

VIETNAM
SAFEGUARD FRAMEWORK FOR FINANCIAL SERVICES LIBERALIZATION UNDER ASEAN FRAMEWORK
AGREEMENT ON SERVICES

Sector: BANKING

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
<p>(a) Acceptance of deposits and other repayable funds from the public</p> <p>(b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction</p> <p>(c) Financial leasing</p> <p>(d) All payment and money</p>	<p><u>Market Access</u></p> <p>2) None</p> <p>3)</p> <p>(a) Forms of commercial presence of foreign credit institutions allowed to establish in Vietnam are:</p> <ul style="list-style-type: none"> - Representative office, - Joint venture bank, - 100% foreign-owned bank, - Foreign bank branch, - Joint venture finance company, 	<p><u>Prudential Measures</u></p> <p>1, 2)</p> <p>(a) Ordinance on Foreign Exchange No. 28/2005/PL-UBTVQH, Decree No. 160/2006/ND-CP providing detailed guidelines for the implementation of the foreign exchange ordinance, and Decision No. 1452/2004/QD-NHNN dated 10 November 2004 of the Governor of the State Bank of Vietnam on foreign exchange transactions of credit institutions that are allowed to operate foreign exchange</p>

Sub-sectors	Measures to be Safeguarded	
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<p>transmission services, including credit, charge and debit cards, travelers' cheques and bankers drafts</p> <p>(e) Guarantees and commitments</p> <p>(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <ul style="list-style-type: none"> - Money market instrument (including cheques, bills, certificates of deposits); - Foreign exchange; - Exchange rate and interest rate instrument incl products 	<ul style="list-style-type: none"> - 100% foreign-owned finance company, - Joint venture financial leasing company, - 100% foreign-owned financial leasing company. <p>(b) Deposits in Vietnamese Dong that a foreign bank branch accepts from Vietnamese natural persons with which the bank does not have a credit relationship may be limited to a ratio of the branch's paid-in capital according to the schedule below:</p> <ul style="list-style-type: none"> - 1 January 2010: 1,000% of legal-paid-in capital; - 1 January 2011: Full national treatment. <p>(c) Participation of foreign capital</p> <p>(i) Equity ceiling is 30% of a Vietnamese bank's charter capital for foreign investors</p>	<p>activities stipulate that "non-residents are not allowed to participate in derivative foreign exchange transactions in Vietnam".</p> <p>(b) According to Ordinance on Foreign Exchange No. 28/2005/PL-UBTVQH, and Decree No. 160/2006/ND-CP providing detailed guidelines for the implementation of the foreign exchange ordinance, non-residents are not allowed to make foreign deposit in credit institutions.</p> <p>(c) According to Article 41, Ordinance on Foreign Exchange No. 28/2005/PL-UBTVQH, the Government will apply appropriate measures to ensure national financial and monetary security when necessary.</p> <p>3)</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
<p>such as swaps, forward rate agreements;</p> <p>- Bullion.</p> <p>(h) Money broking</p> <p>(i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services</p> <p>(j) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments</p>	<p>(including existing foreign shareholders) and their affiliated persons.</p> <p>(ii) Equity ceiling other than a foreign credit institution or his/her/its affiliated persons is 5% of a Vietnamese bank's charter capital for a foreign investor.</p> <p>(iii) Equity ceiling is 10% of a Vietnamese bank's charter capital for a foreign credit institution and its affiliated persons.</p> <p>(iv) Equity ceiling is 15% of a Vietnamese bank's charter capital for a foreign strategic investor and his/her/its affiliated persons.</p> <p>(v) Total equity held by foreign credit institutions in an equitized state-owned commercial bank is the same as that held by Vietnamese banks at that state-owned commercial bank. The Governor of the State Bank of Vietnam shall guide the implementation of this provision.</p>	<p>(a) According to Item 2, Article 123, Law on Credit Institutions 2010 (effective on 1 January 2011), foreign banks' branches are only allowed to provide some foreign exchange services on international market for Vietnamese customers according to Vietnam's legal documents on foreign exchange.</p> <p>(b) According to the Ordinance on Foreign Exchange No. 28/2005/PL-UBTVQH, Decree No. 160/2006/ND-CP providing detailed guidelines for the implementation of the foreign exchange ordinance, Circular No. 03/2008/TT-NHNN dated 11 April 2008 of the State Bank of Vietnam on the provisions of foreign exchange services (on domestic and international markets), the credit institutions are only allowed to provide foreign exchange services after</p>

