUND AND ASSET

Article 6. Fund of the Development Bank

1. Equity:

a) Charter capital is allocated and supplemented by the State budget from the reserve fund for supplementing charter capital, development investment fund or other sources as prescribed by law.

The change of the charter capital level shall be decided by the Prime Minister on the basis of the proposal of the Development Bank and the opinion of the Ministry of Finance, ensuring compliance with requirements, tasks and capital adequacy ratio of the Development Bank in each period of time;

- b) Construction investment capital is allocated by the state budget;
- c) Funds: Reserve fund for supplementing charter capital, development investment fund, financial reserve fund;
- d) Difference due to revaluation of assets; exchange rate differences;
- dd) Undistributed operating results;
- e) Non-refundable funding from domestic and foreign organizations;
- g) Other capital owned by the Development Bank.

2. Capital mobilized in accordance with law provisions, including:

- a) Issuance of bonds guaranteed by the Government;
- b) Issuance of bonds, promissory notes, certificates of deposit and valuable papers in Vietnam Dong by the Development Bank;
- c) Borrowing from Vietnam Social Insurance; loans from domestic and foreign financial and credit institutions;
- d) Borrowing from the State Bank of Vietnam;
- dd) Mobilization from other domestic and foreign organizations;
- e) Receive entrustment deposits from domestic and foreign organizations and individuals;
- g) Mobilization from other capital sources as specified by law.

3. Other capital, including:

- a) The state budget shall provide interest subsidy for the performance of post-investment support contracts arising before the effective date of Decree No. 32/2017/ND-CP;
- b) The Government's foreign loan capital which is authorized by the Ministry of Finance to lent again;
- c) Entrusted capital of the Ministry of Finance, local authorities, local financial funds, domestic and foreign organizations (trusting party) to comply with the written request of the entrusting party;
- d) Other legal capital sources in accordance with law provisions.

Article 7. Core capital

Core capital is determined and calculated from the figures in the separate financial statements, including:

- 1. Charter capital;
- 2. Funds:
 - a) Reserve fund for supplementing charter capital;

b) Development investment fund;

c) Financial reserve fund.

3. Positive difference due to revaluation of assets (including fixed assets, long-term investment capital contributions).

4. The positive revenue difference which is not yet distributive accumulated.

5. Amounts to be reduced when determining equity include:

a) Capital contributed to subsidiaries and affiliated companies in accordance with law provisions;

b) Accumulated negative revenue difference;

c) Negative differences due to revaluation of assets.

Article 8. Use of capital and assets

1. The Development Bank may use its operation capital to:

a) Implement credit policies in accordance with law provisions;

b) Carry out other forms of credit extension as prescribed in the Charter on organization and operation of the Development Bank and the decision of the competent authority in accordance with law provisions;

c) Grant post-investment support investment in accordance with law provisions for contracts arising before the effective date of the Decree No. 32/2017/ND-CP;

d) Perform credit guarantee obligations for small and medium-sized enterprises on lending capital at commercial banks in accordance with law provisions;

dd) Entrust credit institutions to perform a number of activities of the Development Bank in accordance with law provisions;

e) Provide loan by authorization/entrustment, allocating capital under entrustment; guarantee under authorization/entrustment;

g) Entrust and receiving entrustment to provide financial and banking services to customers in accordance with law provisions;

h) Buy, sell, discount and re-discount valuable papers in accordance with law provisions;

i) Contribute to capital, establish subsidiary companies or participate in the establishment of domestic affiliated companies in accordance with law provisions and the Charter on organization and operation of the Development Bank;

k) Invest in capital construction and purchase assets to serve the Development Bank's operation in accordance with this Decree's provisions;

l) Use idle capital to deposit at credit institutions, foreign bank branches. The Development Bank shall select credit institutions, foreign bank branches to deposit money safely, avoid capital loss;

m) Perform a number of other tasks assigned by the Government or the Prime Minister.

2. Adjustment of capital and asset structure:

The Development Bank is entitled to actively adjust the capital and asset structure within the system to serve its operations in accordance with the provisions of the Charter on organization and operation of the Development Bank.

3. Transfer of capital and asset structure:

The transferring of capital and assets between the units under and affiliated to the Development Bank shall comply with the provisions of the Charter on organization and operation of the Development Bank.

Article 9. Capital safety assurance

The Development Bank shall take responsibility to conduct provisions on operational capital security, including:

1. Manage and use capital and assets, distribute financial results, implement financial management and accounting regimes in accordance with this Decree's provisions and relevant laws.

2. Buy property insurance in accordance with law provisions.

3. Accounting into operating expenses of deduction for setting up risk provisions according to the provisions of this Decree and relevant laws.

4. Re-purchase and swap valuable papers issued by the Development Bank in accordance with law provisions.

5. Handle asset loss according to the provisions of Article 14 of this Decree.

6. Take other measures to preserve capital as prescribed by law.

Article 10. Inventory, re-evaluation, liquidation and sale of assets

1. Inventory of assets and handling of asset inventory results:

a) The Development Bank shall carry out the asset inventory when closing the accounting books to prepare the annual financial statements; when making decisions on division, separation, merger, consolidation or transformation of legal form; after the occurrence of natural calamities and enemy-inflicted destruction or other causing changes in the assets of the Development Bank; upon request of competent agencies;

b) The handling of asset inventory results at the Development Bank shall

comply with current regulations for single-member limited liability companies which 100% of charter capital is held by the State.

2. Re-evaluation of assets:

a) The Development Bank implement re-evaluation of assets in accordance with law provisions for single-member limited liability companies of which 100% of charter capital is held by the State;

b) The results of revaluation of the Development Bank's assets shall be sent to the competent state agency to decide on the assessment and sent to the Ministry of Finance also.

