Circular 12/2014/TT-NHNN dated 31/3/2014 on conditions for offshore borrowing without Government's guarantee

- The Circular stipulates conditions for foreign borrowings not guaranteed by the government of residents who are enterprises, cooperatives, cooperative unions, credit institutions, foreign bank branches (not including state-owned commercial banks) established and operating in Vietnam.

- The currencies for foreign borrowings are foreign currencies. Foreign borrowings in VND are only allowed the following 3 cases:
  (i) The borrower is a microfinance institution;
  (ii) The borrower is a foreign direct investment (FDI) enterprise borrowing from the shared profits in VND from direct investing activities from the lender who is the foreign investor contributing capital in the borrower;
  (iii) Other cases that the SBV’s governor considers and approves based on the actual situation and necessity of each case.

- Permitted purposes include i) implementation of business plan or investment project and ii) for restructuring of offshore loans provided that no incremental of borrowing costs.

- In normal conditions, the borrower and related parties have the right to negotiate on the cost of foreign borrowing. In case of necessity, as net withdrawal level of foreign loans has tendency to exceed the limit of foreign commercial lending approved by the prime minister, to ensure the national foreign debt safety, the SBV Governor may decide to apply and announce the cost ceiling of foreign borrowing. This aims to tighter control of foreign borrowing activities not guaranteed by the government of businesses.

- Additional conditions applicable: for other businesses ST borrowing is strictly for ST usages, amount of MT/LT borrowing must be within the permitted cap.

- The Circular is effective from 15-May 2014.