



PRESENTATION DELIVERED BY
VNBA SECRETARY GENERAL AT THE WORKSHOP ON
“LEGAL FRAMEWORK ON NPL RESOLUTION AND THE
PARTICIPATION OF PRIVATE SECTOR”

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1. Legal framework on NPL resolution and status of NPL resolution by Credit Institutions (CIs) and AMC in Vietnam

a) Legal provisions on NPL resolution

NPL is an important criteria in assessing CIs' credit quality; high increase of NPL may lead to losses to CIs and if NPL could not be timely handled, it may lead to collapse of banks and threats to national financial security. For that reason, NPL recognition and resolution is one of the important issues in ensuring the stability, safety and sustainability of the financial system.

However, in some special contexts, such as global economy crisis in 2009 or Covid-19 pandemic (from 2020 till now), the business sector has been adversely impacted; These lead to suddenly increased NPLs and enterprises are incapable to deal with by themselves on the basis of legal provisions currently in force and require government's particular policies and mechanisms for their successful resolution. Many countries in the world had to spend huge amounts from their budget to support NPL resolution. In Vietnam, with gradually improved legal framework, NPL resolution does not require State budget usage.

In order to create a legal framework for NPL resolution on the basis of the Resolution no. 53/2013/NĐ-CP dated 18th May 2013 of the Government, on 31st May 2013, the Prime Minister enacted Decision no. 843/QĐ-TTg on the approval of: (i) *“Project on Resolution of NPLs of Credit Institution System”*, and (ii) Project on *“The Establishment of Asset Management Company for Credit Institutions in Vietnam”*. On 27 June 2013, the State Bank issued Decision no. 1459/QĐ-NHNN on the establishment of one-member limited liability asset management company for Vietnam credit institutions, Circular no. 19/2013/TT-NHNN dated 6th September 2013 providing about sale of CIs' NPLs by Asset Management Company, and

Circular no.02/2013/TT-NHNN stipulating about the classification of assets, and provision in CIs' and foreign bank branches' operation. In addition, on 21 June 2017, the National Assembly passed Resolution no. 42/2017/QH14 on pilot CIs' NPL resolution in order to remove difficulties and obstacles in NPL resolution, and the Prime Minister issued Decision no. 1058/QĐ-TTg dated 19th July 2017 to approve the Project “*Restructuring CIs system attached with NPL resolution for 2016-2020 period*”. Gradually improved legal provisions help the banking system to obtain positive results in NDL resolution.

b) Current Status of NPL resolution by CIs and VAMC in Vietnam

Results achieved:

In implementing Decisions no. 843/QĐ-TTg dated 31st May 2013, no. 1058/QĐ-TTg dated 19 July 2017 of the Prime Minister and Resolution no. 42/2017/QH14 of the National Assembly, CIs have deployed comprehensively different solutions to resolve NPL and gained results as follows:

- On-balance sheet bad debt resolution:

As of the end of August 2021, the whole CIs system has resolved 1.299,9 thousand billion dong of NPLs, including: 493,1 thousand billion dong in 2012-2015 period, 716,67 thousand billion dong in 2016-2020 period and 90,1 thousand billion dong in the first 8 months of 2021 (mostly by the use of provision (38.906 billion dong), sale of debts to VAMC (17.387 billion dong) and debt payment by clients (24.986 billion dong)).

On-balance sheet NPL rate of the banking system in 2016-2020 period has been kept at less than 3% rate; On balance sheet NPL percentage of CIs has been decreasing year by year.

- Result of NPL resolution as identified by Resolution no. 42:

Total of NPLs identified under Resolution No. 42 of the whole of banking system as of 31st August 2021 is 424,1 thousand billion dong. For the period from 15/08/2017 to 31/08/2021, 364,1 thousand billion dong has been successfully resolved, including: (i) On-balance sheet NPLs resolved is 189,2 thousand billion dong (51,97%); (ii) resolution of off-balance sheet NPL as identified under Resolution no. 42 is 94,99 thousand billion dong (26,09%); (iii) resolution of NPLs identified under Resolution no. 42 by selling to VAMC and being paid by special bond is 79,9 thousand billion dong (21,94%). The average resolution pace is approximately 7.150 thousand billion dong monthly that is much higher (double)

than the pace of 3.630 thousand billion dongs monthly as compared with the result of NPL resolution in 2012 – 2017 period.

Current Status of NPL resolution in CIs:

Since Resolution no. 42 took effect, more than 70% of NPLs has been resolved and it has positive impact on clients' attitude and responsibilities toward debt payment or cooperation in collateral seizure and sale. Hence, NPL resolution and restructuring of CIs in the whole system show positive signals; implementation plan of Decisions no. 843/QĐ-TTg and 1058/QĐ-TTg of the Prime Minister was successfully accomplished; NPL rate remains less than 3%. CIs' operation becomes stable and developed; financial capacity is enhanced through annual capital increase; business performance has been remarkably improved; some CIs expand and diversify their types of service, and consequently, incomes. For example, a bank has non- credit income of 40%. However, due to Covid-19 pandemic impacts, since February 2020 up to now, banks have to adjust their operation for existence.