3. Liquidation and sale of assets:

a) The Development Bank may liquidate or sell damaged assets that are not recoverable, technically obsolete, have no need to use or cannot be used to recover capital on the principle of publicity and transparent;

b) Authority, method, order and procedure of asset liquidation and sale of the Development Bank shall comply with current regulations for single-member limited liability companies of which 100% of charter capital is held by the State.

c) Revenues or expenses arising from the liquidation or sale of assets (including the residual value of the liquidated or sold assets) shall be accounted into the revenues or expenses of the Development Bank in accordance with law provisions.

Article 11. Depreciation of fixed assets

1. The Development Bank shall implement depreciation of fixed assets in accordance with law provisions for single-member limited liability companies which 100% of charter capital is held by the State;

2. The Development Bank is allowed to use the depreciation of fixed assets for reinvestment in replacement, renewal of fixed assets and other operational requirements in accordance with law provisions for single-member limited liability companies which 100% of charter capital is held by the State;

Article 12. Investment in basic construction, purchase of fixed assets

1. The investment in capital construction and the purchase of fixed assets for the operation of the Development Bank must comply with the provisions of law for single-member limited liability companies which 100% of charter capital is held by the State and according to the annual plan approved by the Board of Directors. In case the value of an investment project exceeds the decision-making competence for single-member limited liability company of which 100% of charter capital is held by the State, the Board of Directors shall report it to the Ministry of Finance for submission to the Prime Minister's decision. The investment in capital construction from public investment capital (if any) shall

comply with provisions of the Law on Public Investment and relevant guiding documents.

2. Total residual value of all fixed assets serving the Development Bank's operations (original cost of fixed assets minus depreciation) must not exceed 25% of charter capital and reserve fund for supplementing of charter capital which are reflected in the accounting books of the Development Bank.

Article 13. Rent, lease, mortgage and pledge of assets

1. The Development Bank is allowed to lease, mortgage and pledge of assets under its use rights and ownership in accordance with law provisions for single-member limited liability company of which 100% of charter capital is held by the State.

2. For the assets that the Development Bank leases or receives as a pledge, mortgage, or preservation for the customers, the Development Bank is responsible for managing, preserving or using it according to the agreement with the customers in accordance with law provisions.

Article 14. Handling property damage

When a loss of property occurs, the Development Bank shall determine the extent, cause, responsibility and handles according to the following principles:

1. If the damage is caused by subjective reasons, the individual or collective that causes the damage must compensate for the damage in accordance with law provisions. The Development Bank shall specify the compensation and decide the level of compensation in accordance with law provisions and take responsibility for such decisions.

2. In case the property has been insured, it will be handled according to the insurance contract.

3. Use provisions set up in expenses to offset in accordance with law provisions.

4. The value of the loss after being compensated with the compensation paid by the individual, the collective, the insurance organization and the use of the reserve funds shall be deducted from expenses, in case of shortage, the financial reserve fund shall recover. In case the financial reserve fund is insufficient to cover, the shortfall shall be accounted to other operating expenses in the period.

Chapter III

DEBT CLASSIFICATION, DEDUCTION AND USE OF RISK PROVISIONS

Article 15. Debt classification and determination of credit risk provisions which need deduction

1. The Development Bank shall classify debts according to the guidance of the State Bank of Vietnam.

2. Based on the results of debt classification specified in Clause 1 of this Article, the Development Bank shall fully calculate and keep track of the risk that provisions which need to be deducted (general provision and specific provision) of each credit activity as prescribed in Article 3 of this Decree; the level of deduction shall comply with the guidance of the State Bank of Vietnam for commercial banks.

Article 16. Deduction for setting up credit risk provisions

The Development Bank shall calculate into annual operating expenses to make the deduction for setting up risk provisions for the State's investment and export credits; compulsory guarantee loans and other loans for which the Development Bank bears credit risk. The deduction shall be as follow:

1. For the provisions of investment credit, export credit of the State, compulsory guarantee loans (hereinafter referred to as the provision for risk of investment credit, export credit, compulsory loan): Annually, the Development Bank bases on the difference between financial revenues and expenditures, determines the amount of deduction, but at least equal to 0.75% of the total outstanding loans of investment credit, export credit, compulsory guarantee loans and ensure that the balance of the risk provisions fund does not exceed the total amount to be deducted as prescribed in Clause 2, Article 15 of this Decree.

2. For risk provisions of other loans:

a) For loans from Government's on-lending which is from foreign loan source:

For loans under the Authorized contract on on-lending between the Ministry of Finance and the Development Bank signed from the effective date of the Decree No. 97/2018/ND-CP dated June 30, 2018 of the Government on the on-lending of ODA loans and foreign concessional loans of the Government (hereinafter referred to as the Decree No. 97/2018/ND-CP), the Development Bank is allowed to deduct and use the risk provisions in accordance with the provisions of Decree No. 97/2018/ND-CP and amending and supplementing documents (if any);

For loans under the on-lending authorization contract between the Ministry of Finance and the Development Bank signed before the effective date of the Decree No. 97/2018/ND-CP, the Development Bank shall deduct for setting up risk provisions in comply with the authorization contract for on-lending of foreign loans signed with the Ministry of Finance. In case the on-lending authorization contract does not provide for the deduction for setting up risk

provisions, the Development Bank shall make the deduction according to the provisions of Point b of this Clause;

b) For other loans which the Development Bank bears credit risks: Every year, the Development Bank shall use the positive difference between the revenue from loan interest and capital mobilization expenses of all these lending activities to deduct for setting up risk provisions and ensure the balance of risk provision's fund for other loans must not exceed the deducted amount as prescribed in Clause 2, Article 15 of this Decree.

