

**STANDING COMMITTEE OF
NATIONAL ASSEMBLY**

No. 28/2008/PL-UBTVQH11

**SOCIALIST REPUBLIC OF VIET
NAM**
Independence Freedom Happiness

Hanoi, December 13th, 2005

ORDINANCE

ON FOREIGN EXCHANGE CONTROL

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam as amended by Resolution No. 51/2001/QH10 of Legislature X of the National Assembly at its 10th session on 25 December 2001;

Pursuant to Resolution No. 42/2005/QH11 of Legislature XI of the National Assembly at its 7th session on 14 June 2005 on the amendment of the program for formulation of laws and ordinances in the year 2005; This Ordinance regulates foreign exchange activities.

Chapter I

GENERAL PROVISIONS

Article 1 Governing scope

This Ordinance governs foreign exchange activities in the Socialist Republic of Vietnam.

Article 2 Applicable entities

1. Organizations and individuals being residents and non-residents conducting foreign exchange activities in Vietnam.
2. Other entities involved in foreign exchange activities.

Article 3 Policy of Vietnam on foreign exchange control

The State of the Socialist Republic of Vietnam shall implement its policy on foreign exchange control in order to facilitate the participation of organizations and individuals in foreign exchange activities and in order to protect the legitimate interests of such participants, contributing to further economic development, achieving the objectives of the national monetary policy, raising the convertibility of Vietnamese dong, achieving the objective of using only Vietnamese dong in the territory of Vietnam, fulfilling the commitments of the Socialist Republic of Vietnam in the schedule for international economic integration, enhancing the effectiveness of State management of foreign exchange and perfecting the foreign exchange control system of Vietnam.

Article 4 Definition of Terms

In this Ordinance, the following terms shall be construed as follows:

1. Foreign exchanges comprises:

- (a) Currencies of other nations or the common European currency and other common currencies used in international and regional payments (hereinafter referred to as foreign currency);
- (b) Foreign currency payment instruments, cheques, credit cards, bills of exchange, promissory notes and other payment instruments;

(c) All types of valuable papers denominated in foreign currencies including Government bonds, corporate bonds, term bonds, shares and other valuable papers;

(d) Gold belonging to the foreign exchange reserves of the State, gold in overseas' accounts of residents, and gold in the form of bullion, bars, granules and plate which is brought into or taken out of the territory of Vietnam;

(dd) The currency of the Socialist Republic of Vietnam in cases where it is remitted into or out of the territory of Vietnam or used as an instrument for international payments.

2. Residents means organizations and individuals in the following categories:

(a) Credit institutions established and carrying on business activities in Vietnam (hereinafter referred to as credit institutions);

(b) Economic institutions established and carrying on business activities in Vietnam except for entities stipulated in sub-clause (a) above (hereinafter referred to as economic institutions);

(c) State bodies, units of the people's armed forces, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio- professional organizations and social funds and charitable funds of Vietnam operating in Vietnam;

(d) Diplomatic representative offices and consulates of Vietnam in foreign countries;

(dd) Representative offices in foreign countries of the entities stipulated in sub-clauses (a), (b) and (c) above;

(e) Vietnamese citizens residing in Vietnam; Vietnamese citizens residing overseas for a duration of less than twelve (12) months; and Vietnamese citizens working for any of the organizations stipulated in sub-clauses (d) and (dd) above and the individuals accompanying such citizens;

(g) Vietnamese citizens travelling overseas for purposes of tourism, study, medical treatment or visits;

(h) Foreigners residing in Vietnam for a duration of twelve (12) months or more, except for foreigners coming to Vietnam for study, medical treatment, tourism, or to work for diplomatic representative offices, consulates or representative offices of foreign organizations in Vietnam.

3. Non-residents means entities other than those defined in clause 2 of this article.

4. Capital transaction means a transaction for the purpose of transferring capital between a resident and a non-resident in the following sectors:

(a) Direct investment;

(b) Investment in valuable papers;

(c) Borrowing a foreign loan and repayment of a foreign loan;

(d) Providing and recovery of a foreign loan;

(dd) Other forms of investment in accordance with the law of Vietnam.

5. Current transaction means a transaction between a resident and a non-resident not for the purpose of transferring capital.

