



The renovation process in Vietnam during the 1990s has changed the face of our society. In this process, the banking business has been also reformed successfully. Two ordinances on banking have provided the orientation and legal basis for the innovation in organization and operation of the banking system, and contributed to the economic development and the struggle against inflation.

The economic renovation was carried out in all activities and posed demands for all industries to change, therefore the banking system should keep on innovating itself in order to adapt to the economic development and integrate into the world banking business.

The promulgation of two ordinances on banking is the precondition

LOOKING BACK ON THE REALIZATION OF TWO ORDINANCES ON BANKING IN THE PAST FIVE YEARS (1990-1995)



for the innovation of the banking system. Moreover, certain regulations made by these two ordinances couldn't deal with new problems posed by realities of the economic activity. So looking back on the realization of two ordinances in the past five years in order to sum up experience is a matter of great urgency before the banking law could be made.

I. ESTIMATE OF THE TWO ORDINANCES ON BANKING

A. BACKGROUND OF THE BIRTH OF THE ORDINANCES

1. Socio-economic situation

These two ordinances came into effect in May, 1990 when the Government and the Party, after careful research, had affirmed the contents of the renovation process. In other

words, the birth of these two ordinances resulted from the process of changing the way of thinking, making model and orienting the banking system towards the market economy.

The following is an outline of the socio-economic situation at that time.

a. The centrally planned economy which proved to be effective during war time became less effective and hindered productive forces in the post-war economic development. In the 1980s, the production fell, the distribution was blocked, the growth rate was low (from 1976 to 1981, industrial production increased by 0.6% annually, agricultural production by 1.9%, trade by 0.4% while the birth rate was somewhere between 2.3% and 2.4%), the inflation rate was un-

controllable, the living standard was low, the foreign trade came to a dead end... In short, the socio-economic life came to a crisis when the hyperinflation occurred in 1995. If the price index value in 1976 was 100, then it was 313.7 in 1981; 1,400 in 1984 and 2,390 in 1985.

b. The legal infrastructure needed for the control of the market economy before the birth of two ordinances was still in its primary stage. It comprised mainly a series of rules and regulations which had been used for controlling the centrally planned economy. The Vietnam Constitution had been made but it couldn't give detailed instruction to regulate all activities of the socio-economic life. The situation forced the Government to adjust, replace and promulgate a lot of rules

and solutions to them were found out. A lot of attention was given to manipulation of the money-commodity relation. All economic sectors were recognized and allowed to develop. Independent accounting was applied to all industries. Prices was left to the invisible hand of the market. The rationing was removed. Financial and banking business saw its first reforms. Local production and foreign investment were encouraged (The Foreign Investment Law came into effect in 1988). The innovation of the banking system produced active effect on the economic renovation.

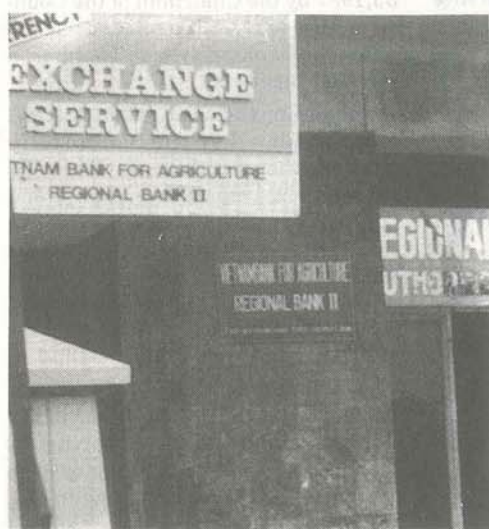
The reformation of the mechanism for controlling the economy had been carried out by the Government and the Party through various stages which could be divided into two main stages as follows:

- Before the VI VCP National Congress

In this stage, the reformation of the mechanism for controlling the economy was not carried out in full measure. The Resolution adopted by the Central Committee in 1979 was of great importance to the renovation process. It introduced some concepts of this process, although they weren't profound and detailed enough but they formed a meaningful starting point.

