

THE STATE BANK

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

No: 1284/2002/QD-NHNN

Hanoi, November 21, 2002

DECISION

**ISSUING THE REGULATION ON THE OPENING AND USE OF DEPOSIT ACCOUNTS
AT THE STATE BANK AND CREDIT INSTITUTIONS**

THE STATE BANK GOVERNOR

*Pursuant to Vietnam State Bank Law No.01/1997/QH10 and Credit Institution Law
No.02/1997/QH10 of December 12, 1997;*

*Pursuant to the Governments Decree No.64/2001/ND-CP of September 20, 2001 on activities of
payment via payment service-providing organizations;*

*Pursuant to the Governments Decree No.86/2002/ND-CP of November 5, 2002 defining the
functions, tasks, powers and organizational structure of the ministries and ministerial-level
agencies;*

At the proposal of the director of the State Banks Accountancy-Finance Department,

DECIDES:

Article 1.- To issue together with this Decision the Regulation on the opening and use of deposit accounts at the State Bank and credit institutions.

Article 2.- This Decision takes effect 15 days after its signing. The earlier regulations on the opening and use of deposit accounts cease to be effective, including:

- The State Bank Governors Decision No.160/QD-NH2 of August 19, 1993 issuing the Regulation on the opening and use of deposit accounts by private enterprises and individuals.
- The provisions on the opening and use of deposit accounts in Part I, Circular No.08/TT-NH2 of June 2, 1994 of the State Bank Governor guiding the implementation of the regulation on non-cash payment.

Article 3.- The directors of the State Banks Office and Accountancy- Finance Department, the heads of the units attached to the State Bank, the directors of the State Banks branches in the provinces and centrally-run cities, the chairmen of the Managing Boards and the general directors (directors) of credit institutions shall have to implement this Decision.

**FOR THE STATE BANK GOVERNOR
DEPUTY GOVERNOR**

Vu Thi Lien

REGULATION

ON THE OPENING AND USE OF DEPOSIT ACCOUNTS AT THE STATE BANK AND CREDIT INSTITUTIONS

*(Issued together with the State Bank Governors Decision No.1284/2002/QD-NHNN of November
21, 2002)*

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

1. This Regulation prescribes the opening and use of deposit (payment deposit) accounts by customers at payment service-providing organizations being Vietnam State Bank and credit institutions being Vietnam-based banks (hereinafter called banks for short).

Each customer has the right to open one or more deposit accounts at one or many places where he/she resides or it is headquartered, or elsewhere, depending on his/her/its use demand, except for cases otherwise provided for.

2. The opening and use of payment accounts other than payment deposit accounts (such as savings accounts, bank check accounts, money-transfer accounts and loan accounts...) shall comply with current regulations.

3. The opening and use of deposit accounts at payment service-providing organizations other than banks (such as State treasuries, development assistance funds, post offices...) shall comply with the regulations of such payment service-providing organizations.

4. The opening and use of Vietnam dong and foreign currency deposit accounts by non-residents and residents must comply with the provisions of this Regulation and the States current stipulations on foreign exchange management.

Article 2.- Subjects entitled to open deposit accounts

1. The State Bank shall open deposit accounts for the following subjects:

a/ The State treasuries and credit institutions in localities.

If wishing to open deposit accounts in other localities, these subjects must get written approval from the State Bank (the Accountancy-Finance Department).

b/ Foreign banks operating in foreign countries.

c/ International monetary organizations and banks.

d/ Other subjects that, as prescribed by the competent State agencies, are entitled to open deposit accounts at Vietnam State Bank.

2. Credit institutions being banks shall open deposit accounts for the following subjects:

a/ Individuals being Vietnamese citizens with civil legal capacity and civil act capacity; foreigners with civil legal capacity and civil act capacity as prescribed by laws of the countries of which they are citizens.

For minors, persons losing civil act capacity and persons with restricted civil act capacity under law provisions, all procedures for the opening and use of deposit accounts must be carried out by their guardians or representatives at law.

b/ Vietnamese organizations set up and operating under Vietnamese law and foreign organizations set up and operating under laws of the countries where such organizations have been set up.

c/ For State-run commercial banks: They shall open deposit accounts for the State treasuries based in rural districts or provincial towns other than provincial capitals, which, however, must be approved in writing by the State Bank.