6. Payment and remittance of money for current transactions comprises:

- (a) Payment and remittance of money relating to import and export of goods and services;
- (b) Short term commercial credit loans and bank loans;
- (c) Income generated from direct and indirect investments;
- (d) Money transfers when the decrease of direct investment capital is permitted;
- (dd) Payments of interest on and instalment repayments of principal of foreign loans;
- (e) One-way payments for consumption purposes;
- (g) Other similar transactions.

7. One-way money transfer means transactions of remittance of money from overseas into Vietnam or vice versa via a bank or post office in the nature of providing financial support, aid or assistance to family relatives or for individual spending purposes and not related to payments for import and export of goods and services.

8. Foreign exchange activities means activities of residents and non-residents in current transactions, capital transactions, use of foreign exchange in the territory of Vietnam, provision of foreign exchange services, and other transactions related to foreign exchange.

9. Vietnamese dong exchange rate means the price of one foreign currency unit calculated in the Vietnamese currency.

10. Currency cash means bank notes and coins.

11. Authorized credit institutions means banks and non-banking credit institutions authorized to conduct foreign exchange activities and to provide foreign exchange services in accordance with the provisions of this Ordinance.

12. Foreign direct investment in Vietnam means the transfer of capital into Vietnam by a non-resident in order to conduct investment and business activities on the basis of establishment and participation in the management of an enterprise or in other forms in accordance with the law of Vietnam.

13. Foreign indirect investment in Vietnam means the purchase and sale of securities and other valuable papers, contribution of capital and purchase of shares in any form by a non-resident in accordance with the law of Vietnam but without direct participation in management.

14. Offshore investment means a transfer of capital overseas by a resident for investment in a form stipulated by law.

15. Borrowing of a foreign loan and repayment of a foreign loan means the borrowing by a resident of a loan in any form from, and the repayment of the foreign loan to a non-resident in accordance with law.

16. Provision of a foreign loan and recovery of a foreign loan means that a resident provides a loan to, and recovers payment from a non-resident in a form stipulated by law.

17. Balance of international payments means a general balance sheet systematically listing all economic transactions between Vietnam and other countries within a specified period.

18. Foreign currency market means the place where foreign currency sale and purchase activities take place. Vietnam's foreign currency market includes the inter-bank foreign currency market and the foreign currency market between banks and their customers.

19. Foreign exchange reserves of the State means foreign exchange assets reflected in the monetary balance sheet of the State Bank of Vietnam.

Article 5. Application of laws on foreign exchange, international treaties, foreign laws and international practice

1. Foreign exchange activities must comply with the provisions of this Ordinance and other relevant laws.
2. Where an international treaty of which the Socialist Republic of Vietnam is a member contains provisions which are different from the provisions of this Ordinance, the provisions of such treaty shall prevail.
3. Where the law of Vietnam does not contain any provision applicable to a foreign exchange activity, the parties involved may reach agreement on the application of foreign law or international practice if the application of such law or practice does not contravene the fundamental principles of the law of Vietnam.

Chapter II

CURRENT TRANSACTIONS

Article 6 Liberalization of current transactions

All transactions being payments and remittance of money relating to current transactions between residents and non-residents shall be conducted freely.

Article 7 Payments and remittance of money relating to import and export of goods and services

1. Residents shall be entitled to purchase foreign currency at authorized credit institutions for payment of imported goods and services.
2. Residents must remit all foreign currency amounts derived from export of goods and services into a foreign currency account opened at an authorized credit institution in Vietnam. If residents wish to retain foreign currency overseas, they must obtain approval from the State Bank of Vietnam.
3. All transactions being payments and remittance of money relating to import and export of goods and services must be conducted via an authorized credit institution.

Article 8 One-way remittance of money

1. Foreign currency of residents being organizations in Vietnam derived from one-way remittance of money must be remitted into a foreign currency account opened at an authorized credit institution or must be sold to an authorized credit institution.
2. Foreign currency of residents being individuals in Vietnam derived from one-way remittance of money must be used for the purpose of storing, carrying personally, or must be deposited into a foreign currency account opened at an authorized credit institution or must be sold to an authorized credit institution. If a resident is a Vietnamese citizen, he or she may deposit savings in such foreign currency at an authorized credit institution.
3. Residents shall be entitled to purchase, remit or carry personally foreign currency abroad to meet their legitimate demands.