Thus the period between the IV and the VI VCP National Congresses saw a series of changes in the way of thinking. Basic concepts of a new economic model came into being and

and solutions to them were found out. A lot of attention was given to manipulation of the money-commodity relation. All economic sectors were recognized and allowed to develop. Independent accounting was applied to all industries. Prices was left to the invisible hand of the market. The rationing was removed. Financial and banking business saw its first reforms. Local production and foreign investment were encouraged (The Foreign Investment Law came into effect in 1988). The innovation of the banking system produced active effect on the economic renovation.



and regulations in order to control economic activity, including the banking business. This pack of rules and regulations produced only temporary and unstable effects. Many rules weren't consistent with one another and they became obstacles to the development of the economy, and of the banking business as well.

c. In the 1980s and 1990s, the Government and the Party tried to renovate the mechanism for controlling economy. The market economy under the Government's regulation was still at an embryonic stage and was to be perfected by experiments. New ways of doing business came into being here and there. Going against rules and regulations became widespread and caused worry at first, but then it was recognized and was al-

The leading opinion was that the production must be allowed to develop, deregulation became a must and there must be policies to develop productive forces. A series of new measures were introduced to all industries (the Decree 100 on agricultural production, the Decision 25/CP on state enterprises...). Especially, the Resolution of the 8th central conference (V term) in 1985 decided on removing the centrally planned economy and adopting the socialist-oriented market economy, and on making reform in money supply, salary and price mechanism.

- After the VI VCP National Congress (1986)

Main defects in the mechanism for economic control had been detected

there were new viewpoints originated from Vietnam's realities. Difficulties of all kinds have forced us to find out new solutions. Successes in doing this have provided a basis for newer policies. New achievements all allowed us to generalize and form new way of thinking which, in its turn, replaced the old one.

d. The process of renovating step by step has helped the economy escape from the crisis and depression. By the end of the 1980s, there were signs of development in the Vietnam economy in spite of the collapse of the European socialist bloc which had been a source of aid and a big market for Vietnam's exports. These signs of development were:

- The increase in food output: from 17.5 million tonnes in 1987 to 19.5

million in 1988, 20.5 million in 1989. From a buyer of rice year after year, Vietnam has become an exporter of rice by the end of 1980s.

- Local production could meet the market demand for many commodities.

- The growth rate of industrial production in the end of 1980s was 5.9%.

- The foreign trade developed well, the ratio of exports to imports in 1976-1980 was 1:4.0, it changed to 1:2.8 in 1981-1985, 1:1.3 in 1989 and 1:1.1 in 1990.

- The inflation rate was reduced from a three-digit rate in 1988 (410.9%) to a two-digit level in recent years.

Thus, changes in the socio-economic life in the end of 1980s have stimulated and affected the innovation of all industries, including the banking system. To develop international relation has become a matter of great urgency. The situation is the same with the banking system. It was forced to take its position in the market economy and to expand its business in foreign markets. So there must be the legal infrastructure for its development.

2. The banking system before two ordinances coming into effect.

a. In this period, the banking system had only one level and had been controlled by the centrally planned mechanism through administrative orders.

b. As of June 1987, there were some initial reforms in its organization and operation.



The Government and the Party have considered the innovation of the banking system as the stimulus to renovate the economy. Many Decisions and Resolutions issued by the Government and the Party have dealt with this innovation of the banking system:

- Resolution of the 8th conference of the central committee of 5th term: To change the banking operation to independent accounting and socialist business.

- Political report made by the central committee at the 6th VCP National Congress: Besides controlling the money supply, the banking system should supply other services according to the independent accounting mechanism.

- Resolution of the 2nd conference of the central committee of the 6th term: To perfect the central bank that



controls the money supply and all monetary-credit activity, and at the same time, to develop professional banks supply different banking services.

Under the said orientation, the Chairman of the Council of Ministers has allowed the central bank to pilot a scheme to establish professional banks supplying services. The effort to innovate the banking system reflected in many documents:

- Decision 59/QĐ dated June 25, 1987 by which the Governor of the State Bank allowed the HCMC Branch of the State Bank to keep independent business accounts as from July 1, 1987. This branch was renamed 'HCMC Bank'.



- Decision 218/QĐ signed on July 33, 1987 by the Chairman of the Council of Ministers on the pilot scheme to allow the banking system acting as a socialist business.