3. The deduction for setting up of credit risk provisions is made on quarterly basis. Particularly for the annual accounting period, the deduction at the time of settlement is based on the results of debt classification on November 30 of the accounting year.

Article 17. Credit risk reserve funds

1. The Development Bank's credit risk reserve funds include the provision funds for investment credit risks, export credits, compulsory guarantee loans, and the reserve fund for other loans that are formed from the following sources:

a) The deduction of credit risk reservation as prescribed in Article 16 of this Decree;

b) The amount recovered from the principal debts which use the credit risk reserve fund to handle;

c) The difference between the selling price of the debt currently recorded on the balance sheet after deducting expenses related to the sale of debt as prescribed by law which is higher than the book value of the debt (principal, interest) as prescribed by laws;

d) Transfer of the balance of the risk reserve funds of investment credit lending, export credit and guarantee risk reserve funds into the risk reserve fund for investment credit, export credit, compulsory guarantee loans; the balance of the risk reserve funds of other lending activities to the risk reserve funds for other loans at the time this Decree takes effect;

dd) Other sources specified by law.

2. The Development Bank shall separately manage and monitor each risk reserve fund and use it to handle risks in accordance with the Regulation on credit risk handling at the Development Bank promulgated by the Prime Minister.

a) Risk reserve funds for investment credit, export credit, compulsory guarantee loans shall be used to handle risks for investment credit, export credit, compulsory guaranteed loans in accordance with law provisions; risk reserve fund for other loans shall be used to handle risk of other loans in accordance with law provisions;

b) In case the balance of the risk reserve funds for investment credit, export credit, or compulsory guaranteed loans is larger than the reservation to be deducted as prescribed, the Development Bank shall transfer the excess into income;

c) The balance of the risk reserve fund of other loans, after the loan balance has been fully recovered, the Development Bank may transfer it into the reserve fund for investment credit, export credit, and compulsory guarantee loans; only transfer the excess difference into income when the risk reserve fund for investment credit, export credit, or compulsory guarantee loans has been fully provided as prescribed in this Decree;

d) In case the credit risk reserve funds are not enough to cover the number of risks allowed by the competent authority to handle within the year, the Development Bank shall report to the Ministry of Finance to assume the prime responsibility and coordinate with the Ministry of Planning and Investment to submit to the Prime Minister for consideration and decision in accordance with law provisions.

Article 18. Other deduction for setting up of other provisions

The Development Bank shall base on the provisions of law for enterprises and commercial banks on deducting and using of provision for devaluation of stocks, loss of financial investments, doubtful debt, other provisions and financial capacity to decide the level of deduction for annual expenses.

Chapter IV

SUBSIDY FOR INTEREST RATE AND MANAGEMENT FEE

Article 19. Subsidy for interest rate

1. The Development Bank shall be granted the subsidy for interest rate by the State to:

a) Perform the State's duty of lending investment credit, export credit and perform the credit guarantee obligation for small and medium-sized enterprises to borrow capital at commercial banks under the guarantee contracts signed in accordance with law provisions;

b) Provide post-investment support for the performance of post-investment support contracts arising before the effective date of the Decree No. 32/2017/ND-CP;

2. The granting of annual interest rate subsidy to perform the State's tasks of lending investment credit, export credit and performing credit guarantee obligation for small and medium-sized enterprises on borrowing capital from

commercial banks shall be determined on the basis of the difference between the total cost of raising capital and the total income from using capital when performing these tasks.

3. The Ministry of Finance shall provide the detail guidance on interest rate subsidy for the Development Bank.

Article 20. Management fee

1. The Development Bank shall be granted the management fee by the State as a percentage (%) on the average outstanding balance of the State's investment credit and export credit loans and compulsory guarantee loan as prescribed in this Decree. Particularly for loans under credit contracts signed and disbursed after the effective date of Decree No. 32/2017/ND-CP, the management fee is only calculated on the average outstanding balance and exclude the frozen and overdue debts.

2. Establishment principles for management fee ratio:

a) The management fee ratio is established stably in 3-years period. The management fee level is establish based on the performance results of targets assigned by the Government or the Prime Minister, financial situation, norms and regimes prescribed by the State and actual demands to ensure that the Development Bank is proactive in spending, has sufficient operating funds, and makes the deduction for setting up of risk provisions of investment credit, export credit, and compulsory guarantee loans under the provisions of this Decree;

b) Some basic criteria serve as a ground for determining and adjusting the management fee ratio in each period include: Estimated loan balance and estimated credit targets assigned during the cost calculation period; expenses for deduction for setting up risk provisions and expenses for the operation of the apparatus as prescribed in Article 23 of this Decree.

3. The Development Bank proposes the management fee ratio and report to the Ministry of Finance and submit it to the Prime Minister for consideration and decision. The proposal includes the following main contents: Legal basis, principles, basis and method, calculation data for each expense of operation, cost of deduction for setting up risk provisions and other expenses.

In case of sudden fluctuations in costs due to functions and tasks are additionally assigned upon decisions by competent authorities; or having natural disasters or other objective reasons which cause the necessity to adjust the rate of management fee granted, the Development Bank shall report to the Ministry of Finance for submission to the Prime Minister for consideration and decision to adjust the appropriate management fee ratio.

Article 21. Order and procedure for making estimate and granting of annual subsidy for interest rate and management fee provided by the State budget

1. The order and procedures for making, appraising, approving and assigning the estimation of annual subsidy for interest rate and management fee of the Development Bank shall comply with the provisions of the Law on State Budget, the Law on Public Investment and guiding, amending, supplementing and replacing documents (if any).

