Media title: Bank restructuring and settling bad debts: We need to be more critical
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Bank restructuring and settling bad debts: We need to be more critical

The State Bank of Vietnam (SBV) is drafting a "special" law to boost bank restructuring and settle bad debts, which would remove all the obstacles in the existing legal regulations.

Dao Thi Thien Huong, partner in the Business Restructuring Services at PwC Vietnam, shared her thoughts on the restructuring of banks and settlement of bad debts in Vietnam, and provided ideas and recommendations to speed up this process.

SBV is planning to propose a law to boost bank restructuring and settle bad debts which will be approved by the government and the National Assembly. Based on your insights, which major issues should be tackled by this law?

This initiative means that SBV will continue to prioritise the issue of settling bad debts. It is obvious that this law must tackle the remaining challenges, which include an improper legal framework for settling bad debts and a lack of proper guidance on post-merger integration to boost the quality of management and the value of bank property, as well as guidance on banks' risk management capabilities.

The progress of settling bad debts in credit institutions (CIs) and Vietnam Asset Management Company (VAMC) has encountered a number of obstacles, such as the vast amount of time needed to retrieve mortgaged assets via a legal process and the lack of a legal framework for VAMC to proactively investigate borrowers to speed up the whole process of settling bad debts.

Furthermore, we also need a detailed legal framework that provides guidance on how to transfer mortgaged assets to foreign investors.

The current law still demonstrates limitations on the direct transfer of mortgaged assets, such as rights to use land and properties on land by foreign investors. Further limitations include foreign investors' lack of ability to change the purpose of land usage and to transfer benefits for mortgaged real estate assets.

The securitisation of bad debts is also not supported by current law, which hindered VAMC and CIs when approaching specific groups of investors. Another obstacle is that CIs are still not allowed to allocate losses from the selling of bad debts at market price.

Are there any successful cases of a legal framework concerning bad debts settlement in the region? What do you find special about them?

Having a "special" law to settle bad debts is a common practice in countries where non-performing loans are being effectively handled, like Malaysia, Japan, and South Korea. These countries issued specific laws to support and grant privileges to their respective Asset Management Companies (AMCs) to settle bad debts.

In Malaysia, the national AMC named Danaharta was supported by the Danaharta Law. Danaharta was granted a number of special legal and administrative rights to settle bad debts, such as the right

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to instantly retrieve and auction mortgaged assets without court procedure, the right to appoint a representative to supervise the operation of the borrowers, and the right to share the profit resulting from the settlement of bad debts with banks. The Danaharta Law also provided a framework to exempt the liability of Danaharta's executives from financial losses during a bad debts' settlement process based on objective reasons.

In Thailand, TAMC was also founded and has been operating under the TAMC Law. Similarly to the Danaharta Law, this piece of legislation allowed TAMC to retrieve and liquidise mortgaged assets without a court procedure. TAMC also has the right to modify deadlines and the interest rate of debts, the right to convert debts into invested capital, and the right to share the profit resulting from the settlement of bad debts with banks. In addition, the TAMC Law also provided a framework to exempt the liability of TAMC executives from financial losses based on objective reasons.

What specific solutions shouldthe SBV introduce for VAMC to boost the trading of bad debts at market price?

At the moment, the process of bad debts settlement is done by either CIs collecting debts themselves or by selling these debts to VAMC. Though the latter option has been chosen in many cases, the actual debt volume collected by VAMC through this channel is still very limited. Clearly, VAMC needs to be supported by frameworks and regulations regarding the liquidation of mortgaged assets and the selling and restructuring of debts.

The most important mission is to boost VAMC's capability to trade bad debts at market price. In my opinion, this mission can be accomplished sooner if the SBV allows VAMC to experiment with the selling of a number of specifically chosen bad debts. This way, VAMC can proactively approach different groups of investors, to learn how investors evaluate bad debts and the price they can offer, as well as their terms and conditions when buying bad debts. This should be a good starting point for VAMC to boost their practice of bad debts' trading at market price.

The State Bank of Vietnam (SBV)'s Governor Le Minh Hung has recently announced that SBV entered into co-operation with relevant agencies to map out a "special" law to boost bank restructuring and settle bad debts. The new law on restructuring the banking sector and resolving bad debts would mention all legal regulations related to the activity. Obstacles in the existing legal regulations would also be addressed under the new law to remove any obstacles in resolving bad debts.

Moreover, under the new law, individual groups that would like to buy a stake in credit institutions must prove their legal income sources and cannot use any lending sources. Information related to bank managers must be published and violators would be prohibited from taking part in managing banks permanently.

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