

Special Alert

October 2024

www.indochinecounsel.com

Open API Draft Circular Released by State Bank of Vietnam

Open Banking is one of the requirements in the roadmap towards digital banking in the present and the future. It creates a joint ecosystem where banks, fintech, and other third parties connect and share data through *application programming interfaces* (“**APIs**”). Open APIs in the banking sector are APIs of banks that allow third parties to process data for their own use or to provide products and services to customers. To complete the legal framework for Open API, on 23 July 2024, the State Bank of Vietnam (“**SBV**”) published the draft circular regulating the implementation of Open API in the banking industry (“**Draft Circular**”) with the following highlights:

Principles for Open API Implementation

When implementing Open API, the parties comply with the regulations on confidentiality, information provision, and protection of personal data. Data during processing must be exploited and used for the right purpose in the agreement between a bank and a third party.

Furthermore, the Draft Circular requires banks to provide Open API services to third parties for data connection and processing. The provision of Open API must comply with the technical standards list and the Open API functions list as standardized in the Draft Circular. In addition to the list of Open API functions mentioned in the Draft Circular, banks may provide additional Open API functions based on actual needs.

Open API Service Disclosure

Under the Draft Circular, banks are required to publish Open API services on their electronic portal with minimum contents such as (i) a testing system to provide third parties for connecting and processing test data via Open API, (ii) documents for connecting and processing data for Open API

testing system including the processing of connections, data processing flows and detailed information for each Open API function, and (iii) list of Open API functions as regulated in the Draft Circular.

Open API Implementation Roadmap

The Open API implementation by commercial banks in Vietnam will be divided into 3 phases in accordance with the Draft Circular as follows:

- Open API functions that allow querying information that banks must publish and disclose according to the law: Within 12 months from the effective date of the adopted circular.
- Open API functions that allow querying customer information with the customer's consent: Within 18 months from the effective date of the adopted circular.
- Open API functions that allow initiating payment orders and money transfers: Within 24 months from the effective date of the adopted circular.

Conditions for Third Parties

Banks have the right to refuse or suspend cooperation with third parties that does not meet at least the following conditions:

- Have an information system that serves the purpose of connecting and processing third-party data, ensuring safety and cybersecurity that meets at least the equivalent level of the bank's Open API system, but not lower than level 3 as prescribed in the Government's decree on ensuring information system safety by level;
- Be a legally operating entity with a tax identification number still active in Vietnam; and
- Ensure personnel with experience for each position: information security, operations, development of information technology systems, and legal compliance in information technology.

Open API Service Contract

The Open API service contract template between the bank and the third party must contain at least content as follows:

- Commitment to the confidentiality of information;
- Commitment to use the data provided by the bank within the correct scope and purpose;
- The third party must notify the bank when detecting employees who violate information security regulations regarding the Open API services;
- Information about products and services;
- Information about service fees (if any);
- Termination clauses; and

- Clauses stating that the information system for connecting and processing data via Open API must reach level 3 or higher.

The Draft Circular is currently past the deadline for collecting feedback. It is expected to be finalized and approved in the last months of 2024.

About Indochine Counsel

Established in October 2006, Indochine Counsel is a leading commercial law firm in Vietnam. Our firm is ideally positioned to assist international investors and foreign firms to navigate the legal landscape in one of Asia's most dynamic and challenging countries. We also take pride in our services offered to domestic clients in searching for opportunities abroad. With over 45 lawyers many of whom have been trained abroad and staffs in two offices, Ho Chi Minh City and Hanoi, Indochine Counsel offers expertise in a dozen practice areas and provides assistance throughout the entire life cycle of your business.

Indochine Counsel represents and advises clients on all legal aspects in the following major areas of expertise:

- Anti-trust & Competition
- Banking & Finance
- Corporate & Commercial
- Energy, Natural Resources & Infrastructure
- Intellectual Property
- Inward Investment
- Labour & Employment
- Litigation & Dispute Resolution
- Mergers & Acquisitions
- Real Estate & Construction
- Securities & Capital Markets
- Technology, Media & Telecommunications

A full list of partners, associates and other professionals is available on our website. |

Contact Us

For further information or assistance, please contact the following Indochine professionals:



Trinh Ngoc Ly

Associate

E ly.trinh@indochinecounsel.com



Lai Bich Ngoc

Legal Assistant

E ngoc.lai@indochinecounsel.com

Ho Chi Minh City

Unit 305, 3rd Floor, Centec Tower
72-74 Nguyen Thi Minh Khai, District 3
Ho Chi Minh City, Vietnam

T +84 28 3823 9640

F +84 28 3823 9641

E info@indochinecounsel.com

Hanoi

Unit 705, 7th Floor, CMC Tower
Duy Tan Street, Cau Giay District
Hanoi, Vietnam

T +84 24 3795 5261

F +84 24 3795 5262

E hanoi@indochinecounsel.com

www.indochinecounsel.com

This Special Alert is designed to provide our clients and contacts with general information of the relevant topic for reference only, without the assumption of a duty of care by Indochine Counsel. The information provided is not intended to be nor should it be relied upon as a substitute for legal or other professional advice.

© 2024 Indochine Counsel | All Rights Reserved.