2. Base on the cost estimates for subsidy of interest rate and management fee arranged by the State budget, the over budget of subsidy of interest rate and management fee from previous years, actual amount of the previous quarter and expected spending of the performance quarter according to report of the Development Bank at the first month of the quarter, the Ministry of Finance shall grant the temporary subsidy for the Development Bank within the annual estimate assigned by the State budget and make the final settlement after the end of the fiscal year.

3. In case the actual amount of subsidy for interest and management fee incurred is larger than the allocated estimate, the difference will be aggregated into the next year's estimate. In case the actual amount of subsidy for interest and management fee incurred is smaller than the allocated estimate, the provisions of the Law on State Budget, the Law on Public Investment and post-investment guiding, amending, supplementing and replacing documents (if any) shall be complied with.

Chapter V

REVENUE, EXPENSE AND SALARY REGIME OF THE DEVELOPMENT BANK

Article 22. Revenue of the Development Bank

1. Revenue from professional activities, including:
 - a) Collect the interest of loans from investment credits and export credits of the State; received interest from compulsory guarantee loan;
 - b) Collect the interest from other loans;
 - c) Collect from guarantee fee;
 - d) Management fee of on-lending of foreign loans of the Government;
 - d) Collect the interest from deposits;
 - dd) Collect from the debt purchase;
 - e) Collect from interest rate subsidy as prescribed at Point a, Clause 1, Article 19 of this Decree;
 - g) Collect the management fee from the State budget;

i) Collection of fees for capital allocation entrustment and loan entrustment;

k) Collect from foreign exchange activities;

l) Collect from settlement and budgetary services.

m) Collect from purchasing, discounting and re -discounting of valuable papers;

n) Collect interest from debts which have been written off, transferred to monitor off-balance sheet;

o) Other revenues from professional activities.

2. Revenues from other activities, including:

a) Collect from service activities, income from property leasing of the Development Bank;

b) Collect from exchange rate differences;

c) Collect from the sale and liquidation of assets;

d) Collecting fines from customers for breach of contract;

dd) Collect from capital contribution or transfer of contributed capital;

e) Other revenues in accordance with law provisions.

Article 23. Expenses of the Development Bank

1. Expenses for professional activities:

a) Interest payment: loan; customer deposit; issue valuable paper;

b) Expenses for issuance, trading, discounting and re-discounting of valuable paper; spending on capital mobilization;

c) Expenses for capital contribution or transfer of contributed capital;

d) Expenses for money market participation; expenses for payment service activities and the budget includes expenses for payment services; expenses for transporting and handling money, for counting, classifying and packing money, for money protection and other expenses for payment and treasury activities;

dd) Expenses for exchange rate differences; expenses for foreign exchange activities;

e) Expenses for payment of taxes, fees and charges for payable activities in accordance with law provisions;

g) Expenses for commissions, brokerage agents, entrustment;

h) Other expenses for professional activities: Expenses for recovery of written off debts, bad debt recovery; spending on debt trading activities; expenditures on seizure, preservation and exploitation of security assets;

expenses for handling losses in capital, assets and loans after being compensated by prescribed sources; expenses for hiring lawyers, legal advice, court fees and judgment enforcement fees; expenses for debts that have been determined to be no longer payers and accounted for in revenues, but the creditor is later identified; expenses that have been accounted for in income but are not actually collected and are not accounted as revenue reductions; expenses for outsourcing services for professional activities; other expenses.

2. Expenses for deduction for setting up of provision:

a) Expenses for deduction for setting up of risk reserve funds in credit activities as prescribed in Article 16 of this Decree;

b) Expenses for deduction for setting up of other reserve funds as prescribed in Article 18 of this Decree;

3. Operating expenses of the apparatus:

a) Expenses for employees and managers: Expenses for salary, remuneration, bonus; distribution on salary basis: social insurance, health insurance, unemployment insurance, labor accident insurance, occupational disease insurance, trade union funding as prescribed by laws; spending on shift meals; expenses for labor protection, expenses for transactional clothes; expenses for allowances and female employees according to the prescribed regime; medical expenses and annual leave; expenditures of the welfare nature as prescribed for single-member limited liability companies in which 100% of charter capital is held by the State, the total expenditure shall not exceed 01 month average salary actually paid in the year; expenses for discontinue allowance, job loss allowance for employees and other expenses as prescribed by law;

b) Expenses for administrative management and missions: Expenses for business trips; electricity, water, postage, telecommunications, fuel, materials, paper, ink, stationery; expenses for purchasing documents, books and newspapers; spending on research and application of science and technology; expenditure on training, professional training; improvement initiatives to improve the operational efficiency of the Development Bank; expenses for implementation of projects and topics in service of the management and operation of the Development Bank; expenditure on consulting, hiring domestic and foreign experts; outsourced labor expenses; expenses for inspection, examination, audit and settlement; expenses for environmental protection, agency protection, fire prevention and fighting, expenses for national defense and security; expenses for document publishing; expenses for propaganda; expenses for conferences, receptions, celebrations, transactions, foreign affairs; expenses for delegations going abroad and entry delegations; expenses for fines of breaching of contracts with customers, administrative fines including violations of the law on accounting and statistics and other administrative violations as prescribed by law (excluding fines under personal responsibility); expenses for professional

associations to which the Development Bank participates; expenditures on support for the Party and mass organizations (expenses other than the budget of Party organizations and mass organizations shall be spent from prescribed sources); other expenses as prescribed by law;

c) Asset-related expenses: Expenses for depreciation of fixed assets in accordance with general regulations for enterprises; expenses for purchasing tools and instruments; property rental expenses (in case the rental is paid once for many years, the rent shall be allocated to operating expenses according to the number of years of using the property); expenses for maintenance, upkeep, repair and operation of assets; property insurance expenses; expenses for sale and liquidation of assets include the residual value of liquidated or sold fixed assets (if any).