4. Non-residents and residents being foreigners who have foreign currency in their accounts shall be entitled to remit it abroad; and if they have lawful revenue sources in Vietnamese dong they shall be entitled to purchase foreign currency to remit it abroad.

Article 9 Carrying foreign currency cash, Vietnamese dong cash and gold upon exit and entry

On entry and exit, residents and non-residents carrying foreign currency cash, Vietnamese dong cash and gold in excess of the limits stipulated by the State Bank of Vietnam must comply with the following provisions:

1. On entry, they must declare the excess amount with a bordergate customs office.
2. On exit, they must declare the excess amount with a bordergate customs office and also present documents in accordance with regulations of the State Bank of Vietnam.

Article 10 Currencies to be used in current transactions

Residents shall be permitted to choose to use Vietnamese dong, a freely convertible foreign currency or any other currency which authorized credit institutions are permitted to accept as payment in current transactions.

Chapter III

CAPITAL TRANSACTIONS

Part 1. FOREIGN INVESTMENT IN VIETNAM

Article 11. Direct Investment

1. The remittance of investment capital in foreign currency into Vietnam and the remittance of principal investment capital and profits and the payment of loan interest and other lawful revenue to overseas countries must be effected via foreign currency accounts opened at authorized credit institutions.
2. Lawful revenue in Vietnamese dong shall be permitted to be converted into foreign currency for remittance abroad via authorized credit institutions.

Article 12 Indirect Investment

1. Investment capital in foreign currency must be converted into Vietnamese dong for implementation of the investment.
2. Investment capital, profit and other lawful revenue in Vietnamese dong shall be permitted to be converted into foreign currency for remittance abroad via an authorized credit institution.

Part 2. OFFSHORE INVESTMENT FROM VIETNAM

Article 13 Capital sources for offshore investment

Residents who are entitled to conduct offshore investment shall be permitted to use the following capital sources for their investment:

1. Foreign currency in foreign currency accounts opened at authorized credit institutions.
2. Foreign currency purchased at authorized credit institutions.
3. Foreign currency obtained by borrowing loans.

Article 14 Remittance of investment capital abroad

1. Residents being credit institutions shall be permitted to remit investment capital abroad in accordance with regulations of the State Bank of Vietnam.
2. Any resident being an economic institution, an individual or another entity permitted to conduct offshore investment must open a foreign currency account at an authorized credit institution and register such account with the State Bank of Vietnam. Any remittance of foreign currency abroad for offshore investment must be effected via such account.

Article 15 Remittance of capital and profit back into Vietnam

Capital, profit and other revenue from offshore investment must be remitted back into Vietnam in accordance with the law on investment and other relevant laws; the transfer of capital, profit and other revenue from the investment back into Vietnam must be effected via a foreign currency account opened at an authorized credit institution.

Part 3. BORROWING AND REPAYMENT OF FOREIGN LOANS

Article 16 Borrowing and repayment of foreign loans by the Government

The Government and organizations authorized by the State and the Government shall conduct borrowing and repayment of foreign loans on the basis of the national strategy on foreign loans and the overall limit on foreign loans approved by the Prime Minister of the Government annually.

Article 17 Borrowing and repayment of foreign loans by residents being economic institutions, credit institutions and individuals

1. Residents being economic institutions, credit institutions and individuals shall be permitted to borrow and repay foreign loans on the principle of self-borrowing and self-repayment in accordance with law.
2. Residents being economic institutions, credit institutions and individuals must comply with the conditions on borrowing and repayment of foreign loans, shall register the loans, shall open and use accounts, shall withdraw capital and transfer money for loan repayment and shall report the use status of loans in accordance with regulations of the State Bank of Vietnam. The State Bank of Vietnam shall certify the registration of loans within the total loan limit approved by the Prime Minister of the Government annually.
3. Residents shall be entitled to purchase foreign currency at authorized credit institutions on presentation of proper documents for repayment of principal, interest and fees relating to the foreign loan and shall be permitted to use guarantees and cross guarantees and other forms of loan security.

