



Special Alert

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eKYC Allowed for Opening of Payment Accounts in Vietnam

On 4 December 2020, the State Bank of Vietnam (the “**SBV**”) has issued Circular No. 16/2020/TT-NHNN (“**Circular 16**”) amending Circular No. 23/2014/TT-NHNN on opening and using payment accounts at institutions providing payment services (“**Decree 23**”). Circular 16 clarifies and supplements regulations on dossiers, procedures and agreements on opening and using payment accounts. It also provides new regulations on opening payment accounts of individuals by electronic method (the “**e-method**”). Most importantly, the e-method provides for electronic compliance with anti-money laundering (“**AML**”) legislation that requires financial institutions to proceed with “know your customer” or KYC (the e-method of KYC: “**eKYC**”).

Opening payment accounts via e-method

Who can use e-method

The e-method may only be used for the opening of accounts of individuals, except for:

- ✓ Shared payment accounts;
- ✓ Foreign individual customers; and
- ✓ Those persons as prescribed under items (b), (c) and (d) of Article 11 of Decree 23, including: (a) Persons from 15 to under 18 years of age, not losing or being restricted in civil act capacity; (b) Persons under 15 years of age, persons being restricted in or losing civil act capacity as stipulated by the laws of Vietnam, who open payment accounts through their legal representatives; and (c) Persons having difficulties in awareness or behavior control as stipulated by the laws of Vietnam, who open payment accounts through their guardians.

E-method procedures

Banks and foreign banks' branches (the "**Banking Entities**") that implement the opening of payment accounts via the e-method are required to develop, issue and publish their procedures for doing so. The procedures must include at least the following steps:

- ✓ Collection of information as required for a payment account opening dossier applicable to individuals;
- ✓ Examination, collation and verification of KYC information;
- ✓ Warning of customers about prohibited acts during the opening and using of payment accounts via the e-method;
- ✓ Provision of customers with the content of and signing of the payment account opening and user agreement with customers; and
- ✓ Informing customers about the payment account code, name, transaction limit and activation date.

eKYC for opening payment accounts via e-method

Under Circular 16, the right to decide on the method, form and technology for eKYC is vested in the Banking Entities, along with the responsibility for any risks incurred, and provided that the minimum prescribed conditions shall be satisfied, including:

- ✓ To have solutions and technologies for collecting, examining, collating and ensuring the consistency between eKYC information and information on customers' identity documents or identity information certified by competent agencies / organizations (e.g., credit institutions, organizations providing electronic identification and verification services);
- ✓ To have technical methods to verify the consent of identified customers to the payment account opening and use agreements;
- ✓ To develop procedures on risk management, control and evaluation (in order to prevent violating acts as to, inter alia, the distortion and verification of eKYC information, AML, etc.); and
- ✓ To sufficiently store and preserve over time and in detail all eKYC information.

Transaction value limit (debit)

Banking Entities are also entitled to decide on the transaction limit of customer's payment accounts opened via e-method, but shall ensure that the total value transaction limit (debit) does not exceed VND100 million/month/customer. A value transaction limit greater than VND100 million/month/customer can be applied to payment accounts which have been verified by eKYC, e.g., via video call or using technology to examine and collate biometric characteristics of customers through the citizen identification database.

Other remarkable provisions

Interest rates

Interest rates applicable to payment account balances are specified as those of demand deposits which are applied to payment accounts, but not of demand deposits in general.

Dossiers and request forms for opening payment accounts

Circular 16 entitles the Banking Entities to stipulate and instruct their clients as to *dossiers* and *request forms* for opening payment accounts (the “**Dossier**” and the “**Request Form**” respectively), and only provides for minimum compulsory documents.

For the Dossier, in case of opening individual payment accounts through legal representatives, the types of documents to be provided are detailed for individual and corporate legal representatives. In case of corporate payment accounts, the chief accountant appointment decision and her identity documents are required in all cases, not just when opening payment accounts which require the signature of a chief accountant, or the person in charge of accounting. For shared payment accounts, the written agreement (contract) on management and use of such accounts is only required in case the same content is not identified in the payment account opening and use agreement.

Copies of required documents can be in electronic or certified form, be issued from original registers or attached with original versions for collation. The translation and notarization of any foreign documents depends on the agreement between the Banking Entities and their clients, unless required by competent State agencies, in which case the Banking Entities are responsible for the accuracy and sufficiency of the Vietnamese translations.

For the Request Form, in case of opening individual or shared payment accounts a model signature of account holders, guardians or legal representatives and other related persons (if any) is required; or in the case of corporate or shared corporate payment accounts the model signature of the account holder, chief accountant or person in charge of accounting and seal sample (if any) is no longer required. It is also no longer compulsory for the Banking Entities to clearly inform and instruct their clients about contents of the Request Forms that are in addition to required contents.

Consumer rights protection

Circular 16 also addresses the Banking Entities’ obligations to protect consumers’ rights in case their model agreements and/or general transaction conditions are used in the conclusion of the payment account opening and use agreements.

Circular 16 comes into force on 5 March 2021.

About Indochine Counsel

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