4. The expense norms specified in Clause 3 of this Article shall comply with laws' provision on expense norms for single-member limited liability companies of which 100% of charter capital is held by the State; in case there is no laws' provision or no restriction on expenses norms, the Development Bank shall establish norms and base on financial capacity to decide on appropriate and effective expenditures and take responsibility before law.

Article 24. Expenses that are not accounted in operating expenses of the Development Bank

1. Damages that have been supported by the State or by the insurance agency or the party causing the damage.

2. Expenses on penalties for personal liability due to administrative violations, environmental violations, penalties for overdue loans due to subjective reasons, fines for violations of the financial regime.

3. Expenses for basis construction investment, procurement, upgrading and renovation of fixed assets belonging to capital of basis construction investment.

4. Expenses for repairing, maintenance and equipment of welfare assets such as houses, motels for employees of the Development Bank, expenses for other welfare works.

5. Expenses for supporting localities, social organizations, other agencies.

6. Expenses in excess of the norm as prescribed in this Decree and other relevant legal documents.

7. Expenses covered by other funding sources.

Article 25. Salary regime of the Development Bank

The Development Bank shall manage labor, salary, remuneration and bonus for employees and managers in accordance with law provisions for single-member limited liability companies of which 100% charter capital is held by the

State, in accordance with the nature, model and operation of the Development Bank and the guidance of the Ministry of Labor, War Invalids and Social Affairs.

Chapter VI

FINANCIAL RESULT, DEDUCTION FOR SETTING UP AND USE OF FUNDS

Article 26. Financial result and distribution of financial result

1. The financial result is the difference between the revenues and expenses incurred during the financial year:

a) The financial result of the Development Bank in the year are in surplus when the difference between revenues and expenses incurred in the financial year of the Development Bank has a positive result (+);

b) The financial result of the Development Bank in the year are in deficit when the difference between revenues and expenses incurred in the financial year of the Development Bank has a negative result (-).

2. When the financial results for the year reach the surplus condition, after covering the deficit from previous years (if any), its shall be distributed as follows:

a) Deduct 5% into the reserve fund to supplement charter capital, the maximum amount of which does not exceed the charter capital of the Development Bank;

b) Deduct 10% into the financial provision fund, the maximum amount of which does not exceed the 25% charter capital of the Development Bank;

c) Deduct up to 25% into the development investment fund;

d) Deduct for the bonus and welfare fund for employees of the Development Bank:

Grade A Development Bank is entitled to deduct 03 months' performance salary for two bonus and welfare funds;

Grade B Development Bank is entitled to deduct 1.5 months' performance salary for two bonus and welfare funds;

Grade C Development Bank is entitled to deduct 01 months' performance salary for two bonus and welfare funds;

dd) Deduction for bonus fund for managers and the Supervisory Board:

Grade A Development Bank is entitled to deduct 1.5 months' performance salary for managers and the Supervisory Board;

Grade B Development Bank is entitled to deduct 01 months' performance salary for managers and the Supervisory Board;

Grade C Development Bank is not entitled to deduct for bonus fund for managers and the Supervisory Board;

e) In case the difference between revenues and expenses remains after setting aside the funds specified at points a, b and c of this Clause, is not enough to deduct the bonus and welfare funds for employees, the bonus fund for Managers and Supervisory Boards according to the prescribed level, the Development Bank may reduce the deduction for setting up the development investment fund to supplement the sources for setting up the bonus and welfare fund for employees, the bonus fund for managers and the Supervisory Board according to the prescribed level but the maximum reduction must not exceed the amount deducted into the development investment fund in the fiscal year;

g) The remaining balance after deduction for setting up the above funds shall be added to the reserve fund for supplementing charter capital.

3. When the financial results of the year are in deficit, the Development Bank is entitled to carry over the difference in revenues smaller than expenses to the following year, the transfer period shall not exceed 05 years. In case after 05 years, if the Development Bank does not transfer all the difference between revenues and expenses, the Development Bank shall report it to the Ministry of Finance to assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment in, submit to the Prime Minister for consideration and decision.

Article 27. Management and use of funds

1. The use of the Development Bank's funds must be for the right purposes and for the right subjects.

a) The Development Bank must develop and promulgate the Regulation on management and use of funds in accordance with law provisions for application within the bank; the Regulations have to ensure democracy, transparency, with participation of the Executive Board of Trade Union of Development Bank and publicity in the bank before implementation;

b) During the fiscal year, the Development Bank shall temporarily deduct funds on the basis of financial results to have a source for expenditure using the funds for the prescribed purposes.

2. The reserve fund for supplementing charter capital is used to supplement charter capital.

3. The financial reserve fund shall be used to serve the following purposes:

a) Make up for the remaining of losses in assets incurred during the course of operation after they have been made up for by using compensations paid by

organization, individual causing such losses, paid by insurance institutions and provisions deducted to set up in expenses.

b) Use for other purposes in accordance with law provisions;

c) The Board of Directors of the Development Bank shall decide on the use of the financial reserve fund.

4. The investment and development fund shall be used to serve the following purposes:

a) To invest in expanding the operation scale and renewing technology, equipment and working conditions of the Development Bank and supplementing the charter capital for the Development Bank;

b) The Board of Directors of the Development Bank shall decide the use of the investment and development fund; decide on appropriate investment forms and measures in accordance with law provisions applicable to single-member limited liability companies which 100% of charter capital is held by the State.