NPLs are classified for resolution in accordance with the following priority:

- (1) For clients who have financial resource to make the payment but their debts are overdue, CIs make agreement with the clients/guarantors that allows them to lodge money to free the collateral of the NPLs.
- (2) For clients who have financial resource for payment but their debts are overdue because the clients' cash flows are badly affected by Covid-19 pandemic, CIs will restructure debt payment deadlines for the clients.
- (3) For NPL that the clients are unable to pay, CIs will require the clients'/guarantors' cooperation in making payment or to hand over NPL collaterals to the CIs for debt collection.
- (4) For the clients who are incorporative, and who fail to fulfill their commitments, CIs will seize the collaterals in accordance with National Assembly's Resolution no.42 and organize auction of them in accordance with laws.
- (5) In the circumstances where there are difficulties to seize the collateral in pursuance with Resolution no. 42 and the clients are incorporative, CIs will take action at competent court and ask the court to auction NPL collaterals.
- (6) CIs sell NPLs to individuals and organizations (including VAMC) at market price.

CIs enhance the collaboration with State agencies to resolve obstacles relating to debt collection. Hence, the implementation of Resolution no. 42 changes the mentality on NPL resolution, affirms creditor's rights, strengthens borrowers' awareness and liabilities; clients' sense of payment is increased.

Current status of NPL resolution in VAMC:

- Combined with the fact that the birth of Resolution no. 42 creates a more conducive legal framework, enhanced capital capacity (VAMC's charter capital increased from 500 billion dong to 2,000 billions in 2017 and from 2,000 billion dong to 5,000 billion dong in 2019) facilitates VAMC deploying debt purchase activities to get some salient achievements. Accrual result from its establishment to 31st March 2021 is as follows:

+ Having bought, by special bonds, 27.693 debts from 17.130 clients with on-balance sheet original debts of 384.180 billion dong; debt purchasing value reached 351.574 billion dong, equivalent to 110% of target set.

+ Having bought, at market price, 330 debts from 189 CIs' clients/client groups, on-balance sheet original debt purchased of 10.040 billion dong, debt purchase value reached 9.796 billion dong, equivalent to 81% of target set till the end of 2020 under VAMC development strategy to 2025, with the orientation to 2030.

After having bought CIs' NPLs, VAMC (or VAMC authorized CIs) accelerated debt collection works, took actions, seized the collateral, sold or auctioned collaterals, purchased debts, and at the same time, collaborated with local authorities, the General Department of Civil Judgment Execution, Public Security Offices and Courts at various levels, and relevant organizations to comprehensively enforce NPL collection measures in order to get the best outcome.

2. Current difficulties and obstacles in NPL resolution of CIs and AMCs

- Covid-19 pandemic impacts: in provinces or cities where the Directives 16, 16+ of the Government were enforced, CIs and VAMC were not able to meet clients directly and consequently, they faced many difficulties in debt collection, debt purchase, as well as in taking actions, auctioning assets and enforcing judgments.

- Despite of the fact that Resolution no. 42 creates a consistent and comprehensive legal framework to supervise strictly NPLs and CIs' and ACMs' collateral enforcement, some obstacles and restrictions that affect CIs' collateral enforcement and NPL resolution have arisen during the implementation. In more details:

+ Resolution no. 42 has effect in five year period since 2017, it is going to expire within less than a year. Meanwhile, from 3rd Quarter of 2022 afterward, NPLs tend to increase (while Circulars 01, 03 and 14 ceases their effects in respect

of debt restructuring timeline, debt classification maintaining) due to Covid 19 pandemic impacts from the beginning of 2020, especially during 4th outbreak of the pandemic from early May 2021 up to now.

+ In some localities, there is still an attitude that debt collection is the task of the banking sector, so that the local leaders seem to be not drastic; incomprehensive cooperation among relevant State agencies at the locals causes difficulties to NPL resolution, especially to clients' collateral seizure.

+ NPL market has not developed yet due to the complexity in NPL trading business requirements and high demand on capital: current provisions on conditions for debt trading business fail to clearly stipulate about the focal point to create and develop the debt trading market; the pool of professional debt trading brokers are in lack and therefore, it is very difficult to carry out transfer of, or authorization of management of debts.

+ Seizure of assets is still subject to borrowers' good will (especially where the clients are incorporative and keep delayed in handing over the property).

+ There are difficulties in collaboration with the authorities at various levels and relevant State agencies to access information about collaterals; in registration of certificate on land use right and house ownership, in judgment enforcement, and in restrictions in the scope of valuation organizations selection.

+ No action under fast-track procedure has been taken at courts due to legal obstacles in laws and consequently, all litigations have been take place under normal procedures. This, in its turn, significantly affects the pace of NPL resolution.

+ In resolving NPL collaterals, CIs have to pay debtors' income tax so as CIs are able to conduct necessary procedures to get the colaterals transferred. In some cases, even when the amount collected from collateral sale is not sufficient to cover the debt, CIs shall still pay tax.