Article 3.- Forms of opening deposit accounts

1. Deposit accounts mean payment accounts opened by payment service users at banks for the purpose of depositing, keeping money or effecting payment transactions via banks with various payment instruments. Depending on the customer category, a deposit account may be opened in one of the following forms:

a/ Organizations deposit account: means an account whose holder is the representative at law or authorized representative, of the account-opening organization.

b/ Deposit account of account co-holders: means an account opened under the names of at least two persons. The account co-holders may be individuals or organizations lawful representatives.

c/ Individuals deposit account: means an account whose holder is an individual opening the account under his/her own name.

2. Deposit account balance may be the demand or time balance. The conversion of the time balance into the demand balance and vice versa or the use of balance at variance with the already agreed term shall be effected at the request of the customer or the bank where the account has been opened.

Chapter II

OPENING AND USE OF DEPOSIT ACCOUNTS

Section A. OPENING OF DEPOSIT ACCOUNTS

Article 4.- Deposit account-opening dossiers

1. For organizations, such a dossier shall comprise the following principal papers:

a/ The written request for account opening;

b/ The papers proving that the organization has been set up under law provisions;

c/ The papers proving the lawful representative status of the account holder.

2. For account co-holders, such a dossier shall comprise the following principal papers:

a/ The written request for opening a joint account;

b/ The papers proving the lawful representative status of the representatives of organizations co-holding the joint account;

c/ The account co-holders written agreement (contract) on the management and use of their joint account.

3. For individuals, such a dossier shall comprise the following principal papers:

a/ The written request for account opening;

b/ The papers proving the status of the lawful representative or guardian of the minor, the person losing civil act capacity or the person with restricted civil act capacity.

4. Apart from the above-prescribed principal papers, to serve the operation requirements and characteristics of their own units, banks may request their customers to supply other necessary additional papers for the account-opening dossiers. Such requirements must be publicized and guided in detail to suit each customer.

Papers in the account-opening dossiers may be originals or copies certified by the original-issuing agencies or notarized or authenticated by competent State agencies. All elements declared in the account-opening dossiers must be accurate and true. Customers must be responsible for elements already registered in account-opening dossiers and immediately notify the banks where their accounts are opened of any changes in such elements.

Article 5.- The written requests for account opening

1. A written request for account opening shall comprise the following major elements:

a/ The full name and address of the account holder (or co-holders), being resident or non-resident.

b/ The serial number, date and place of issue of the people's identity card, army's identity card or passport (if still valid) of the account holder (or co-holders);

c/ The registered name and transaction address (if the account holder is an organization);

d/ The specimen signatures of the account holder, to be used in vouchers of transaction with the bank, and of the person authorized to sign on his/her behalf.

e/ The specimen signatures of the chief accountant or the person in charge of accountancy as well as the persons authorized to sign on their behalf (for deposit accounts of organizations if so requested).

One person must not register his/her signature concurrently in the capacity of the account holder and the person responsible for signing vouchers of transaction with the bank or the authorized person.

f/ The specimen seal (if any) to be used on vouchers of transaction with the bank.

g/ The full name and address of the person to whom the account is transferred when the account holder (or co-holders) being individual(s) dies(die) or is (are) declared missing.

Banks may supplement information in service of their management requirements and in compatibility with each customer.

2. If the account users cannot write in any form, banks shall guide the customers to register special codes or signs instead of their specimen signatures. In case of using electronic signatures for the use of payment services, the formulation, distribution, management and use of electronic signatures shall be provided and guided for the customers by the banks.

3. The written requests for account opening shall be invalid in the following cases:

a/ There are evidences that the elements declared in such requests are untrue;

b/ The customers are not entitled to open accounts at banks.

Article 6.- Reception and handling of account-opening dossiers

1. When receiving account-opening dossiers, banks shall have to examine and compare papers and elements declared in such dossiers, ensuring that they are compatible and accurate.

2. Banks shall have to decide on account opening right on the working day:

a/ If accepting the customers account-opening requests, the banks shall give the customers "notices on acceptance of account opening" with contents on the to be-opened accounts and date of commencement of account operation.

b/ In case of refusing to open accounts, the banks must clearly state the reasons therefor.

Section B. USE OF DEPOSIT ACCOUNTS

Article 7.- Use of accounts

1. The use of accounts shall comply with the State Banks guidance, the regulations of competent State agencies and the requirements of account holders.

2. Use of accounts by minors, persons losing civil act capacity and persons with restricted civil act capacity:

a/ The guardians or representatives at law of minors, persons losing civil act capacity or persons with restricted civil act capacity may use their wards or represented persons accounts. The guardians and representatives at law of account holders must not authorize other individuals or organizations to use the wards or represented persons accounts.

b/ The guardians and representatives at law shall have to use these accounts for the sake of their wards and represented persons; have full rights and obligations in the use of accounts under the provisions of this Regulation and other relevant provisions of law.