5. The employee bonus fund shall be used to:

a) Pay for year-end bonus or regular bonus for officials and employees of the Development Bank. The bonus level is decided by the Board of Directors of the Development Bank at the request of the General Director and the Trade Union of the Development Bank on the basis of labor productivity and work achievements of each officer and employee of the Development Bank;

b) Extraordinary bonuses for individuals and groups of the Development Bank who have innovative technical ideas and professional processes that bring efficiency into operations. The bonus level is decided by the Board of Directors of the Development Bank;

c) Rewarding individuals and entities outside the Development Bank that make effective contributions to the Development Bank's operations. The bonus level is decided by the Board of Directors of the Development Bank;

6. The bonus fund for managers and the Supervisory Board:

a) Shall be used to reward annually and at the end of the term for the Chairman and members of the Board of Directors, members of the Supervisory Board, the General Director, Deputy General Directors, the Chief Accountant of the Development Bank;

b) The annual bonus level and at the end of the term shall be decided by the owner's representative agency according to the level of completion of the assigned tasks and the performance of the Development Bank, on the basis of the request of the Chairperson of the Development Bank's Board of Directors;

c) If the Chairperson and members of the Board of Directors, members of the Supervisory Board, the General Director, Deputy General Directors, the Chief

Accountant are rewarded according to the provisions of law on emulation and commendation, the employee bonus fund of the Development Bank may be used to pay rewards to the above subjects according to the reward level prescribed by the law on emulation and commendation for each form of emulation and commendation.

7. The welfare funds shall be used to:

a) Invest in the construction or repair or supplement for capital of construction of welfare works of the Development Bank;

b) Expenses for sports, cultural and public welfare activities of the officials and employees of the Development Bank;

c) Regular and unexpected hardship allowances for officials and employees, including retired or disabled employees of the Development Bank;

d) Expenses for other welfare activities.

The Board of Directors, the General Director shall coordinate with the Development Bank's Trade Union in managing and using this fund.

Chapter VII

ACCOUNTING REGIME, FINANCIAL PLANNING, REPORTING AND AUDIT REGIME

Article 28. Accounting method, accounting and statistic regime

1. Accounting method:

a) The Development Bank shall record revenues and expenses according to the actual revenue and expense accounting method (particularly for the interest rate subsidy specified at Point a, Clause 1, Article 19 of this Decree, and collect from management fee which is allocated from the State budget, the Development Bank shall account for estimated revenues; for the remaining salary fund which has not been fully spent within the year, the Development Bank shall account for estimated expenditures). The Development Bank shall bear legal responsibility for the content and accuracy and truthfulness of revenues and expenses; comply with the law provisions on the regime of invoices and accounting vouchers;

b) Within a maximum period of 05 years from the effective date of this Decree, the Development Bank must implement accounting according to the accrual method.

2. The Development Bank shall implement the accounting regime guided by the Ministry of Finance. The statistical work of the Development Bank shall be implemented in accordance with law provisions.

3. The financial year of the Development Bank begins on January 01st and ends on December 31st of calendar year.

Article 29. Annual financial plan report

The report on the annual financial plan of the Development Bank shall include the following contents:

1. The capital source - capital use plan includes the following basic contents:

a) Total capital in the year, including details of some capital sources such as: charter capital; capital allocated from the State budget to perform tasks assigned by the Government or the Prime Minister; domestic and abroad mobilized capital (details of capital mobilization through the issuance of Government-guaranteed bonds); receive foreign loans of the Government for on-lending under foreign loan agreements signed with the donors or on-lending foreign capital contracts signed with the Ministry of Finance (if any) and other capital sources (if any);

b) Total demand for capital in the year, in which detailing a number of contents: payment of due mobilizations (details of Government-guaranteed bond repayment); ensure the target of credit capital for investment and development of the State assigned by the Prime Minister; the task of on-lending foreign loans of the Government and other tasks assigned by the Government, the Prime Minister and other uses of capital (if any);

c) Attached explanation to the plan (if any), including detailed explanations of the expected bad debt ratio of the plan year.

2. Plan for subsidy for interest rate and management fee.

3. The plan for investment in basis construction, procurement, upgrading and modernization of assets includes the following criteria: Expected investment needs of transitional and new basis construction projects arising in the year; plans to purchase new assets, upgrade and modernize existing ones; estimation layout of sources from the investment and development funds, investment capital provided by the State budget (if any) and other lawful capital sources in accordance with law provisions.

4. Revenue and expense plan, financial result: Estimated total revenue within the year (details some contents such as: collection of loan interest; deposit interest collection; fee; collection of interest rate subsidy as specified at point a, Clause 1, Article 19 and management fee to be enjoyed in the plan year as prescribed in this Decree); estimated total expenditures incurred in the plan year (details of some expenditures: expenses for professional activities; expenses for provision deduction; expenses of the apparatus operation); estimated financial results of the planning year.

5. Employee and salary plans: Total number of employees expected in the plan year; the average salary of employees in the plan year; salary plan in accordance with law provisions.

6. The plan for granting post-investment support for contracts arising before the effective date of the Decree No. 32/2017/ND-CP and the plan for additional granting of the guarantee reserve fund in accordance with law provisions.

7. Prepare the financial plan report:

a) The preparation and submission of annual and medium-term public investment capital plans of the Development Bank shall comply with the provisions of the Law on State Budget, the Law on Public Investment and guiding, amending, supplementing and replacing documents (if any).

b) Within 10 working days after the Prime Minister has decided on the allocation of the limit for issuance of government-guaranteed bonds in the planning year, based on the performance results of the previous year, the Development Bank reviews and completes the report on the financial plan and sends it to the Ministry of Finance to serve the work on financial supervision and operational efficiency assessment of the Development Bank;

c) The Ministry of Finance shall review the report on the financial plan prepared by the Development Bank in order to give official written opinions and assign criteria for evaluation and classification for the Development Bank in the maximum time limit of 30 working days after the Prime Minister has decided on the allocation of the limit for issuance of government-guaranteed bonds in the planning year. Based on the opinion of the Ministry of Finance, the Board of Directors shall approve the annual financial plan of the Development Bank.