According to this decision, the Government allow the State Bank to carry out this scheme in four provinces and cities (Hà Nội, Hải Phòng, HCMC and Quảng Nam-Đà Nẵng) where the State Bank branches would supply all kinds of services. This pilot scheme would serve as a basis for the Council of Ministers to make official decision by the beginning of 1988.

- Decree 53/HĐBT signed on March 26, 1988 by the Chairman of the Council of Ministers ordering to change the one-level banking system to the two-level one operating in the market economy.

Thus, before two ordinances on banking business coming into being, the banking system has started its reformation: the concept of banking service was introduced, the operation of the system had definite plans to complete. The model of two-level banking system took shape (besides the State Bank, there were joint stock banks and credit unions in cities and rural areas).

c. In two years, 1988 and 1989, many changes in the banking system took place: specialized banks were separated from the State Bank; the management function of the State Bank was separated from the business function of specialized banks. However, the function and role of each class of banks weren't distinguished definitely. Specialized banks acted as

departments supplying credit belonging to the State Bank. Their legal entities, sense of responsibility and independence were very vague. The subsidy regime still affected their way of doing banking business. So in this period, the operation of the system didn't produce intended results. The innovation of the banking system had more the appearance of a pilot scheme than of a new policy officially adopted. This resulted from a vague concept of a two-level banking system in Vietnam market economy. Moreover, there were, at that time, no firm and clear legal infrastructure to direct the operation of the system.

In carrying out the Decree 53/HDBT, we saw that the reformation of the banking system was based on an imperfect legal infrastructure, so the system couldn't detach itself from the old mechanism. The State Bank didn't have enough power and capability to control credit organization formed in the period between 1987 and 1989. Just because of this, a series of joint stock banks and credit unions have gone bankrupt and the economy has had to pay the penalty for this in 1989 and 1990. The demand for the innovation of the banking system, at both macro and micro levels, wasn't satisfied properly. Therefore the Ordinance on the State Bank and the Ordinance on joint stock bank, credit union and finance company issued in May 1990 have met this demand and become a major breakthrough in the national economic renovation. The operation of the banking system, from then on, has been made appropriate to international practices and produced promising results in recent years.

B. ESTIMATE OF TWO ORDINANCES

1. Achievements

With two ordinances on banking, there were for the first time in Vietnam law documents regulating the operation of the banking system in an

overall and progressive manner. These ordinances have provided for basic problems of the operation and organization of the banking system. They resulted from the creative application of foreign banking laws to Vietnam's conditions. These ordinances have inherited the past achievements of the development of the banking system and allowed the system to develop in the market economy under the government's management. However, after two ordinances came into effect, the banking system had to keep on dealing with a lot of difficulties in the transitional stage of the economy.

The following are achievements in realization the these ordinances:



(1) The ordinances have helped the banking system develop into a two-level system stably and rationally. Different economic sectors have participated in the system and supplied all kinds of banking services, thereby meeting the demand for the change from the centrally planned economy to the socialist-oriented market economy. The State Bank, acting as the central bank, carried out the task of making policy and controlling the system. Commercial banks acted as companies supplying banking services in order to make profits and help with the economic development. To establish such a mechanism, a lot of studies and experiments have been carried out. This mechanism was proved to be appropriate and creative by realities.

(2) The State Bank was considered as a relatively independent organiza-

tion under the direction of the Government. The Governor of the State Bank was a member of the Government and responsible for the business performance of the State Bank before the Government. This position is suitable to Vietnam's conditions and different from the central banks in France, Japan or Thailand.

Vietnam's State Bank, unlike other ministries, didn't simply carry out the management function. It uses indirect instruments to regulate money market, foreign exchange, stock exchange, etc. By doing so, it controls the monetary system and finance market, and at the same time, brings the public treasury some income. This is one of main features of the Vietnam's State Bank found out in the realization of two ordinances.

(3) State-run commercial banks have to do their business as joint stock banks did in the market economy, and orient their operation towards socialism while playing the leading role in the system of credit organizations. They must become effective instruments in the hand of the Government to achieve socio-economic targets such as controlling the inflation rate or accelerating the growth rate. Vietnam's state-run commercial banks mustn't simply make profits or lean on government subsidy as they did in the past. Thus, in comparison with their counterparts in other countries, they should do business according to the laws of the market economy, and at the same time, play the leading role in orienting the monetary-financial business towards achieving targets planned by the Government. This two-sided function requires them to make reasonable profits and realize social policies if required (such as supplying credit to the poor; students or financing job-creating programs, etc.)

