

HANDLING OF OVERDUE MORTGAGED ASSETS BY COMMERCIAL BANKS

by MEcon. TRẦN XUÂN HƯƠNG

The globalization forces Vietnamese commercial banks to face foreign competition and restructure themselves according to international standards with a view to preventing risks. Although the loan quality has been improved in recent years and the Government has adopted different measures to help banks deal with overdue debts, the proportion of these debts is still high, varying from 10% to 14% compared with total credit supplied, much higher than the acceptable limit of 5%.

ure to improve their financial situation.

1. Handling of overdue mortgaged assets

a. Many law documents have been issued to provide legal basis for handling the overdue debt and mortgaged assets.

Decision 149/2001/QĐ-TTg by the PM dated Oct. 5, 2001 providing the Plan to Deal with Overdue Debt in Commercial Banks. Based on this Decision, the SBV Governor issued Official Letter 174/NHNN-TD on Feb. 21, 2002 allowing four

management of accumulated debts owed by state-owned companies and plan to restructure state-owned companies and commercial banks in 2001-05.

Decision 1389/2001/QĐ-NHNN dated Nov. 7, 2001 providing regulations on the formation of Debt and Assets Management Company.

- Decree 165/1999/NĐ-CP dated Nov. 19, 1999 on guaranteed transactions.

- Decree 178/1999/NĐ-CP dated Dec. 12, 1999 on insurance for loan from banking institutions, and Circular 06/2000/TT

- Decree 08/2000/NĐ-CP issued by the Government on March 10, 2000 on registration of guaranteed transactions.

- Inter-department Circular 03/2001/TTLT/NHNN-BTP-BCA-BTC-TCDC dated April 23, 2001 directing the handling of mortgaged assets to collect debts for banking institutions.

- Decree 85/2002 dated Dec. 29, 2002 amending Decree 178/NĐ-CP on insurance for loans from banking institutions.

b. To handle completely all accumulated debts by 2005, the Government took various measures:

- Forming the Board for Financial Restructure of Commercial Banks in January 2002 to handle overdue debts in cooperation with the SBV, Ministry of Finance and other related bodies.

- The Ministry of Finance in cooperation with the SBV supplied more legal capital to state-owned

Table 1: Overdue debts in commercial banks

Year	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Overdue debt (%)	13.7	11.1	12.2	7.8	9.3	12.4	13.6	13.8	11.67	8.7	8.0

Source: SBV reports in 1992-2002

Overdue debts tend to become widespread in big cities, especially in HCMC. Debts generated by the accused in commercial cases represent a high proportion of the total overdue debts waiting for handling according to Directive 08/1998/CT-NHNN issued by the SBV on Oct.31, 1998. The following table provides us with some data about overdue debt.

Some commercial banks faced financial difficulties caused by overdue debts and mortgaged assets. The overdue debt rose from some VND19,500 billion in 2000 to 23,000 billion in 2001 and 60% of which was in form of mortgaged assets in the care of banks. To handle these assets in order to retrieve loans is a necessary meas-

state-owned commercial banks to carry out this Plan.

- The Government's Decree 69/2002/NĐ-CP dated July 12, 2002 on

-NHNN1 issued by the SBV on April 4, 2000 providing guidelines on the realization of the above-mentioned Decree.

Table 2: Overdue and accumulated debt in HCMC-based commercial banks in 1997-2002 (VND billion)

Year	1997	1998	1999	2000	2001	2002
Outstanding loan	28,112	32,598	43,445	52,193	56,189	74,234
Overdue debt	5,422	6,604	6,367	6,192	8,137	3,875
Accumulated debt	4,672	5,458	5,580	5,411	4,838	1,438
+by commercial fraud cases	3,561	4,590	4,869	5,012	.	.
Overdue debt/ Outstanding loan	19.28%	20.26%	19.50%	17.10%	14.47%	5.22%
Accumulated debt/ Outstanding loan	16.62%	14.08%	11.20%	10.36%	8.63%	1.93%
Accumulated debt/ Overdue debt	86.16%	82.63%	87.63%	87.38%	59.00%	37.00%