Part 4. PROVISION AND RECOVERY OF FOREIGN LOANS

Article 18 Provision and recovery of foreign loans of the Government

The Government shall make decisions on the provision and recovery of foreign loans of the State, of the Government, and of organizations authorized by the State and by the Government.

Article 19 Provision and recovery of foreign loans of residents being credit institutions and economic institutions

1. Credit institutions shall be permitted to provide and recover foreign loans in accordance with regulations of the State Bank of Vietnam.

2. Economic institutions shall be permitted to provide and recover foreign loans upon satisfaction of the following conditions:

- (a) When so permitted by the Government;
- (b) When opening and using accounts, when remitting capital out and recovering capital, and when reporting on the status of provision and recovery of foreign loans in accordance with regulations of the State Bank of Vietnam;
- (c) When remitting revenue from loan principal, interest received and related fees into foreign currency accounts opened at authorized credit institutions.

Part 5. ISSUANCE OF SECURITIES IN VIETNAM AND OVERSEAS

Article 20 Residents being credit institutions issuing securities outside the territory of Vietnam

When licensed to issue securities outside the territory of Vietnam, residents being organizations must open an account at an authorized credit institution, and all transactions relating to the issuance of securities outside the territory of Vietnam must be effected via such account.

Article 21 Non-residents being organizations issuing securities within the territory of Vietnam

When licensed to issue securities within the territory of Vietnam, non-residents being organizations must open an account at an authorized credit institution, and all transactions relating to the issuance of securities within the territory of Vietnam must be effected via such account.

Chapter IV

USE OF FOREIGN EXCHANGE WITHIN THE TERRITORY OF VIETNAM

Article 22 Provision on limited use of foreign exchange

Within the territory of Vietnam, all transactions, payments, listings and advertisements of residents and non-residents must not be effected in foreign exchange except for transactions with credit institutions and payments made via intermediaries, including authorized collection, entrustment, agency and other necessary cases permitted by the Prime Minister of the Government.

Article 23 Opening and use of accounts

1. Residents and non-residents shall be permitted to open foreign currency accounts at authorized credit institutions. The State Bank of Vietnam shall provide regulations on collection and disbursement within the foreign currency accounts of the entities stipulated in this clause.
2. Residents being credit institutions shall be permitted to open and use foreign currency accounts overseas in order to conduct foreign exchange activities overseas.
3. Residents being economic institutions which have branches or representative offices overseas or which wish to open a foreign currency account overseas in order to receive loan capital, to fulfil undertakings or to perform contracts with foreign parties shall be considered for permission by the State Bank of Vietnam to open foreign currency accounts overseas.
4. Residents being diplomatic offices, consulates, units of the people's armed forces, representatives of political organizations, of socio-political organizations, of socio-political-professional organizations, of socio-professional organizations, of social funds and of charitable

funds of Vietnam operating overseas shall be permitted to open and use foreign currency accounts in accordance with the law of the host country.

5. Residents being Vietnamese citizens during the period of their stay in a foreign country shall be permitted to open and use foreign currency accounts in such foreign country in accordance with the law of the host country.

Article 24 Use of foreign currency cash by individuals

1. Residents and non-residents being individuals with foreign currency cash shall have the right to store or carry such cash personally, or to sell it to an authorized credit institution or to use it for other lawful purposes.

2. Residents being Vietnamese citizens shall have the right to use foreign currency cash to deposit as savings at authorized credit institutions, and to withdraw the principal and to receive interest in foreign currency cash.

Article 25 Use of Vietnamese dong by non-residents

Non-residents being organizations or individuals who earn Vietnamese dong from lawful revenue sources shall have the right to open accounts at authorized credit institutions for use in Vietnam or to repurchase foreign currency for remittance overseas.

Article 26 Use of currencies of countries sharing borderlines with Vietnam

Residents being organizations or individuals who have lawful revenue in currencies of a country bordering on Vietnam from activities of export of goods and services and from other activities shall be permitted to open accounts in such currencies at authorized credit institutions.

Article 27 Issuance and use of credit cards

1. Within the territory of Vietnam, residents and non-residents being individuals with international credit cards shall have the right to use such cards for payment at authorized credit institutions and at card accepting units.