3. Use of co-held accounts

The use of co-held accounts must strictly comply with the contents already committed and agreed upon in the written agreements (contracts) on the management and use of joint accounts.

Except where exist other agreements on the modes of using joint accounts, the rights and responsibilities of each account co-holder in the use of their joint accounts and the mode of settling disputes, the use of co-held accounts shall comply with the following principles:

- The account co-holders have equal rights and obligations toward their joint accounts and the use of these accounts must be consented by all account co-holders. Each account co-holder shall be responsible for performance of all debt-repayment obligations arising from the use of the accounts.

- A notice on the use of an account to an account co-holder shall be considered the notice to all co-holders of that account.

- The account co-holders may authorize each other or other persons to use and dispose of their joint accounts within the ambit of their rights and obligations.

- When an account co-holder being an individual dies, is declared missing or loses his/her civil act capacity, or an organization terminates its operations under law provisions, the right to use

the account and obligations arising therefrom shall be handled according to the provisions of law.

Article 8.- Authorization of the use of accounts

1. The authorization of the use of accounts and the use of accounts under authorization must comply with the provisions of the Governments Decree No.64/2001/ND-CP of September 20, 2001 on activities of payment via payment service- providing organizations and other law provisions on authorization.

2. Procedures for authorization of the use of accounts:

a/ If wishing to authorize the use of their accounts to persons whose specimen signatures have not yet been registered in the written requests for the account opening, account holders must make written authorizations of the use of their accounts in strict compliance with the provisions of law.

b/ The specimen seals (if any) and signatures of the persons authorized to use accounts must be kept at banks.

Article 9.- Rights of account holders

1. Account holders have the right to use money amounts on their accounts through lawful and valid payment orders. Account holders shall be given by the banks, where they have opened accounts, all conditions for using such accounts in the most efficient and safest manner.

2. To choose and use payment services provided by the banks in accordance with their requirements and capabilities as well as the provisions of law.

3. To authorize other persons to use their accounts under law provisions.

4. To request the banks where they have opened accounts to execute lawful and valid payment orders within the accounts credit balances and overdraft limits (if permitted).

5. To request the provision of information on payment transactions and balances on their accounts.

6. To request the banks where they have opened accounts to close, blockade, or change the mode of using, such accounts when necessary.

7. To enjoy interests on the money amounts on their accounts at the bank-prescribed interest rates, depending on the accounts characteristics and balances and in accordance with the interest rate-management mechanism promulgated by the State Bank in each period.

Article 10.- Responsibilities of account holders

1. To ensure enough money on their accounts so as to execute the already placed payment orders. To be accountable for payment in excess of the account credit balances, except for cases where the overdraft has already been agreed upon with the banks. Customers being credit institutions involved in payment activities must maintain on their deposit accounts at the State Bank an average balance not lower than the compulsory reserve level set by the State Bank.

2. To organize cost-accounting by themselves, monitor their account balances and compare them with debit notices, credit notices or account balance notices sent by the banks where they have opened accounts.

3. To be held responsible for their own errors or misuse or trickery when using via-account payment services.
4. To observe the guidance of the banks where they have opened accounts regarding the making of payment orders and use of payment instruments and performance of via-account payment transactions; as well as the use, circulation and archival of transaction vouchers, ensuring safety measures in payment as prescribed by the banks.
5. To promptly notify the banks where they have opened accounts of any errors or mistakes on their accounts or the misuse of their accounts when detecting them. To provide accurate information when requesting the use of payment services or in the process of using via-account payment services.
6. Not to lease or lend their accounts or use them for payment transactions related to money amounts with unlawful origin evidences.

Article 11.- Rights of the banks

1. To take initiative in deducting the customers accounts in the following cases:
 - a/ Due debts, overdue debts, interests and other lawful expenses arising in the course of managing accounts and providing payment services under regulations.
 - b/ Payment obligations under decisions of competent State agencies, compelling the account holders to make payments.
 - c/ Other cases as agreed upon between banks and their customers.
2. To refuse to execute the customers payment orders in the following cases:
 - a/ The customers fail to fully meet the requirements on payment procedures; the payment orders are invalid, incompatible with the already registered elements or with the agreements between banks and their customers.
 - b/ The available balances on the customers accounts are insufficient for the execution of payment orders unless there are prior agreements on overdraft with banks.
3. If detecting that account users violate current regulations or existing agreements with banks, or show signs of law violation, the banks may not execute the customers requests for the use of payment services, seize material evidences and immediately notify such to the competent authorities for consideration and handling.
4. To blockade, close or convert accounts, or liquidate account balances as prescribed.
5. To prescribe measures to ensure payment safety, depending on their operation requirements and characteristics.
6. To request customers to supply relevant information when using payment services under regulations.
7. To impose fines on customers for their violations of the regulations on the use of accounts already agreed upon or provided for.

