

**THE GOVERNMENT**

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No. 116/2013/ND-CP

**SOCIALIST REPUBLIC OF VIETNAM**

**Independence-Freedom-Happiness**

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*Hanoi, October 04, 2013*

## **DECREE**

### **DETAILING IMPLEMENTATION OF A NUMBER OF ARTICLES OF LAW ON PREVENTION AND COMBAT OF MONEY LAUNDERING**

*Pursuant to the December 25, 2001 Law on organization of Government;*

*Pursuant to the June 18, 2012 Law on prevention and combat of money laundering;*

*At the proposal of the Governor of the State bank of Vietnam;*

*The Government promulgates Decree detailing implementation of a number of articles of Law on prevention and combat of money laundering.*

#### **Chapter 1.**

### **GENERAL PROVISIONS**

#### **Article 1. Scope of regulation**

This Decree details implementation of a number of Articles of Law on prevention and combat of money laundering about measures to prevent and combat money laundering, collect, process and transfer information of prevention and combat of money laundering, responsibilities of state agencies in prevention and combat of money laundering and international cooperation in prevention and combat of money laundering.

#### **Article 2. Subjects of application**

1. This Decree applies to subjects as prescribed in Clauses 1, 2, 3 Article 2 of Law on prevention and combat of money laundering.

2. Other organizations and individuals related to prevention and combat of money laundering, including foreign organizations and individuals or stateless persons not residing or operating in the Vietnamese territory but conducting transactions with organizations and individuals prescribed in Clause 1 of this Article.

#### **Chapter 2.**

## **MEASURES TO PREVENT AND COMBAT MONEY LAUNDERING**

### **SECTION 1. IDENTIFYING, REPORTING AND KEEPING INFORMATION OF CLIENTS**

#### **Article 3. Identifying clients**

1. Financial organizations must apply measures to identify clients in the following cases:
  - a) Clients open accounts for the first time, including payment account, saving account, card account and other account types;
  - b) Clients set up relationship with financial organizations for the first time aiming to use products and services provided by financial organizations;
  - c) Clients conduct irregular transactions with big value. Irregular transactions with big value are transactions of clients possessing no account or possessing payment account but having no transaction within 6 months or more with total value of 300,000,000 (three hundred million) VND or more in a day;
  - d) When conduct electronic remittance but information is lack about name, address or account number of the originator;
  - dd) Having doubts that transactions or parties related to transactions are related to activities of money laundering;
  - e) Having doubts about accuracy or sufficiency of information to identify clients already collected before.
2. Organizations and individuals trading in games with prizes, casino must conduct measures to identify clients for clients conducting financial transactions with total value of 60,000,000 (sixty million) VND or more within a day.
3. Organizations and individuals trading in real estate management, brokerage services, and real estate transaction floors must apply measures to identify clients for the buyer and the seller in activities of brokerage for real estate purchase and sale; for assets owners in providing real estate management service.
4. Organizations and individuals trading in precious metals and gems must apply measures to identify clients in case where clients conduct transactions in cash to buy, sell precious metals and gems with value of 300,000,000 (three hundred million) VND or more within a day.
5. Organizations and individuals providing notarization or accounting services; legal service of lawyers, law-practicing organizations must apply measures to identify clients when they on behalf of clients prepare conditions to conduct transactions or on behalf of clients conduct transactions of transferring land use right, house ownership; service of managing money,

securities or other assets of clients; service of managing accounts of clients at banks, securities companies; provide service of administration and management over company operation of clients; participate in activities of purchase and sale of business organizations.

6. Organizations and individuals providing investment entrustment service being organizations and individuals receiving money or assets from one or more entrustment organizations and individuals so as to conduct transactions related to money or assets for the entrustment organizations and individuals. Organizations and individuals providing investment entrustment service must apply measures to identify clients in respect to the entrustment party.

7. Organizations and individuals providing services of enterprise establishment, management, administration; providing registration offices, business addresses or locations; providing enterprise representative service must apply measures to identify clients using or requesting for such services.

8. Organizations and individuals providing service of providing directors, director's clerks of enterprises for the third party must apply measures to identify clients in respect to the third party and such directors or clerks.