2. Card accepting units may only accept payment in Vietnamese dong from card paying banks.

3. Based on actual circumstances, the State Bank of Vietnam shall provide regulations on the issuance and use of cards in accordance with the objectives of foreign exchange control.

Chapter V

**FOREIGN CURRENCY MARKET, FOREIGN EXCHANGE RATE MECHANISM, AND
MANAGEMENT OF IMPORT AND EXPORT OF GOLD**

Article 28 Foreign currency market of Vietnam

1. Members participating in the inter-bank foreign currency market comprise the State Bank of Vietnam and authorized credit institutions.

2. Members participating in the foreign currency market between authorized credit institutions and their customers comprise authorized credit institutions, foreign exchange counters and customers being residents and non-residents in Vietnam.

3. Entities participating in the foreign currency market of Vietnam shall be entitled to conduct forms of transaction in accordance with international practice when they satisfy the conditions stipulated by the State Bank of Vietnam.

Article 29. Operations of the State Bank of Vietnam on the foreign currency market

The State Bank of Vietnam shall carry out the purchase and sale of foreign currency on the domestic foreign currency market in order to achieve the objectives of the national monetary policy.

Article 30. Exchange rate mechanism applicable to Vietnamese dong

1. The exchange rate mechanism applicable to Vietnamese dong shall be determined on the basis of the supply of and demand for foreign currency in the market as regulated by the State.
2. The State Bank of Vietnam shall determine the exchange rate applicable to Vietnamese dong in accordance with specific macro-economic objectives from time to time.

Article 31 Management of import and export of gold

The State Bank of Vietnam shall manage the import and export of gold in the form of bullion, bars, granules and plate by credit institutions and other institutions licensed to trade in gold.

Chapter VI

MANAGEMENT OF FOREIGN EXCHANGE RESERVES OF THE STATE

Article 32. Composition of foreign exchange reserves of the State

1. Foreign currency cash and foreign currency deposited overseas.
2. Securities and other valuable papers in foreign currency issued by the Government, by foreign organizations and international institutions.
3. Special drawing rights and reserves at the International Monetary Fund.
4. Gold.
5. Other types of foreign exchange.

Article 33. Sources of foreign exchange reserves of the State

1. Foreign exchange purchased from the State Budget and on the foreign exchange market.
2. Foreign exchange from borrowings of banks and international financial institutions.
3. Foreign exchange from deposits of the State Treasury and credit institutions.
4. Foreign exchange from other sources.

Article 34. Control of foreign exchange reserves of the State

1. The State Bank of Vietnam shall exercise control of the foreign exchange reserves of the State in accordance with regulations of the Government in order to realize the national monetary policy, to ensure international payment capability and to preserve the foreign exchange reserves of the State.
2. The Ministry of Finance shall inspect the management of the foreign exchange reserves of the State by the State Bank of Vietnam in accordance with regulations of the Government.
3. The Government shall report to the Standing Committee of the National Assembly on any changes in the status of the foreign exchange reserves of the State.

Article 35. Foreign exchange belonging to the State budget

The Prime Minister of the Government shall set the level of foreign currency which the Ministry of Finance is entitled to retain from State Budget revenue in order to satisfy the demand for regular payments of foreign exchange from the State Budget.

Chapter VII

PROVISION OF FOREIGN EXCHANGE SERVICES BY CREDIT INSTITUTIONS AND OTHER INSTITUTIONS

Article 36. Applicable entities and scope of activities of provision of foreign exchange

1. Entities eligible to provide foreign exchange services shall comprise banks, non-banking credit institutions and other institutions authorized to provide such services.
2. The scope of activities of provision of foreign exchange services shall be as follows:
 - (a) Banks shall be entitled to provide foreign exchange services in accordance with regulations of the State Bank of Vietnam;
 - (b) Non-banking credit institutions shall be entitled to provide a number of foreign exchange services on the basis of registration for this activity in accordance with the conditions stipulated by the State Bank of Vietnam;
 - (c) Other institutions shall be entitled to provide a number of foreign exchange services in accordance with licences granted by the State Bank of Vietnam.