Article 12.- Responsibilities of banks

1. To guide customers to strictly observe the regulations on compilation of account-opening dossiers and making of transaction vouchers as well as relevant regulations on the use of

accounts. Banks shall have to find out and promptly rectify the wrongly- opened or improperly-used accounts.

2. To fully and promptly execute the customers payment orders and account-use requests in compliance with the regulations or agreements between banks and customers. To control the customers payment orders, ensuring their compliance with the prescribed procedures, legality, validity and compatibility with the already registered elements; to provide fully and promptly necessary payment services and instruments in service of the customers demand for via-bank transactions.
3. To conduct cost-accounting for arising economic operations on the basis of lawful and valid accounting vouchers already received. To adjust those items, which have been wrongly accounted, accounted at variance with their nature or with the contents of the use of accounts as prescribed.
4. To promptly and fully send debit notices, credit notices, copies of account books and account balance notices at the account users requests. To provide timely information on payment transactions and account balances to customers periodically or when requested.
5. To keep secret information related to the customers accounts and transactions thereon under regulations.
6. To preserve and archive account-opening dossiers and vouchers on via-account transactions in strict compliance with the mode and time limit prescribed by the State Bank Governor.
7. To publicly post up regulations on the opening and use of accounts.
8. To be held responsible for losses, violations and/or misuse of customers accounts caused by their faults.

Section C. OTHER PROVISIONS

Article 13.- Blockade of accounts

1. Banks may blockade their customers deposit accounts only when there arises one of the conditions mentioned at Clause 1, Article 9 of the Governments Decree No.64/2001/ND-CP of September 20, 2001 on payment activities via payment-service providing organizations.

The use of blockaded accounts and blockaded money amounts, the blockade duration as well as the handling of via-account payment orders in the blockade duration shall strictly comply with the blockade contents.

2. The blockaded money amounts on accounts must be preserved and tightly controlled according to the blockade contents and shall be released only when the blockade is lifted. In cases where the accounts are partially blockaded, the unblockaded money amounts shall still be used as usual.

Article 14.- Closure of accounts

1. Banks may close their customers deposit accounts only in cases prescribed at Clause 1, Article 10 of the Governments Decree No.64/2001/ND-CP of September 20, 2001 on activities of payment via payment service-providing organizations.

Cases where banks use their right to decide on account closure and modes of handling the remaining account balances must be notified in advance to the account holders or posted up publicly.

2. The account-closing procedures shall be prescribed by banks in accordance with their operation characteristics and must be announced publicly.

3. After their accounts are closed, if customers still want to use them, they must refill in the account-opening procedures.

Article 15.- Settlement of disputes and handling of violations

The parties shall have to comply with the provisions on the opening and use of accounts in this Regulation, other relevant law provisions and the agreements reached among the parties. Organizations and individuals that commit violations shall, depending on the nature and seriousness of their violations, be fined, disciplined, administratively sanctioned or examined for penal liabilities. If causing damage, they must pay compensation therefor.

Chapter III

IMPLEMENTATION PROVISIONS

Article 16.- Implementation effect

1. The account-opening dossiers made under the provisions in Part I of the State Banks Circular No.08/TT-NH2 of June 2, 1994 and Article 2 of the State Bank Governors Decision No.160/QD-NH of August 19, 1993, which are compliant with the provisions of this Regulation, shall still be valid for further use.

2. Basing themselves on the provisions of this Regulation, banks must conduct examination for supplementation and completion of account-opening dossiers at their respective units, thus making them appropriate.

Article 17.- Implementation guidance and execution

1. The general directors (directors) of banks shall, basing themselves on the provisions of this Regulation, issue legal documents on the opening and use of accounts at their respective banks in accordance with their operation characteristics; and take responsibility for monitoring and organizing the inspection of their units implementation.

2. The director of the Accountancy-Finance Department shall have to guide, monitor and handle problems arising in the course of implementation of this Regulation.

3. The amendment and supplementation of this Regulation shall be decided by the State Bank Governor.

**FOR THE STATE BANK GOVERNOR
DEPUTY GOVERNOR**

Vu Thi Lien