9. Organizations and individuals providing service of providing representatives for shareholders must apply measures to identify clients in respect to the shareholders and representatives of such shareholders.

#### **Article 4. Information of identification and verification of information used to identify clients**

1. Information used to identify clients being Vietnamese organizations and individuals or foreigners must include information specified in Clause 1 Article 9 of Law on prevention and combat of money laundering.

2. For clients being individuals who are stateless, information used to identify will include: Full name; date of birth; occupation, position; visa book; agency issuing visa for immigration; address of resident registration place in foreign country and in Vietnam.

3. For clients being individuals who have two (02) or more nationalities, apart from information defined in Clause 1 of this Article, the reporting subjects must collect additional information about nationalities, addresses of resident registration at countries where clients bearing nationalities.

4. The reporting subjects must verify information used to identify clients as prescribed in Article 11 of Law on prevention and combat of money laundering.

#### **Article 5. The beneficiary owners**

1. The reporting subjects must define the beneficiary owners according to the following criteria:

a) Individuals owning in reality for an account or a transaction: Account owners, account co-owners or any person who controls operation or enjoyment of such account or transaction;

b) Individuals who have right to control legal entities: Individuals holding 10% or more of charter capital of such legal entity; individuals holding 20% or more of charter capital of organization which contribute more 10% of capital of such legal entity; owners of private enterprises; other individuals controlling such legal entity in reality;

c) Individuals have right to control an investment entrustment, authorization agreement: The entrustment or authorization individuals; individuals having right to control individuals, legal entities or entrustment or authorization organizations.

2. Identifying and verifying information used to identify the beneficiary owners will comply with provisions in Article 4 of this Decree. For clients being foreign organizations or organizations with one or many parties, which join in the capital contribution, being foreign individuals or organizations, the reporting subjects must verify additionally information used to identify such foreign individuals or organizations by using documents, data issued by the foreign competent agencies.

#### **Article 6. Classification of clients according to the risky extent**

The reporting subjects must elaborate regulation on classification of clients on the basis of the money laundering risk based on the following elements:

1. Client type: Residents or non-residents; organizations or individuals; clients in or out black list, warning list; fields and methods of operation and trading.

2. Type of products or services which clients use including those anticipated using: Cash or remittance services; payment service or service of money transfer or exchange; brokerage, entrustment or authorization services; life-insurance or non-life insurance services.

3. Geographical positions where clients reside or locate their head offices: Countries in embargo list stated in Resolutions of United Nations Security Council; countries in list of publicizing non-compliance, or insufficient compliance with recommendations about preventing money laundering and preventing donation for terrorism which is announced periodically by the Financial Action Task Force; countries, or regions, territories which are defined to have many activities involving heroin, corruption and money laundering.

4. Other elements which the reporting subjects may self-define and classify in conformity with the arising reality.

#### **Article 7. Agent bank relationship**

1. When set up an agent bank relationship, the reporting subject must collect information about partner banks as prescribed in point b Clause 1 Article 9 of Law on prevention and combat of money laundering and the following information: Purpose and reason of setting up relationship;

name of agencies managing the partner banks and assessments, credit ranking of competent agencies or specialized organizations in respect to the partner banks.

2. Assessment about implementation of measures to prevent and combat money laundering conducted by the partner banks through:

a) Internal regulations on prevention and combat of money laundering;

b) The money-laundering risk management system;

c) System of internal control and audit for prevention and combat of money laundering;

### **Article 8. Transactions related to new technologies**

1. Transactions related to new technologies are transactions using technologies which allow clients to conduct transaction without directly facing officials of the reporting subjects.

2. The reporting subjects, upon providing services as prescribed in Clause 1 of this Article must implement the following requirements:

a) Directly facing clients upon setting up relationship at the first time and requesting clients for providing information as prescribed in Article 4 of this Decree;

b) Elaborating a process of assessing risks involving money laundering upon providing services using new technologies. This process must include minimally the following contents: Determination and simulation of risks involving money laundering which may arise, for transactions applying new technologies; putting out suitable measures to prevent and minimize risks may arise.