(*) From 2001 on, accumulated debts were transferred to Debt and Assets Management Company
Source: Reports in 1997-2002 by HCMC Branch of the SBV

commercial banks based on handling cost. The Decision 92/2002/QĐ/TTg dated Jan. 29, 2002 allows the Ministry of Finance to supply VND10,430 billion to the plan to reform four state-owned commercial banks by issuing VND7,840 billion worth of T-bills and borrowing from foreign aid agencies.

- The Ministry of Finance agreed to write off debts that had been handled but hadn't been collected and loans supplied according to direction of the Government. The Min-

Jan. 7, 2001 to provide regulations on the formation of debts and assets management companies under commercial banks. Circular 27/2002/TT-BTC issued by the Ministry of Finance on March 22, 2002 provides guidelines on financial management mechanism for these companies.

These companies, instead of pursuing profit, will take control of mortgaged assets, repair and keep them in good condition before selling, hiring, or turning them into capi-

tal goods invested in other businesses in order to collect debts for banks. They may be seen as a financial institution playing a special role in the process of restructuring commercial banks. Up to now, four state-owned banks and two joint stock ones have established their own debts and assets management companies.

e. Formation of contingent reserves:

According to Decision 488/NHNN dated Dec. 27, 2000, commercial banks are allowed to form contin-

gent reserves as a percentage of overdue debt and this reserve is added to the overheads and used for offsetting risks.

With support from the authorities and strong measures taken by the SBV, the task of handling mortgaged assets has produced good results: the accumulated debt reduced and part of mortgaged assets were liquidated.

- From 1998 when the SBV decided to tackle the overdue debt to the end of 2001, four state-owned commercial banks settled VND3,037.7 billion worth of accumulated debts, five joint stock banks VND.7 billion, customers paid VND733 billion and the contingent reserves covered 2,279.8 billion.

- According to the report by the Board for Financial Restructuring, up to Dec. 31, 2002, VND6,187.7 billion worth of debt (or 30% of the total debt to handle) was settled according to Decision 149/2001/QĐ-TTg.

The SBV informed that HCMC-based banks collected VND3,000 billion worth of debt in 2002: some 606 billion from proceeds from the sale of mortgaged assets, 1,914 billion from the contingent reserves, 103 billion from



istry will take responsibility for these debts and repay them in the coming years.

c. Commercial banks adopted various measures to handle mortgaged assets. They have classified and completed documents needed for the handling of accumulated debts and mortgaged assets and settled these assets by selling, hiring, or turning them into capital goods invested in other businesses.

d. Commercial banks formed companies to manage debts and mortgaged assets. This practice is based on experience from Asian countries after the 1997 financial crisis. The SBV made the Decision 1389/2001/QĐ-NHNN on



the use of assets, 166 billion from debt collection and 212 billion from other practices.

2. Obstacles to the process of handling accumulated debt

a. Slow rate of handling and liquidating mortgaged assets: In general, the handling rate is slow and up to now, only 30% of the total debt was settled. Some banks got confused when handling debts and had to depend on courts where procedures were time-consuming and complex. During the trial, many companies had to file for bankruptcy, which made the handling of debts more time-consuming. Many customers exploited this regulation to prolong the trial, thereby delaying repayment, which made the loan become a bad debt. In such a situation, banks had no alternative but to keep the mortgaged assets and wait.

b. Banks lack an active attitude when retrieving the mortgaged assets:

According to Decree 178, banking institutions can handle mortgaged assets after the mortgage agreement reaches maturity. Selling the mortgaged assets is the commonest practice but in fact, banks have no autonomy in handling the assets. The sale of assets isn't decided solely by the bank, it requires approval from other bodies. For example, if the assets are mortgaged by state-owned companies, the sale must be approved by related ministry and the Capital Management Bureau; and by provincial governments if the mortgaged assets is land and land use right. In the Minh Phung- Epco case, the court transferred a list of 390 items to commercial banks, but they could take control of 236 items only (The Bank for Commerce and Industry for example, took control of 70 out of 210 items transferred). Up to the end of 2002, some

