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Management and Utilization of the People's Credit Fund System Safety Guarantee Fund in Vietnam: Current Situation and Legislative Recommendations

LL.M. Luong Thanh Binh
Faculty of Law, Banking Academy

ABSTRACT: The People's Credit Fund System Safety Guarantee Fund Safety Guarantee Fund in Vietnam plays a core role in maintaining financial stability and protecting depositors' interests. Although numerous specific legal provisions have been enacted to govern the Fund's operations, legal loopholes and risks persist, affecting the efficiency of the Fund's management and utilization. This article analyzes the deficiencies in the current regulations and forecasts potential risks, subsequently proposing solutions for legislative enhancement aimed at improving transparency, operational efficiency, and ensuring the stability of the People's Credit Fund system safety guarantee fund structure.

KEYWORDS: Safety Guarantee Fund, People's Credit Fund (PCF), Legal Risk

INTRODUCTION

The People's Credit Fund System Safety Guarantee Fund (hereinafter referred to as the Safety Guarantee Fund or the Fund) was established to provide support for member credit institutions facing difficulties related to liquidity and capital, thereby ensuring the stability of the entire system and safeguarding the interests of depositors.

Throughout its development, the People's Credit Fund system has recorded notable successes in operating the Safety Guarantee Fund, contributing to the mitigation of financial losses for its members. However, practical application reveals that the current legal framework, as well as the detailed regulations pertaining to the management, governance, and utilization of the Fund, still contain certain legal loopholes. These deficiencies fail to comprehensively cover all emerging situations, posing significant operational risks to the Fund's effectiveness.

This article aims to provide an in-depth analysis of these legal loopholes, while simultaneously identifying potential risks that could undermine the operational efficiency of the Safety Guarantee Fund. Based on this analysis, the article proposes recommendations for perfecting the legal framework to align appropriately with the practical realities in Vietnam.

1. Overview of the People's Credit Fund System Safety Guarantee Fund

The Safety Guarantee Fund (the Fund) is a financial fund belonging to the system of cooperative credit institutions (Co-operative Bank and the People's Credit Funds). It is collectively owned by the members, generated from mandatory contribution fees from the Co-operative Bank and member People's Credit Funds (PCFs). The Fund is domiciled at the Co-operative Bank and managed and utilized by the Co-operative Bank in accordance with legal provisions.[1]

The Safety Guarantee Fund acts as a financial "buffer" to provide timely support to member institutions facing difficult circumstances.[2] Specifically, "difficult circumstances" here include:

1. When a PCF faces risks arising from force majeure events (natural disasters, floods, epidemics, fires, etc.) leading to financial difficulties or payment difficulties, it may apply for compensatory loans from the Fund.
2. PCFs suffering business losses, but assessed as having the potential for recovery, may be supported with loans from the Fund.
3. The Fund provides preferential loans to support investments in upgrading IT, staff training, etc., aimed at enhancing governance and operational capacity at PCFs.
4. The Fund provides preferential liquidity support loans to PCFs at risk of insolvency or already insolvent, threatening system stability, both before and after a restructuring plan is approved by the State Bank of Vietnam (SBV).

Based on these utilization purposes, the Safety Guarantee Fund holds the following key roles:

1. By providing repayable support loans to PCFs facing financial or payment difficulties to help them recover and return to normal operation, the Fund contributes to maintaining stability and ensuring the safe and sound development of the PCF system in particular and the credit institution system in general.
2. The Fund's operational mechanism strengthens systemic cohesion among PCFs, thereby facilitating mutual exchange of experience and learning, enhancing operational effectiveness, and boosting the reputation and standing of the PCF system among members, individuals, and organizations, both domestic and foreign.
3. The Fund establishes a strong legal basis for the SBV to closely supervise and react promptly to the risk of collapse of a PCF, thus ensuring the safety of the credit institution system and the entire economy.

The main legal framework for the Safety Guarantee Fund comprises Circular No. 03/2014/TT-NHNN, which issued the initial regulations on the organization, management, and utilization of the Fund. Subsequently, Circular No. 27/2024/TT-NHNN, effective from July 1, 2024, amended and supplemented these regulations to refine and clarify the collective ownership of the members, and add mechanisms for management transparency, control, and the fund disbursement process. In addition, there are other guiding documents such as Circular No. 13/2024/TT-NHNN on capital adequacy ratios for PCF operations, which sets standards for financial safety for member institutions.

2. Practical Implementation of the Management and Utilization of the People's Credit Fund System Safety Guarantee Fund

Firstly, lack of specific quantitative criteria for granting financial support.