### **Article 9. Transactions with abnormal big value, complicated transactions**

Transactions with abnormal big value or complicated transactions as prescribed in point a Clause 1 Article 16 of Law on prevention and combat of money laundering are the following transactions:

1. Transactions with abnormal big value are transactions which are clearly not proportional with income or not conformable with level of regular transaction value of clients with the reporting subjects;

2. Complicated transactions are transactions which are performed through methods not conformable with nature of transaction such as:

Transactions performed through many intermediate parties, many accounts in an unnecessary way; transactions performed among various accounts of a same account holder, at the various geographical regions; any transaction which the reporting subjects assume that it is abnormal and need to have strict supervision

## **Article 10. Trading activities through introduction**

1. At the request the reporting subjects, the intermediate parties must ensure to provide timely and sufficiently information to identify clients as prescribed in Article 4 of this Decree.
2. In case where intermediate party is a Vietnam organization, this organization must be object suffering management and supervision of Vietnamese competent agencies and must apply measures to identify and updated information of clients as prescribed in Article 3 of this Decree, Article 10 of Law on prevention and combat of money laundering and requirements on archival of dossiers, reports, documents as prescribed in Article 27 of Law on prevention and combat of money laundering.
3. In case where intermediate party is a foreign organization, this organization must be object suffering management and supervision of competent agencies and must apply measures to identify and updated information of clients and archive dossiers in accordance with law of country where such foreign organization locates its head office or conduct its key business operations. In case where law of this country has not yet satisfy or just satisfy partly requirements in recommendations of the Financial Action Task Force, the reporting subject should consider the national risk element to decide that it may base on the intermediate party or not.
4. In case the intermediate party is a part affiliated a financial group and this financial group has performed fully requirements as prescribed in Clauses 2, 3 of this Article, such intermediate party will be considered as it has complied fully with requirements in accordance with regulations.

## **Article 11. To ensure transparency of legal entities and authorization agreements**

1. The Stock Exchange, as prescribed in Clause 1 Article 18 of Law on prevention and combat of money laundering shall store and update the following information about the listing enterprises:
  - a) Basic information about a listing enterprise: Full trading name and abbreviated name, address of head office, tax code number, telephone number, facsimile number, fields of business operation;
  - b) Charter capital;
  - c) List of founders, major shareholders;
  - d) The legal representative;
  - dd) The beneficiary owner;
  - e) Other information.

2. The business registration agencies, as prescribed in Clause 2 Article 18 of Law on prevention and combat of money laundering, being the provincial Departments of Planning and Investment, shall collect and store the following information about enterprises established and operating in their provinces and cities:

a) Basic information about an enterprise: Full trading name and abbreviated name, address of head office, tax code number, telephone number, facsimile number, fields of business operation;

b) Legal capital, charter capital, registered capital;

c) List of founders, major shareholders;

d) The legal representative;

dd) The beneficiary owner;

e) Other information.

3. Organizations and individuals as prescribed in Clause 3 Article 18 of Law on prevention and combat of money laundering must store and update the following information about clients:

a) Information about the authorizing person, the authorized person: It must include information specified in Clauses 1, 2, 3 Article 4 of this Decree;

b) Content of authorization;

c) Information about the beneficiary owner as prescribed in Clause 2 Article 5 of this Decree.

## **Article 12. To ensure the transparency in activities of non-profit organizations**

1. Non-profit organizations which are legal entities or organizations with key operation being mobilization or distribution of capital for the charitable, religious, cultural, educational and social purposes or similar purposes, not for profit purpose, include: Foreign non-governmental organizations, social funds, charity funds established and operate in accordance with Vietnamese law.

2. Non-profit organizations must maintain and update:

a) Information about organizations and individuals donating, at least including: Full name; address; the donation amounts;

b) Information about organizations and individuals receiving donations, at least including: Full name; address; the donation amounts; method of donation and purpose of using donation.