(4) The ways of solving theoretical problems of the banking business have been changed

a. As for organization, the State Bank was separated from commercial banks. According to the Decree 53 in the past, specialized banks were considered as departments belonging to the State Bank, or any departments of the State Bank could be considered as specialized banks. At present, position, tasks and functions of the State Bank and commercial banks were discriminated clearly, and the relation between the State Bank and commercial banks was regulated by two ordinances in definite manner. This was a basis for perfecting the organization and mechanism for controlling banking business.

b. The way by which the State Bank control commercial banks was reformed basically. In the past, the State Bank used to intervene too much in the operation of specialized banks (holding conference, giving directives, studying daily reports, making decision on giving credit, appointing cadres, etc.) by establishing a representative office in each branch of specialized banks. At present, the State Bank regulates the operation of commercial banks through macro-instruments and policies instead of controlling them directly. Thus, commercial banks have full autonomy in doing their business.

c. Along with the two-level banking system, a system of settlement which was more convenient, scientific and safer had been established. The old way of settling through representative offices causing a lot of waste of money had been removed.

d. The habit of using an increase in the money supply as a source of loans was broken. The banking system has tried its best to attract dead money from the people to banks, adjust the relations between supply and demand of money, between money and commodity; increase the amount of money controlled by banks; contribute to the struggle against inflation and break the habit of using the money supply to make loans.

e. The monetary policy and ways of implementing it have been changed. For a long time, the State Bank had to pay too much attention to the control of the stock of money. At present, cash is considered as one of negotiable instruments and the Governor of the State Bank, through banking operations, could meet the demand of the

public for cash. Thus, the problem of cash has been solved completely. The scarcity of cash which once caused a lot of difficulties for production and distribution was removed.

f. Changes in the economic management mechanism, and the birth of new policies on banking operations have helped us to change our way of thinking and doing business. The banking system can affect more actively the economy and implement the monetary policy through many instruments such as interest rate, reserve requirement, open market operations...

(5) "Using borrowed money to loan" becomes the way of doing business now. Commercial banks have tried their best to attract all possible sources of dead money in order to supply more credit to customers.

The State Bank has become the lender of last resort who is always ready to lend money to commercial banks if required. The State Bank no longer issues money to supply credit, that is, stop causing inflation through supplying credit.

State-run commercial banks play an active role in developing the multi-sector economy, giving equal treatment to different economic sectors and helping state enterprises enhance their business performance.

The supply of credit is oriented towards serving the national industrialization.

The banking business is developed continuously, from the state of making losses to the state of making profits, even big ones. This development has benefited the Government, customers, banking laborers and the society as well.

(6) The inspection and supervision carried out by the State Bank include two parts:

- To control the realization of the monetary policy in order to assure that macro-economic targets will be achieved and the economy will develop stably.

- To inspect commercial banks in order to ensure safety for the whole system and help commercial banks develop healthily and effectively. Thus, banking inspectors are officials under the direction of the Governor of the State Bank, instead of being an independent body as they were in

other countries (Germany for example).

(7) In realizing two ordinances, we saw that in the market economy, all businesses have to accept competition. However, besides competition, they also need cooperation. The competition could stimulate the development, but the cooperation is needed for the realization of common targets (inflation control for example). This is the fair competition which can be found only in the socialist regime.

(8) Carrying out two ordinances, we found appropriate measures to harmonize the relation between inflation control and economic development by solving a series of problems such as supplying capital, fixing interest rate and exchange rate, mandating reserve requirement, taxing the banking business, controlling foreign exchange, carrying out open market operations, etc. Particularly, the function of the State Bank to control the monetary system and the function of the Ministry of Finance to control the public finance were discriminated with a view to putting an end to the practice of issuing more money to make up for budget deficit. The Government could borrow money from the State Bank by issuing Treasury bills.

(9) To develop, it's inevitable that the Vietnam's banking system must integrate into the world financial community and adopt international practices. On the other hand, the characteristics of the Vietnam's banking system should be preserved.