In practice, Circular No. 27/2024/TT-NHNN, the current legal document governing the Fund's operations, only vaguely stipulates the conditions for supporting PCFs as "facing difficulties regarding payment capacity" or "facing financial difficulties." Crucially, it fails to provide clear quantitative criteria to accurately assess the level of difficulty. For instance, non-performing loan (NPL) ratios, liquidity ratios, minimum Tier 1 capital, or other financial indicators are not specifically defined or standardized to serve as a legal corridor for the Fund's disbursement decisions.

This ambiguity leads to discrepancies in assessment and decision-making among relevant parties, potentially causing delayed or unfair provision of support. Furthermore, this vagueness creates conditions for credit institutions to exploit loopholes to apply for support when not genuinely in need, making it difficult to preserve the Fund's resources and increasing the risk of capital loss. This situation has been flagged in assessment reports on the Fund's effectiveness over the past period, indicating that the absence of clear quantitative criteria renders the support approval process opaque and somewhat inconsistent.[3]

Secondly, regulations on information disclosure are ambiguous and lack mandatory transparency.

Another weakness is that the Fund's information disclosure regulations remain quite generic. Specifically, Circular No. 27/2024/TT-NHNN only requires the Co-operative Bank and member PCFs to disclose "fully and promptly" information related to the Fund's activities, but it fails to specify the content of disclosure, the timing of disclosure, the form of public release, or the requirement for periodic audited reports.[4]

The lack of these detailed provisions results in inconsistent implementation, creating loopholes for non-disclosure or incomplete disclosure, which directly impacts the supervision capabilities of the State Bank of Vietnam (SBV), members, and the public. This erodes depositor confidence, contributing to the weakening of the cooperative financial system's stability. The need for information transparency in financial operations is essential to enhance efficiency and prevent fraud and corruption.

Thirdly, lack of standardization and transparency in internal control mechanisms.

Circular No. 27/2024/TT-NHNN mandates that the Co-operative Bank must establish and operate internal control procedures to supervise and manage the Fund, yet it does not provide a standardized set of criteria or specific performance evaluation indicators. Consequently, the Co-operative Bank may design an inadequate internal control system, leading to loose and non-objective inspection and supervision. This lack of standardization reduces the effectiveness of risk control, resulting in the potential for fraud, abuse, or misuse of the Fund's capital. The absence of a system to evaluate the performance of internal control activities and report it to a higher level makes it difficult for the regulatory body to monitor and intervene promptly when weaknesses arise during the Fund's utilization.

Fourthly, lack of transparent regulations on handling violations and clear accountability.

Another notable legal issue is the lack of clear regulations on the responsibility for handling violations related to the Fund's management and utilization, particularly the division of responsibilities among the Co-operative Bank, the SBV, and relevant agencies. Currently, the regulations state that violations shall be handled "in accordance with general laws" without providing detailed guidance on administrative sanctions, remedial measures, or mechanisms for individual/organizational accountability. This legal gap limits the ability to quickly control, detect, and impose strict penalties for violations, potentially leading to hesitation, avoidance of responsibility, or inconsistent handling, thereby affecting the prestige of the managing organization and the entire system. Concurrently, it reduces the necessary deterrent role to prevent violations in the Fund's management.

Fifthly, lack of effective risk assessment and early warning mechanisms.

In the context of an increasingly complex and rapidly changing credit market, an effective risk assessment and early warning mechanism is crucial to ensure the Safety Guarantee Fund can respond promptly to support needs. However, the current legal framework lacks mandatory provisions for periodic assessment of financial, liquidity, and market risks, or the establishment of warning thresholds to deploy preventive measures. This absence of an early warning mechanism makes the Fund vulnerable to being caught in a passive position when market events occur, causing difficulties in mobilizing additional capital and affecting the ability to quickly and effectively support distressed PCFs. This is a serious legal gap that needs to be addressed to strengthen the Fund's responsiveness to potential risks.

Sixthly, limitations regarding the size and capital of the Fund are disproportionate to the system's scale.

While not strictly a legal loophole, the current scope and level of contributions to the Safety Guarantee Fund are limited by legal provisions that do not adequately reflect the actual size of the PCF system. It is necessary to propose amendments to address this gap, increasing the scale of capital resources and making the contribution mechanism more flexible, to ensure the Fund is robust enough to operate effectively in the current and future financial conditions.

3. Recommendations for Perfecting the Legal Regulations on the Management and Utilization of the People's Credit Fund System Safety Guarantee Fund

Firstly, the formulation and application of specific quantitative criteria for granting financial support are the foremost urgent requirements.