3. Dossier as prescribed in Clause 1 Article 19 of Law on prevention and combat of money laundering include:

- a) Information defined in Clause 2 of this Article;
  - b) Vouchers, documents involving donation and receipt of donation.
4. Dossiers stated in Clause 3 of this Article must be archived by non-profit organizations at least 05 (five) years after ending activities of donation or receipt of donation.
  5. If a non-profit organization dissolves or end its operation, dossiers stated in Clause 3 of this Article must be handed over agencies competent to license for establishment and operation in respect to such non-profit organizations.
  6. Non-profit organizations shall provide dossiers as prescribed in Clause 3 of this Article to the competent state agencies, including: Agencies managing non-profit organizations in activities of inspection and supervision; agencies for prevention and combat of money laundering under the State bank of Vietnam; competent agencies in investigation, prosecution and judgment.
  7. State agencies competent to manage non-profit organizations specified in Clauses 5, 6 of this Article include: Ministry of Internal Affairs (for domestic non-profit organizations); the Ministry of Foreign Affairs (for foreign non-profit organizations).

**Article 13. To elaborate internal regulations about prevention and combat of money laundering**

An internal regulation about prevention and combat of money laundering as prescribed in Article 20 of Law on prevention and combat of money laundering include the following contents:

1. Policy of client acceptance: According to the risky extent, levels of the approval, and requirements about dossier of opening account or setting up transaction.
2. Process, orders to identify clients, verify and update information of clients: Decentralization of responsibility for identification, periodically updating information and assessing clients according to the risky extent; decentralization to access, use general information in system; regulations on identification of clients with accounts or transactions at many branches in system.
3. To guide the reporting process of transactions including: Transactions with big value; transaction of electronic remittance; doubtful transactions; transactions related to money laundering with the aim to finance for terrorism; transactions related to crime activities; transactions related to list of the terrorism individuals and organizations, and terrorist donation according to Resolution of United Nations Security Council; black list; warning list.
4. Process to review, detect and handle doubtful transactions: To review and analyze clients and transactions related to clients upon having doubtful signs as prescribed in Clause 2, Clause 8 and report as prescribed in Clause 1 Article 22 of Law on prevention and combat of money laundering; to define responsibility according to each level; handling of reports on the doubtful transactions must be conducted on the basis of analyzing, handling information on whole system;

method to act with clients conducting the doubtful transactions, so as to ensure that information is not revealed.

5. To store and keep information in secret: Method of storage, method of exploitation; level of storage.

6. Application of temporary measures, principles in handling cases of postponing implementation of transaction: It is required to provide for specific cases to apply temporary measures; specify responsibility of levels in application of and approval for implementing requests of functional agencies.

7. The regime of report and information provision to the State bank of Vietnam and competent state agencies: Method, process of report and information provision aiming to ensure time limit and content of report in accordance with requirements.

8. Re-training professional operation of prevention and combat of money laundering: To elaborate programs, training frequency, training content to be suitable with objects (management level, policy level, and execution level), scale, organization (head office, branch, or region) and operational field or the provided products and services.

9. To control and audit internally about compliance with policies, regulations, processes and procedures involving activities of prevention and combat of money laundering: Structure, organization, method to conduct control and audit; procedures for reporting to competent state agencies, assurance of report time limit and content; regulations on handling, remedying the detected violations.

#### **Article 14. Report on doubtful transactions**

1. The reporting subjects shall report on doubtful transactions when they have doubts or rational basis to doubt that assets in transactions acquired from criminal activity or related to money laundering:

a) The rational basis to doubt that assets in transactions acquired from criminal activity includes: Transaction is requested for implementation by accused, defendants, or convicted person as prescribed by law on criminal procedures and assets in transaction are assets or originated from assets belonging to ownership or control of such individual or of individuals, organizations related to such individual, during or after time of conducting the criminal act;

b) The rational basis to doubt that assets in transaction related to money laundering is resulted from consideration and analysis of doubtful signs as prescribed in Clauses 2, , 3, 4, 5, 6, 7 Article 22 of Law on prevention and combat of money laundering.

2. The reporting subjects shall detect and report to the State bank of Vietnam about other doubtful signs apart from signs stated in Clauses 2, 3, 4, 5, 6, 7 Article 22 of Law on prevention and combat of money laundering. The reporting subjects shall update, review and detect

according to doubtful signs which are prescribed additionally by the Prime Minister according to Clause 8 Article 22 of Law on prevention and combat of money laundering.