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	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
<p>(k) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services</p> <p>(l) Advisory, intermediation and other auxiliary financial services on all activities listed in subparagraphs from (a) to (k), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy</p>	<p>(d) A foreign bank branch is not permitted to open a transaction point outside its location which is stated in the License in any form.</p> <p>4) Entry is permitted in accordance with Vietnam's laws and regulations.</p> <p><u>National Treatment</u></p> <p>2) None</p> <p>3) Minimum total assets requirements for the establishment of a commercial presence in Vietnam are:</p> <p>(i) US\$20 billion of total assets of parent bank than at the end of the year prior to application;</p> <p>(ii) US\$10 billion of total assets of parent bank at the end of the year prior to application for a</p>	<p>fully meeting the requirements of the State Bank of Vietnam.</p> <p>(c) The establishment, organization and operation of foreign bank branches and representative offices of foreign credit institutions and other foreign organizations conducting a banking operation shall comply with the provisions of the Law on Credit Institutions No. 47/2010/QH12 and other relevant laws.</p> <p>(d) Joint venture credit institutions and 100% foreign-owned credit institutions shall be established and organized in the form of a limited liability company</p> <p>(e) Conditions for issuance of license</p> <p>(i) A credit institution shall be issued with a license when it satisfies all the following</p>

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	<p>joint venture bank or a 100% foreign-owned bank;</p> <p>(iii) US\$10 billion of total assets of foreign credit institution at the end of the year prior to application for a 100% foreign-invested finance company or a joint venture finance company, a 100% foreign-invested financial leasing company or a joint-venture financial leasing company.</p> <p>4) Entry is permitted in accordance with Vietnam's laws and regulations.</p>	<p>conditions:</p> <p>(i.a) Having charter capital or funded capital at least equal to the level of its legal capital;</p> <p>(i.b) The owner of the credit institution being a single member limited liability company, and the founding shareholders [or] founding members must be legal entities currently conducting a lawful operation and must have sufficient financial capacity to participate in capital contribution; and the founding shareholders [or] founding members of the credit institution must be individuals with full capacity for civil acts and with sufficient financial capacity to make capital contributions.</p> <p>The State Bank of Vietnam shall regulate the conditions applicable to owners of credit institutions which are single member limited liability companies and founding</p>

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		<p>shareholders [or] founding members.</p> <p>(i.c) Managers, executives and members of the board of controllers must satisfy all the criteria and conditions prescribed in article 50 of the Law on Credit Institutions;</p> <p>(i.d) Having a charter consistent with the provisions of the Law on Credit Institutions and other relevant laws;</p> <p>(i.e) Having a proposal for establishment and a feasible business plan which do not adversely affect the safety and stability of the credit institution system, and which do not create a monopoly, restrict competition or create unfair competition within the credit institution system.</p> <p>(ii) A joint venture credit institution or a credit institution with one hundred (100) per cent foreign-owned capital shall be issued with a license when it satisfies all the following conditions:</p>