Currently, Circular 27/2024/TT-NHNN merely provides the general concept of "facing difficulties regarding payment capacity" without stipulating assessment criteria, such as the threshold for an excessive non-performing loan (NPL) ratio, the minimum liquidity ratio, or the sub-standard level of Tier 1 capital that would qualify for support consideration. Therefore, the State should promulgate a clear and transparent set of quantitative standards to serve as a unified basis for the Fund's Management Unit and the Co-operative Bank in appraising applications for support loans. These indicators must be based on international financial standards, adjusted to suit the specific characteristics of Vietnamese PCFs, in order to create a scientific and objective foundation for identifying the actual financial status of each PCF. This will enhance the efficiency of resource allocation and prevent the provision of capital to ineligible entities or undue delays that could lead to systemic contagion risk.

Secondly, regulations on information disclosure must be further specified and mandatorily transparent.

Current legal policy only requires information to be "full and timely" but does not clearly regulate the form of disclosure, frequency, detailed content, or mandatory auditing standards for the Fund's financial statements. Therefore, to enhance supervision and boost the confidence of members and the community, clear regulations are needed for the mandatory disclosure of audited periodic financial reports (at least quarterly), disbursement reports, internal assessments, and inspection/audit results. Specifically, information disclosure must be carried out on accessible IT platforms, ensuring that all members can monitor and provide feedback, thereby establishing a basis for transparent decision-making and coordinated social oversight.

Thirdly, establishing and standardizing the internal control system within the Co-operative Bank is an indispensable factor for ensuring the effective governance of the Safety Guarantee Fund.

Since current regulations lack standardized criteria and consistent performance indicators for internal control, there is an absence of uniformity in operations, creating management loopholes and generating risks of fraud or misuse of the Fund's resources. The SBV and competent agencies should establish a standardized set of internal control performance indicators for the Co-operative Bank and mandate periodic reporting. This will provide a basis for classification, comparison, and timely resolution of weaknesses. Concurrently, the adoption of modern risk management and control technologies should be encouraged to enhance operational efficiency and minimize malpractice.

Fourthly, the mechanism for handling violations and accountability must also be regulated in more detail and clarity.

Current regulations are too vague, generally stating that violations shall be handled according to law without clearly delineating responsibilities among the Co-operative Bank, the SBV, and relevant functional agencies. This delays the process of inspecting and resolving incidents and violations that cause financial damage and negatively affect the Fund's reputation. Supplementing regulations on inspection authority, administrative sanction measures, and mechanisms for pursuing individual and organizational accountability for management will enhance deterrence and handling effectiveness, while minimizing legal risks and disputes in the Fund's management and utilization.

Fifthly, the mechanism for risk assessment and early warning is a significant gap in current Vietnamese law concerning the PCF Safety Guarantee Fund.

The lack of provisions requiring periodic assessment of financial, liquidity, or market risks makes it difficult for the Fund to predict and respond promptly to fluctuations. The State needs to establish a mandatory mechanism for conducting comprehensive risk assessments, including an early warning system, integrating solutions for big data analytics and artificial intelligence into fund governance. This will allow for proactive resource strengthening or operational adjustments when signs of potential risk are detected. This measure will enhance crisis prevention capabilities and ensure that the Safety Guarantee Fund can always meet the demands for member support in financial emergencies.

Sixthly, regulations on the scale and contribution rates to the Safety Guarantee Fund need to be more flexible and commensurate with the growth rate and actual size of the PCF system.

Currently, the Fund's capitalization is limited as its total operational source cannot exceed 1.5% of the total assets of the PCF system [1], resulting in a relatively small Fund size compared to the total outstanding loans and deposits across the entire system. This limits the ability to intervene financially in a timely and effective manner when risks occur. Therefore, regulatory agencies should consider adjusting the contribution percentage and mechanism to align with the network's development scale and market fluctuations. Concurrently, measures should be taken to expand forms of supplementary capital mobilization, aiming to create sustainable and viable financial resources for the Safety Guarantee Fund.[2]

CONCLUSION

The People's Credit Fund System Safety Guarantee Fund is a crucial pillar protecting the stability of the cooperative financial system. However, the existing legal loopholes in the current regulations regarding the Fund's management and utilization give rise to numerous risks that could undermine its effectiveness and reliability. The review and supplementation of detailed, transparent regulations, coupled with clear accountability, will contribute to enhancing the Fund's operational efficiency, fostering the stability, and promoting the sustainable development of the PCF system in Vietnam. This also serves as a prerequisite for perfecting the national financial and banking legal system in the context of diversified market development and deep international integration.

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