3. Report on doubtful transaction does not depend on the transaction amounts of clients, such transactions have finished or not or just intend implementation.

4. Independent lawyers, notaries, accountants and legal experts just must report doubtful transactions when:

a) On behalf of clients, conducting the transactions to transfer land use rights, house ownerships, enterprise ownership;

b) Managing money, securities or other assets for clients;

c) Conducting the transaction or managing accounts for clients at financial institutions;

d) Executing, managing activities of company for clients.

#### **Article 15. Performing declaration, providing information of transporting the cash, precious metals, gems and negotiable instruments crossing border**

1. Individuals carry foreign currency in cash, Vietnam dong in cash, precious metals, gems and negotiable instruments (bills of exchange, promissory notes, cheques and other negotiable instruments) of more than the provided level must declare customs when they enter or exit country.

2. The General Department of Customs shall promulgate the set form and guide individuals to perform declaration in accordance with Clause 1 of this Article.

3. The General Department of Customs shall provide for the State bank of Vietnam:

a) Monthly provide information which have been made declaration according to Clause 1 of this article according to the criteria: Full name of individuals enter and exit country; passport number or valid papers for entering and exiting country; nationality, time of entering and exiting; name of border gate for entering and exiting; destination (for the exit persons) or departure place (for the entry persons); address in Vietnam; value of foreign currencies in cash, Vietnam dong in cash, precious metals, gems or negotiable instruments which have been declared;

b) Other information as prescribed by law.

#### **Article 16. Time limit of report**

1. Time limit of report is calculated as follows:

a) Daily report for form of report by sending electronic data file is calculated according to day of arising transaction;

b) Time limit of report in form of written report or other forms, including report on doubtful transaction, is calculated from the day of arising transaction till day printed on envelop of report which are affixed seal by postal delivery organization or the day when the State Bank of Vietnam receive direct report from the reporting subjects.

2. The reporting subjects may select forms to report on transactions with big value and electronic remittance transactions according to 1 in 2 forms specified in point a or point b, clause 1, Article 26 of the Law on prevention and combat of money laundering.

3. The reporting subjects who select form of report other than electronic data file shall register such form to the State bank of Vietnam. The State bank of Vietnam must be notified about change of form to report on transaction with big value and electronic remittance transaction. Time of notification is calculated according to day printed on envelop of report which are affixed seal of notification by postal delivery organization or the day when the State Bank of Vietnam receive direct report. Time limit to send report in accordance with regulation is calculated from the day following day of notification.

4. Time limit to send report on doubtful transaction as prescribed in clause 2, Article 26 of the Law on prevention and combat of money laundering is calculated from time of arising transaction. If a reporting subject detects doubtful signs of a transaction but such transaction has been performed before time limit of report as prescribed, the subject still must send report on doubtful transaction in day of detecting such doubtful signs. Day of detecting doubtful signs is defined on day when the reporting subject proactively detect or compulsorily detect doubtful signs as considered according to actual and objective circumstance happening such doubtful transaction.

5. Report on transactions with signs related to crimes must concurrently send to the State bank of Vietnam and competent state agencies. The competent state agencies include Public Security agencies or the People's Procuracy at district level or higher where transaction with signs related to crimes is detected.

6. Crimes mentioned in this Article are the convicted crimes under judgment of People's Court at all levels. The Ministry of Public Security shall coordinate with the Supreme People's Procuracy and the Supreme People's Court in summing up, providing and updating biannually (within 10 last days of June and December every year) list of offenders serving a sentence at time of providing to the State Bank of Vietnam so as to warn to the reporting subjects according to Law on prevention and combat of money laundering. The State bank of Vietnam shall receive list of offenders, design the plans, notify and update this list; concurrently guide in details of access into list for the reporting subjects.

7. Time limit to send report on transactions with signs related to crimes is calculated according to working days when the reporting subjects detect or compulsorily detect the signs related to crimes as considered according to actual and objective circumstance when such transactions happen.