8. Based on the approved plan, the Development Bank shall organize the implementation of the plan targets specified in this Article.

Article 30. Auditing

1. The Development Bank shall perform internal auditing regime, public the annual financial performance in accordance with law provisions and bear responsibility for published data.

2. The annual financial statements of the Development Bank are audited by the State Audit or an independent auditor.

3. The State Audit shall audit the financial statements of the Development Bank according to the plan of the State Audit.

4. Within 30 days from the date of having the audit results of the financial statements, the Development Bank must send it to the Ministry of Finance and the State Bank of Vietnam and publicize the audited financial statements in accordance with law provisions.

Article 31. Reporting regimes

1. Report on financial plan according to the provisions of Article 29 of this Decree.

2. Financial statements/financial settlement reports include:

- a) Statement of financial situation (Accounting balance sheet);
- b) Report on operation results;
- c) Cash flow statement;
- d) Explanation of the financial statement.

3. Reports of professional activities, including:

- a) Level II account balance sheet (including off-balance sheet accounts);
- b) Debt classification report of the Development Bank;
- c) Report of deduction for setting up credit risk provisions.
- d) Report on granting of subsidy for interest rate and management fee.

4. Performance reports include:

a) The management and use of capital and assets for all operations at the Development Bank are specified in Article 8 of this Decree;

b) The implementation of regime on salary, remuneration, bonus, allowances, responsibilities and other benefits for employees, managers of the Development Bank, the Supervisory Board shall comply with current regulations of law about the Development Bank;

c) Financial results and deduction for setting up funds after the difference between revenue and expenses of the Development Bank;

d) Annual operational efficiency assessment of the Development Bank according to the criteria specified in this Decree.

5. Regulations on making and sending reports:

a) For financial statement: Consolidated financial statements made on a yearly basis and separate financial statements made on a quarterly/annual basis; the annual financial settlement report must be approved by the Board of Directors of the Development Bank before sending to the Ministry of Finance and the State Bank of Vietnam;

b) For reports on professional activities: The reports on professional activities are sent to the Ministry of Finance on a quarterly, annual and other irregular basis at the request of the Ministry of Finance;

c) For operational situation reports: The Development Bank is responsible for making and sending a report on its operation to the Ministry of Finance and

the State Bank of Vietnam every six months; the Board of Directors shall make a report on its operation together with the Appraisal report of the Supervisory Board and send it to the Ministry of Finance and the State Bank of Vietnam;

d) Based on the financial statements, reports on operational situation prepared by the Board of Directors of the Development Bank and other relevant information and documents, the Ministry of Finance shall summarize and report every six months to the Prime Minister after consulting the Ministry of Planning and Investment and the State Bank of Vietnam.

Chapter VIII

OPERATIONAL EFFICIENCY ASSESSMENT

Article 32. Criteria of operation efficiency assessment

1. The criteria for evaluating the annual performance of the Development Bank, including:

- a) Criterion 1: Investment credit of the State;
- b) Criterion 2: Bad debt ratio;
- c) Criterion 3: Financial results;

d) Criterion 4: Situation of law obedience on investment, management and use of State capital at the Development Bank for professional activities arising in the evaluation year;

dd) Criterion 5: Situation on compliance with the reporting regimes as prescribed in Article 31 of this Decree.

2. The criteria specified in Clause 1 of this Article are determined and calculated from the data in the audited separate financial settlement reports and periodical statistical reports in accordance with law provisions.

3. The evaluation criteria mentioned in Clause 1 of this Article when calculating are considered and excluding the following influencing factors:

a) Objective causes are excluded according to regulations on operational efficiency assessment of state-owned enterprises;

b) Bad debts arising due to the borrower's restructuring under decisions of competent State agencies, bad debts lent under decisions of the Government or the Prime Minister;

c) Due to changes in policies by the State, which affects the operation results of Development Bank;

d) Delays in State budget funding affect the Development Bank's financial situation.

4. The evaluation of the performance of the manager of the Development Bank is carried out according to the following criteria:

a) Criteria for evaluation of the performance of the enterprise manager as for single-member limited liability company of which 100% charter capital is held by the State;

b) The result of the classification of the Development Bank as prescribed in Article 33 of this Decree.

5. The Ministry of Finance shall guide the method of determining the evaluation criteria stipulated in Clauses 1, 3 and 4 of this Article in accordance with the characteristics of the Development Bank's operations and the method of assessing and classifying the level of task completion of the manager of the Development Bank.

Article 33. Operational efficiency assessment and classification of the Development Bank

1. The assessment of operational efficiency and classification of the Development Bank is based on audited separate financial statements, which is carried out in accordance with regulations applicable to state-owned enterprises and this Decree.

2. The Ministry of Finance shall specifically guide the method of efficiency assessment and classification in accordance with the nature and operation of the Development Bank; review the financial plan to assign the annual evaluation and classification criteria to the Development Bank after the Prime Minister issues Decisions on the assignment of the State's development investment credit capital plan and Government-guaranteed bond issuance limit.

Chapter IV

RESPONSIBILITIES OF STATE MANAGEMENT AGENCIES AND DEVELOPMENT BANK

Article 34. The Ministry of Finance

1. To perform the function of state management of finance over the Development Bank, guide the contents assigned in this Decree and other necessary contents related to financial management of the Development Bank.

2. To submit to the Prime Minister for decision the stable management fee ratio for each period (03 years) according to the provisions of Article 20 of this Decree.

3. To grant the subsidy for interest rate, management fee and other payments in accordance with law provisions.

4. To handle financial issues of Development Bank according to its competence or report to competent authorities for consideration and decision.