(10) To change the banking system to the market economy, the development and control of money and capital markets are of great importance. These markets constitute a stimulus for this change. These markets could help the Government learn about fluctuations of the economy and make appropriate policies.

2. Defects

The promulgation of the two ordinances is the first step to make the organization and operation of the banking system into rules and regulations and provide for necessary steps in future. However, the two ordinances couldn't alter effectively the banking system which is modernized with increasingly complicated activities. The two ordinances, because of the limited knowledge and understanding of their makers, contained

many regulations that were unsuited to, and even became obstacles to, the reality of the banking business. The following are some examples:

- The ordinances didn't affirm the relative independence of the State Bank in the government machinery, and duties and rights of the State Bank in making and controlling the monetary policy.

This problem was under public discussion in early 1970s and has been materialized in laws on the central bank of different nations (the U.S., Japan, European countries, etc.)

- The ordinances didn't make clear the basic difference between a normal government body and the central bank which played a definite role in the monetary policy and at the same time, made some profits. This is the feature of the banking system, not only in Vietnam but the world also. This problem is causing a lot of controversy among scientists and experts, because it related to the financial regime of the State Bank and the banking system as a whole.

- The ordinances didn't cover all kinds of credit organizations affected by laws. This led to the fact that many organizations having no function to do banking business could carelessly supply credits or receive deposits... without the control of the State Bank and make it difficult for the State Bank to control inflation and stabilize the monetary system.

- Many articles provided for in the ordinances (about reserve requirement, settlement, protection of deposits loans, issuing and buying shares, pooling, procedures for forming joint stock commercial banks or credit unions, sanctions against violations, etc.) are vague and irrational, while these are of great importance to the safe operation of the banking system in transition to the market mechanism. This situation forced the Government to make too many adjustments to regulations relating to the banking operation, and therefore, the legal infrastructure became unstable.

In such conditions, the effectiveness of the monetary policy, of banking inspection and supervision is not high; the money market develops slowly and doesn't meet requirements posed by the economy; there is no keen competition between credit organiza-

tions, the banking business still involves a high degree of risk... But frankly speaking, the ordinances came into being at a time when the legal infrastructure was poor and lacked many laws needed for an economy in a transitional stage. This situation made the realization of the ordinances more difficult and their effect more limited although they contained many basic principles of the banking operation in the market mechanism and many progressive factors suited to the international practices.

Moreover, the renovation of the economy and the banking system has made better progress than what was predicted. The legal infrastructure has been reformed considerably since the promulgation of the ordinances (many laws have been made and come into force). Some regulations set forth by the ordinances have become vague and unsuited to the banking operation at present and in future as well.

In order to remove inconsistency between the ordinances and related laws (example: procedures for establishing or dissolving a credit organization are related to the Company Law; procedures for opening rep offices or branches of foreign banks or foreign trust funds are related to the Foreign Investment Law; supplying loans to the public treasury and the dedicated revolutionaries is related to the Finance Act, etc.), the State Bank has to wait for directives from the National Council and the Government, and then, has to consult related governmental bodies before issuing instructions to carry out the ordinances. To some extent, this practice could meet actual requirements but it also leads to the bureaucracy and obstacles to the implementation of the ordinances.

The estimate of the realization of two ordinances on banking in the past five years isn't an easy task. However, we can say that we have got main and principal achievements. Some defects we have are of less importance and difficult to avoid them in present conditions. Therefore we should estimate carefully each ordinance in order to make out its active effects and find out measures to enhance its effects on adjustment of the banking business and innovation of the banking system. ■

(to be continued)

GIVING RAFFLE TICKETS TO MARKET SHARES

RIGHT OR WRONG ?

by TRẦN TÔ TỬ

In the end of 1995, an HCMC-based commercial bank made a public issue, that is, offered its shares to the public. This was an interesting event but it went unnoticed by authorized bodies.

1. Signs of a stock exchange...

Last year, regulated by the State Bank, many joint stock commercial banks of small-scale (with small registered capital) should increase their registered capital to at least VNĐ50 billion. This became a challenge to commercial banks, because they were facing a lot of difficulties: business environment involved a high decree of risk, there was a surplus of fixed deposits and a shortage of borrowers. If they issue new shares, where can they invest new capital in to pay dividends?