Article 37. Mobilization of foreign currency deposits and provision of foreign currency loans within Vietnam

The State Bank of Vietnam shall provide regulations on mobilization of foreign currency deposits and on provision of foreign currency loans by credit institutions within the territory of Vietnam.

Article 38. Foreign exchange activities on the international market

The Government shall provide for the conditions applicable to and the scope of foreign exchange activities for each form of credit institution and other institution.

Article 39. Responsibilities of credit institutions and other institutions in conducting activities being provision of foreign exchange services

1. To comply with, and to guide customers to strictly implement regulations on foreign exchange control and other relevant laws.
2. To conduct examinations as to whether relevant papers and documents of customers are consistent with their transactions in accordance with this Ordinance and other laws on foreign exchange control.
3. To be responsible for satisfying the foreign currency demand for overseas payments in current transactions of residents being organizations and individuals.
4. To be subject to inspection and supervision, and to strictly implement the reporting regime in accordance with law.

Chapter VIII

STATE MANAGEMENT OF FOREIGN EXCHANGE ACTIVITIES

Article 40. State management of foreign exchange activities

1. The Government shall exercise unified State management of foreign exchange activities.
2. The State Bank of Vietnam shall be responsible to the Government for the implementation of State management of foreign exchange activities, for the preparation and implementation of the policy on foreign exchange control, for provision of guidelines on, and for inspection and examination of compliance with regulations on source documents and the reporting regime.
3. Ministries, ministerial equivalent bodies and people's committees of provinces and cities under central authority shall, within the scope of their respective duties and powers, be responsible for State management of foreign exchange activities.

Article 41. Safety measures

The Government may apply the following measures when it considers it necessary in order to guarantee financial security and the national currency:

1. Restrict purchase, carrying, remittance or payment with respect to transactions in current transactions accounts and capital accounts.
2. Apply regulations on the obligation to sell foreign currency of non-residents being organizations.
3. Apply economic, financial and monetary measures.
4. Apply other measures.

Article 42. Information and reporting regime

1. The State Bank of Vietnam shall be responsible to promulgate and to inspect implementation of regulations on the information and reporting regime; and to analyze, forecast and publish information

on foreign exchange activities.

2. The State Bank of Vietnam shall be responsible to preside over co-ordination with ministries and branches to collect information and data in order to service State management of foreign exchange and in order to formulate the balance of international payments.

Authorized credit institutions shall be responsible to report on foreign exchange activities to the State Bank in accordance with regulations of the State Bank.

Organizations and individuals conducting foreign exchange activities shall be obliged to report information and data at the request of the State Bank of Vietnam and at the request of authorized credit institutions in accordance with law.

3. Ministries, ministerial equivalent bodies and people's committees of cities and provinces under central authority shall, within the scope of their respective duties and powers, be responsible to report information and data on foreign exchange activities to the State Bank of Vietnam in order to service State management of foreign exchange activities and in order to formulate the balance of international payments.

Chapter IX

COMPLAINTS AND DENUNCIATIONS, INSTITUTION OF LEGAL PROCEEDINGS, AND DEALING WITH BREACHES

Article 43. Dealing with breaches

Any organization or individual who breaches the provisions of this Ordinance shall, depending on the nature and seriousness of the breach, be subject to an administrative penalty or criminal prosecution; and if an offender causes loss or damage, the offender shall be obliged to pay compensation in accordance with law.

Article 44 .Complaints and denunciations

1. Any complaint about an administrative decision or administrative act, and any denunciation of an act in breach of the law on foreign exchange activities shall be implemented in accordance with the law on complaints and denunciations.

2. During the duration of any complaint or legal action, the organization or individual subject to an administrative penalty for a breach shall still be obliged to implement such decision. When the competent State body issues a decision resolving a complaint, or when a judgment or decision of a court takes legal effect, such judgment or decision shall be implemented.

Chapter X**IMPLEMENTING PROVISIONS****Article 45. Effectiveness**

This Ordinance shall be of full force and effect as from 1 June 2006.

Article 46. Implementing guidelines

The Government shall be responsible for providing guidelines for the implementation of this Ordinance.

**ON BEHALF OF THE STANDING
COMMITTEE OF THE NATIONAL
ASSEMBLY
CHAIRMAN**

Nguyen Van An