VND6,300 billion involved in commercial lawsuits and 17,000 billion worth of accumulated debts weren't settled.

c. Complicated legal proceedings:

If the credit contract is a business one, related parties can start legal proceedings six months after dispute breaks out. However, the law doesn't set the time limit for legal proceedings relating to a civil contract. In addition, the Decree 178 (Article 32 of Section 1) only allows banks to start handling "60 days after the debt becomes due" but the time limit is still in dispute: will it start at the time the debt reaches maturity, at the end of the grace period or from the time the bank decides to handle the asset?

- Delegation of right to initiate court proceedings: According to law, the bank manager has no right to initiate court proceedings without delegation of power from the bank director-general although he/she can sign the credit contract. This becomes a complicated procedure for banks with branches all over the country.

- Lack of cooperation from the borrower: Borrowers usually refuse to cooperate with banks in handling the mortgaged assets causing difficulties for banks.

d. Causes of these problems:

- Poor management when supplying secured loans: Many loan officials fail to assess customers' creditworthiness because they lack necessary knowledge of law and banking services. More importantly, the lack of work ethics also leads to violation of regulations.

- Lack of detailed regulations on the supply of secured loans: Loopholes in by-laws set by commercial banks are usually exploited by loan officials and their superiors for their own interests.

- Imperfect legal regulations on the handling of mortgaged assets: These regulations are set forth in various law documents issued by different bodies with the result that they aren't consistent and make the handling of mortgaged assets more difficult because of the lack of cooperation between these related bodies.

- Difficulties in registering secured transactions: The registration of secured transactions is carried out in HCMC and Hà Nội only. Entities in other provinces must make registration by post or fax. This situation causes difficulties for provincial branches of major banks. And as a result, the registration after being introduced by Decree 165 hasn't been applied properly.

- Inappropriate regulations on the handling of mortgaged assets: Complicated regulations almost prevent banks from handling mortgaged assets.

- Wrong treatment for commercial cases: In certain commercial cases in recent years, property of a person has been confiscated when he/she was brought to court, with the result that he/she couldn't carry out normal transactions or business, and banks couldn't receive their repayment of debts. In some cases, property is confiscated without discrimination before the court affirms the person in question is guilty.

- Ineffective performance of public notary services: Some public notaries tend to intervene too much in business of their clients or take part unreasonably in the evaluation of mortgaged assets. Some others even connive with clients to overestimate the assets before mortgaging them to banks. In addition, many bank managers complain that services of public notaries are too expensive and time-consuming.

3. Measures to improve the handling of mortgaged assets

a. At macroeconomic level:

- Developing the stable monetary- financial infrastructure needed for the banking service.

- Accelerating the process of integrating into the international banking community.

- Pushing ahead with the task of restructuring the banking system, which requires appropriate support from the government.

- Pushing ahead with the reform in the public sector.

- Perfecting the law of mortgage loan.

- Making regulations on lending procedures and dealing with obstacles to the supply of mortgage loans.

- Allowing commercial banks to bring their customers to court six months after the debt reaches maturity.

- Reforming procedures for trying commercial and civil cases, instead of treating them as criminal cases.

- Working our new ways to deal with customers being tried for other crimes.

- Reforming procedures for enforcing a court judgement.

b. At bank level:

- Paying more attention to the task of recruiting loan officials.

- Observing regulations on mortgage loan.

- Beefing up the task of preventing risks and bad debts.

- Enhancing the internal audit.

c. Other measures:

- Dealing with obstacles to auction procedures.

- Beefing up cooperation between related bodies in handling overdue mortgaged assets.

- Improving the quality of credit information supplied by the CIC.

- Controlling the prices of real estates. ■