

SOME NEW POINTS ON THE CONDITIONS FOR FOREIGN LOANS NOT GUARANTEED BY THE GOVERNMENT

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In order to ensure relevancy with the characteristics of foreign loan transactions arising from Letter of Credit operations and to support enterprises' payment for imported goods and services, the Governor of the State Bank of Vietnam has issued Circular 19/2024/TT-NHNN (**Circular 19**) amending and supplementing a number of articles of Circular 08/2023/TT-NHNN regulating the conditions for foreign loans not guaranteed by the Government (**Circular 08**). Circular 19 takes effect from July 1, 2024 with some new points as follows:

First, supplementing regulations on foreign loans to make payments for import contracts of goods by debtors that are not credit institutions or foreign bank branches. Circular 19 has supplemented Article 5a related to this content, in particular:

(i) Stipulating the lending conditions for foreign loans to make payments in deferred payment contracts of goods import:

- Regarding the debtor's purpose in applying for foreign loans: To implement investment projects or production and business plans, other debtor projects (which are stipulated in Article 17, Circular 08).
- Regarding foreign loan limits: The debtor is exempted from the foreign medium- and long-term loan outstanding balance by the goods arising from deferred payment contracts of goods import when calculating the foreign loan limit (including determining the principal outstanding balance in case of taking out foreign loans to implement investment projects and the outstanding amount under medium- and long-term domestic and foreign loans of the debtor) at point a, clause 1 and clause 2, Article 18, Circular 08.

(ii) Allowing the debtor to receive credit to make payment for goods import contracts (including compulsory repayment of loans to the issuing bank) under a letter of credit issued by the issuing bank.

Second, recognizing the case where a bank or foreign bank branch is allowed to receive credit arising from the issuance of a Letter of Credit. Accordingly, the bank issuing the letter of credit receives the credit from the reimbursing bank, which is a non-resident organization. The reimbursing bank will pay the beneficiary with its funds before the due date of the letter of credit as agreed in the letter of credit. The letter of credit applied in this case is Usance Payable at Sight Letter of Credit or Usance Payable at Usance Letter of Credit as prescribed by applicable laws. It should be noted that this loan is not supposed to be registered with the State Bank.

In addition, to ensure consistency in legal regulations, this recognition of foreign loans has been supplemented in some regulations such as cases where a foreign loan agreement is allowed to be concluded on the foreign loan drawdown date, or the purposes of foreign loans (with the debtor being a credit institution or foreign bank branch), etc. The above recognition aims to ensure compatibility with the characteristics of foreign loan transactions arising from the letter of credit operations and create favorable conditions for businesses in the payment stage for imported goods and services.

COMMENTS AND RECOMMENDATIONS

The issuance of Circular 19 by the State Bank has contributed to consistent guidance on Letter of Credit operations for consistent application when the Law on Credit Institutions 2024 comes into effect. Enterprises in general, especially those conducting payment activities for imported goods and services, are advised to update the above regulations for prompt compliance with relevant legal regulations and instructions.