+ The Ministry of Finance enacted only standards for asset valuation; there are no concrete standards for debt valuation as basis for valuation agencies' operation. It leads to difficulties and obstacles to debt pricing works. Meanwhile, verified price is an important basic to determine the price of NPL sale in consistency with the market price for VAMC and CIs.

3. Practical operation of AMCs in Vietnam

Currently, there are about 30 registered AMCs in Vietnam. Among those, only 4 AMCs are practically operating (AMCs of A Chau Bank, Techcom Bank, VP Bank and MB Bank). Most of AMCs' activities focus on collateral liquidation, collateral management, debt collection for mother banks etc. They rarely take part in NPL trading market. Consequently, NPLs still exist in the banks and are not completely excluded from the consolidated financial reports. NPLs therefore have actually not been resolved yet.

In coming time, to overcome the above mention limitations, development of policies to attract foreign investors' participation in the NPL trading market in Vietnam is extremely necessary. Successes in some countries, such as Japan or Korea, in NPL resolution are thanks to foreign investors participation. Hence, in order to enhance the effectiveness of NDL collection and resolution, legal framework on NPL resolution need to create more conducive policies to attract foreign investors.

4. Proposals and Recommendations:

It is possible to say that the whole of CI system is now conducting NPL structuring, restructuring and resolution and it has achieve encouraging results. There is a high potential for them to reach the deadline imposed by the Prime Minister in Decisions no. 843/QĐ-TTg and 1058/QĐ-TTg in time or in advance. Unfortunately, from early of 2020 up to now, Covid 19 pandemic seriously affects economic and social situation at the global scale, as well as in Vietnam. Enterprises are facing many difficulties, some are closed, others operate far under capacity. They have to produce and at the same time, to combat against the pandemic; the supply chains are disrupted, costs increase, good transportation is extremely difficult. Those adversely and significantly affect businesses. Although the State Bank enacted Circulars no. 01, 03 and 14 to untie difficulties for enterprises, in the future, it is really hard for them to recover immediately and being capable to pay debts in time. In such circumstance, CIs will also suffer serious impacts (delay 6-12 months); This leads to high increase of NPLs from 3rd quarter 2022 afterward. At that time, Resolution no. 42 ends it effect. If there is no timely solution, CIs' NPLs will increase sharply while the legal framework terminates its effect and consequently, CIs will face huge difficulties in NPL resolution. Therefore:

1/ It is recommended that the State Bank reports to the Government for early review of National Assembly's Resolution no. 42 as a basis for a recommendation

either to extend the effectiveness of the Resolution, or to enact a Law on NPL resolution.

2/ It is recommended that the Government considers and enacts a Decree that allows debt freezing for a period from one to two years in respect of the debts severely affected by Covid 19. This decree will be applied, similar to Decrees no. 55/NĐ-CP and 116/NĐ-CP revising and supplementing Decree no. 55/NĐ-CP in agriculture in cases of natural disasters and pandemic.

3/ It is recommended that the Government instructs the Ministries and line Ministries to promptly review Law on Houses, Law on Real Estate Business, Land Law, Law on Electronic Transactions, Law on Credit Institutions for revisions and supplementations to make them more practical and to create a conducive legal framework to promote business activities in general, and CIs' operation in specific.

4/ It is recommended that the Government instructs relevant Ministries and line Ministries to promptly establish NPL trading market, to concurrently improve legal framework for enterprises' NPL trading activities and legal framework for NPL trading market administration, to develop and enact standards for debts pricing. In the short term, VAMC's NPL trading floor shall be put in operation in order to create an NPL trading market in the future.

5/ It is recommended that the Government increases charter capitals of the banks where State hold majority shares, and of the Agribank, to meet prudential requirements. Currently, all joint stock banks have met or exceeded such prudential requirements. If difficulties arise, it is advisable to allow State owned commercial banks to supplement their charter capital by their profit.

6/ It is recommended that the Ministry of Finance, the Ministry of Natural Resources and Environment instruct Tax Offices, Office of Land Registration to support banks in collateral enforcement, changes of registration, ownership transfer registration in relation to NPL collaterals. In respect to the proceeds collected from NPL resolution, after having deducted by NPL resolution costs, banks shall have first priority to collect debts (over claims on judgment fees, personal income tax, land use right transfer charge and collateral owner's/mortgagee's financial liability to state agencies) in accordance with the spirit and provisions in Resolution no. 42 about payment priority order.

7/ It is recommended that the Ministry of Justice instructs the General Department of Civil Judgment Execution to review the execution of judgments that are relating to NPL collateral in backlog.

8/ It is recommended that the State Bank, the Ministry of Finance and other competent agencies improve soon the legal framework to facilitate debt trading, and at the same time, issue incentive policies to institutions which purchase, resolve NPL, to “securitise” debts, NPLs to issue to the investors, and concurrently, to review provisions to facilitate foreign investor’s participation in NPL resolution and by doing so, to resolve NPL in an effective manner and to facilitate the development of debt trading market.