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		<p>(ii.a) The conditions prescribed in paragraph (i);</p> <p>(ii.b) The foreign credit institution is permitted to conduct a banking operation in accordance with the law of the country where it has its head office;</p> <p>(ii.c) The proposed operation for which a license is sought to conduct in Vietnam must be the operation which the foreign credit institution is currently permitted to conduct in the country where it has its head office;</p> <p>(ii.d) The foreign credit institution must have a healthy operation and satisfy all conditions on total assets, financial status and prudential ratios prescribed in State Bank regulations;</p> <p>(ii.e) The foreign credit institution gives a written commitment to provide support in terms of finance, technology, management,</p>

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		<p>executive operation and operation to the joint venture credit institution [or] credit institution with one hundred (100) foreign-owned capital; and ensures that the actual value of the charter capital [of either of the latter credit institutions] will be maintained at no less than the level of their legal capital and that [either of the latter credit institutions] will implement the provisions of the Law on Credit Institutions on ensuring safety;</p> <p>(ii.f) The competent authority of the foreign country has signed an agreement with the State Bank on inspection and supervision of the banking operation and on exchange of information about supervision of banking safety, and has given a written commitment on unified supervision of the operation of the foreign credit institution in accordance with international practice.</p>

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		<p>(iii) A foreign bank branch shall be issued with a license when it satisfies all the following conditions:</p> <p>(iii.a) The conditions prescribed in sub-paragraphs (a), (b), (c) and (e) of paragraph (i) and in sub-paragraphs (b), (c) (d) and (e) of paragraph (ii) of this article;</p> <p>(iii.b) The foreign bank must give a written commitment that it accepts liability for all obligations and commitments of the foreign bank branch in Vietnam; and ensures that the actual value of the funded capital [of the foreign bank branch] will be maintained at no less than the legal capital and that [the foreign bank branch] will implement the provisions of the Laws on Credit Institutions on ensuring safety;</p> <p>(iv) A representative office of a foreign credit institution or of another foreign organization conducting a banking</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
		<p>operation shall be issued with a license when it satisfies all the following conditions:</p> <p>(iv.a) The foreign credit institution or other foreign organization conducting a banking operation is a legal entity licensed to conduct a banking operation in the foreign country;</p> <p>(f) The law of the country, where the foreign credit institution or other foreign organization conducting a banking operation has its head office, permits such foreign credit institution or other foreign organization to establish a representative office in Vietnam.</p> <p>(g) The safeguard ratios stipulated in Circular No. 13/2010/TT-NHNN dated 20 May 2010 (affected from 01/10/2010) and Circular No. 15/2010/TT-NHNN dated 10</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
		<p>August 2009.</p> <p>(h) Credit institutions operating in Vietnam must conduct debt classification, establish risk reserves and use of risk reserves to deal with credit risks in banking activities pursuant to Decision No. 493/2005/QD-NHNN dated 22 April 2005 and Decision No. 18/2007/QD-NHNN dated 25 April 2007 of the Governor of the State Bank of Vietnam. In cases when a foreign bank branch operating in Vietnam wants to implement debt classification, establish risk reserves and use of risk reserves to deal with credit risks in accordance with regulations of its foreign banks, that branch must submit to the State Bank of Vietnam risk reserves policy of the foreign bank for consideration and decision. The foreign bank branch is only allowed to classify</p>

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	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
		<p>debts, establish risk reserves and use risk reserves to deal with credit risks in compliance with regulations of the foreign bank's Head office after receipt of State Bank of Vietnam's approval in written notice (Paragraph 1, Article 1, Decision No. 493/2005/QD-NHNN dated 22 April 2005).</p> <p>(i) Restrictions to ensure security during operation of credit institution are stipulated at Chapter 4, Laws on Credit Institutions (coming into effects on 1 January 2010).</p> <p><u>Other Measures</u></p> <p>The Government may apply the following measures when it considers it necessary in order to guarantee financial security and the national currency</p> <p>(a) Restrict purchase, carrying, remittance</p>

Sub-sectors	Measures to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
		<p>or payment with respect to transactions in current transactions accounts and capital accounts.</p> <p>(b) Apply regulations on the obligation to sell foreign currency of non-residents being organizations.</p> <p>(c) Apply economic, financial and monetary measures.</p> <p>(d) Apply other measures.</p>