5. To inspect the observance of the financial law in accordance with law provisions on inspection.

6. To submit to the Government for amendment and supplement to the provisions of this Decree if necessary.

Article 35. The Ministry of Planning and Investment

1. To assume the prime responsibility for, and coordinate with the Ministry of Finance in, submitting to the Prime Minister: To arrange in the estimates expenditure of investment and development the expenses of subsidy for interest rate and management fees, for additional charter capital (if any) for the Development Bank, ensuring it on time; submit to the competent authority for decision to assign the annual development investment credit capital plan to the Development Bank in accordance with law provisions.

2. To coordinate with the Ministry of Finance in formulating and processing according to its competence the recommendations related to the Decrees on financial management regime and operational efficiency assessment of the Development Bank.

Article 36. The State Bank of Vietnam

1. To assume the prime responsibility for, and coordinate with the Ministry of Finance and related Ministries and branches in guiding the Development Bank on implementing debt classification and other regulations to ensure safety in operation, in accordance with the nature and operation of the Development Bank.

2. To coordinate with the Ministry of Finance in formulating and processing according to its competence the recommendations related to the Decrees on financial management regime and operational efficiency assessment of the Development Bank.

Article 37. The Ministry of Labor, Invalid and Social Affairs

To assume the prime responsibility for, and guide the management of labor, wages, remuneration and bonuses for employees and managers of the Development Bank in accordance with the provisions of Article 25 of this Decree after the end of the salary regime during the restructuring phase as specified in Clause 2, Article 40 of this Decree.

Article 38. Ministries, branches, People's Committees of provinces and municipal cities

The Ministers, the Heads of the ministerial-level agencies, the Heads of the Government's affiliated agencies, the Chairpersons of the People's Committees of provinces and municipal cities are responsible for inspecting and supervising

the activities of the Development Bank according to their assigned functions and tasks and in accordance with law provisions.

Article 39. The Development Bank

1. To take responsibility to the Government and the Prime Minister for the allocated capital and other resources as prescribed in the Charter of organization and operation and this Decree.

2. To actively develop and submit to the Ministry of Planning and Investment to assume the prime responsibility and submit to competent authorities for approval of the development investment credit capital plan in accordance with the assigned estimated expenses of subsidy for interest rate and management fee.

3. To organize the full implementation of the contents specified in this Decree.

4. To perform other duties as prescribed by law and in the Charter of organization and operation of the Development Bank.

5. To report to the Ministry of Finance to submit to the Prime Minister for consideration on amending and supplementing of the provisions of this Decree if necessary.

CHAPTER X IMPLEMENTATION

Article 40. A number of regimes during the restructuring phase

The Development Bank implements a number of regimes during the restructuring phase as decided by the Prime Minister and when the subsidy for interest rate and management fee and other payments to the Development Bank have not been fully granted, including:

1. The accumulated negative difference of revenue and expenditure (if any) is not required to be deducted when determining equity as prescribed in Article 7 of this Decree to determine the credit limit of the Development Bank in accordance with law provisions until the accumulated negative difference of revenue and expenditure is overcome.

2. The salary regime and salary fund of the Development Bank are determined according to the following principles:

a) The employee's salary is determined on the basis of the average salary in 2018 and adjusted according to the annual increase in the consumer price index compared to 2018;

b) The salary of the manager according to the assessment of the level of task completion, in case the maximum completion of the task does not exceed the salary level specified in Appendix II issued together with the Decree No. 52/2016/ND -CP dated June 13, 2016 of the Government and amending, supplementing and replacing documents (if any);

c) The Ministry of Finance shall assess the level of task completion of the manager of the Development Bank, consider and approve the annual salary fund of the manager after consulting opinion of the Ministry of Labor, Invalid and Social Affairs.

3. Employees who are recruited to work at the Development Bank before July 31, 2019 who are redundant workers, employees who wish to retire before the age when the Development Bank implement the restructure and had tried all measures but could not arrange a job shall be entitled to enjoy benefits according to support policies specified in Clauses 1, 2, 3, 4, Article 3 of the Decree No. 63/2015/ND-CP dated July 22, 2015 of the Government on providing the policies towards redundant employment in accordance with the restructuring of state-owned one member limited companies and amending, supplementing and replacing documents (if any), in which;

a) Funds for the implementation of support policies for employees specified in this Article shall be accounted into expenses on operation of the apparatus of the Development Bank;

b) Vietnam Social Insurance is responsible for implementing the social insurance regime for employees as prescribed in this Clause.

Article 41. Transitional provision

1. The balance of capital that the Development Bank has mobilized to make up for the shortage of the Guarantee reserve fund to fulfill the credit guarantee obligation for small and medium-sized enterprises to borrow capital at commercial banks before this Decree take effect and can be granted subsidy for interest rate by the State budget.

2. The assessment of the level of task completion of the Development Bank's managers before 2021 is implemented according to regulations of Articles 14, 15, 16, 17 of the Decree No. 97/2015/ND-CP dated October 19, 2015 of the Government on managing title and position holders in an enterprise being single-member limited liability company of which 100% of charter capital is held by the State.

Article 42. Implementation provisions

1. This Decree takes effect on June 01, 2021 and applies from financial year of 2021.

2. The regime on financial management of the Development Bank issued

together with the Decision No. 44/2007/QĐ-TTg dated March 30, 2021 of the Prime Minister and Article 16 on debt classification and deduction for setting up of risk reserve fund as specified in the Decree No. 32/2017/NĐ-CP of the Government on State investment credit are expired from the effective date of this Decree.

3. The Ministers, the Heads of ministerial-level agencies, heads of Government affiliated agencies, the Chairpersons People's Committees of provinces and central affiliated cities, the Chairperson of the Board of Directors the General Director of the Development Bank shall implement this Decree.

For the Government

The Prime Minister

Nguyen Xuan Phuc