



# Guarantee of houses to be formed in the future

On September 29th, 2017, the State Bank of Vietnam issued Circular no. 13/2017/TT-NHHH on amending and supplementing some articles of Circular 07/2015/TT-NHNH stipulating the bank guarantee (“**Circular 13**”). Circular 13 took effect on 15/11/2017. One of the noteworthy amendments to Circular 13 is the content relating to bank guarantee of houses to be formed in the future.

Accordingly, guarantee of houses to be formed in future means that the commercial banks (“**the Bank**”) pledge to the purchaser, the hire-purchaser (“**the Purchaser**”) that the Bank shall carry out financial obligations on behalf of the investor in the case when the time of delivery and receipt of housing arrives but the investor does not hand over the house to the purchaser without refunding or refunding insufficiently the full amount received in advance and other amounts under the contract to the purchaser. After the Bank carries out financial obligations on behalf of the investor for the purchaser, the investor must refund this money to the Bank.

The Bank must be eligible and meet the following conditions in order to guarantee houses to be formed in the future.

- (i) Bank guarantee operations must be included in the Establishment and Operation License or in the document stating amendments or supplements to the Establishment and Operation License; and
- (ii) The Bank is not forbidden to carry out guarantees for future-acquired houses during the period of special control.

During the guarantee period, if the Bank fails to satisfy the above conditions and is removed from the list of eligible banks, the bank must continue performing the agreements and commitments signed on the future

housing guarantee until its guarantee obligation is terminated.

In addition, the State Bank will announce the list of banks capable of performing guarantee for houses to be formed in the future on the website of the State Bank from time to time.

According to Circular 13, within 10 working days from the signing date of the contract for purchase or hire-purchase of house, the investor must send the Bank the contracts for purchase or hire-purchase of house; The Banks shall issue the guarantee commitment to the purchaser and send to the purchase’s address within 05 working days. The validity of a guarantee commitment is determined from the date of issue to at least 30 days from the committed delivery date.

Interestingly, the maximum guarantee amount for a project housing to be formed in the future is equal to the total amount of money that the investor is allowed to receive in advance from the purchaser.

This provides a more secure legal framework for home-purchaser and assists the investor in making commitments to the purchaser.