Sector: INSURANCE

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sub-sectors	Areas to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
a) Direct insurance (a) Life insurance, excl.	<u>Market Access</u>	

Sub-sectors	Areas to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
<p>health insurance services. (b) Non – life insurance services</p> <p>b) Reinsurance and retrocession</p> <p>c) Insurance intermediation (such as brokerage and agency)</p> <p>d) Services auxiliary to insurance (such as consultancy, actuarial, risk assessment and claim settlement)</p>	<p>1) Unbound, except for:</p> <ul style="list-style-type: none"> - Insurance services provided to enterprises with foreign-invested capital, foreigners working in Viet Nam; - Reinsurance services; - Insurance services in international transportation, including insurance of risks relating to: <ul style="list-style-type: none"> + international maritime transport and international commercial aviation, with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising there-from; and + goods in international transit; - Insurance broking and reinsurance broking services; - Consultancy, actuarial, risk assessment and claim settlement services. <p>2) None.</p> <p>3) Branching is not allowed for foreign insurance services providers in life, reinsurance and brokerage services. From 2012, non-life branches of foreign insurance services providers shall be permitted, subject to prudential regulations.</p> <p>4) Unbound, except as indicated in the horizontal section under AFAS.</p>	<ul style="list-style-type: none"> - Insurance agency is regulated by Law on Insurance Business (Chapter IV, Heading 1) - Foreign insurance, brokerage enterprises are permitted to conduct insurance, brokerage business in Vietnam under Law on Insurance Business and guiding regulatory.

Sub-sectors	Areas to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
	<p><u>National Treatment:</u></p> <p>1) None.</p> <p>2) None.</p> <p>3) None.</p> <p>4) Unbound, except as indicated in the horizontal section under AFAS.</p>	

Sector: SECURITIES

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sub-sectors	Areas to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures

Sub-sectors	Areas to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following: <ul style="list-style-type: none"> - Derivative products incl. futures and options; - Transferable securities; - Other negotiable instruments and financial assets, excluding bullion. 	<p><u>Market Access</u></p> <p>1) Unbound for services from (f) to (j).</p> <p>2) None.</p> <p>3) Unbound, except for:</p> <ul style="list-style-type: none"> - Foreign securities service suppliers shall not be permitted to establish joint ventures with Vietnamese partners in which foreign capital contribution exceed 49%. - Securities service suppliers with 100% foreign-invested capital shall not be permitted until 2012. - For services from C(i) to C(l), branches of foreign securities services suppliers shall not be permitted until 2012. - Reserve the right to constrain branches of foreign securities service suppliers establishing for services (f) and (g). <p>4) Unbound, except as indicated in the horizontal section under AFAS.</p>	<ul style="list-style-type: none"> - Reserve the rights to apply regulations on investment procedure. - Reserve the rights to apply regulations on securities professional licencing.
(g) Participation in issues of all kinds of securities incl. under-writing and placement as an agent (publicly or privately), provision of services related to such issues		
(i) Asset management, such as portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services		
(j) Settlement and clearing services for securities, derivative products, and other securities-related	<p><u>National Treatment</u></p> <p>1) Unbound.</p> <p>2) None.</p>	

Sub-sectors	Areas to be Safeguarded	
	Market Access and National Treatment Measures	Laws and National Policies, including Prudential and Foreign Exchange Measures
instruments	3) None.	
(k) Provision and transfer of financial information, and related software by suppliers of securities services	4) Unbound, except as indicated in the horizontal section under AFAS.	
(l) Advisory, intermediation and other auxiliary securities-related excluding (f), including investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy (for other services under (l), refer to (l) under banking sector)		

Note: Vietnam reserve all rights to the aboved sub-sectors in specific laws, regulations system which will be issued in the future.