## **Article 17. Responsibilities for report and information provision**

1. The reporting subjects must provide dossiers, documents already archived and relevant information in accordance with the requested time limit. The State bank of Vietnam and other competent state agencies must define time limit when they request for providing dossiers, documents already archived and relevant information as prescribed in Law on prevention and combat of money laundering. Time limit to request for providing dossiers, documents and relevant information should be defined in conformity with the urgent extent of problems, actual and objective circumstances and ability to provide of objects requested for provision.

2. Agency for prevention and combat of money laundering under The State bank of Vietnam has right to request all the reporting subjects and relevant agencies, organizations and individuals for providing dossiers, documents already archived and information related to transactions reported as prescribed in Law on prevention and combat of money laundering.

3. Dossiers, documents already archived and relevant information are only provided directly to the following competent state agencies:

a) Public Security agencies or the People's Procuracy at district level or higher, for transactions related to crimes already reported according to Clause 2 Article 26 of Law on prevention and combat of money laundering;

b) Investigation agencies or the People's Procuracy at all levels, for transactions related to criminal cases and clients have had decision on prosecuting a case and decision on prosecuting a person as the accused. Heads or Deputy Heads of these agencies will be persons signing on requests for providing dossiers, documents and relevant information;

c) Agencies of investigation security if transactions related to objects that are doubted on crimes infringing national security. Heads or Deputy Heads of these agencies will be persons signing on requests for providing dossiers, documents and relevant information;

d) Taxation agencies, agencies with function of initial investigation, if transaction related to individuals or organizations which are doubted on violation of law on tax, law on customs or other relevant laws. Requests for information provision must be signed by heads, deputy heads of taxation agencies, agencies with function of initial investigation;

dd) Agencies of State Inspectorate, agencies assigned implementation of specialized inspectorate function, when they perform tasks according to decisions on inspection, examination promulgated by competent authorities.

4. Provision of dossiers, documents already archived and relevant information is performed once at request of competent agencies. In necessary case, such provision may be performed many times but it must be clarified in request for information provision. When having requested for provision for many times, the competent agencies shall notify about stopping the provision of dossiers, documents and information for organizations and individuals which no longer lay in cases subject to provision of information, dossiers and documents.

#### **Article 18. Report on money laundering with the aim to finance for terrorism**

1. Act of money laundering with the aim to finance terrorism is act of organization or individual aiming to perform origin legalization of assets acquired from criminal activity in order to finance terrorist organizations and individuals or to finance terrorist act.

2. Grounds to assume that organization or individual conducting act related to crime of money laundering with the aim to finance terrorism include:

a) Conducting or intending implementation of transactions related to organizations and individuals according to list in relevant Resolutions of United Nations Security Council;

b) Conducting or intending implementation of transactions related to organizations and individuals according to list of organizations and individuals involving terrorism and financing to terrorists which are set out by other international organizations or other countries and being warned by the State bank of Vietnam;

c) Conducting or intending implementation of transactions related to organizations and individuals which have been convicted about crimes involving terrorism and financing to terrorists in Vietnam;

d) Conducting or intending implementation of transactions related to organizations and individuals involving terrorism and financing to terrorists which the reporting subjects have known from other information sources.

3. Timely report as prescribed in clause 1, Article 30 of the Law on prevention and combat of money laundering is report as soon as detecting that organizations or individuals conducting transactions lay in black list or as soon as having grounds stated in Clause 2 of this Article.

4. The State Bank of Vietnam shall guide the reporting subjects to perform Clause 1 Article 30 of Law on prevention and combat of money laundering in accordance with law on prevention and combat of money laundering and law on prevention and combat of terrorism.

5. The reporting subjects must apply the prevention measures stated in Article 3, Article 4, Article 5, Article 6, Article 8, Article 10, Article 13, and Article 14 of this Decree so as to ensure timely report as prescribed in Clause 3 of this Article.

## **SECTION 2. COLLECTION, HANDLING AND TRANSFER OF INFORMATION ABOUT PREVENTION AND COMBAT OF MONEY LAUNDERING**

### **Article 19. Collection, handling of information**

1. Agency for prevention and combat of money laundering under The State bank of Vietnam shall be responsible for receipt, collection of information, documents and dossiers related to the reported transaction as prescribed in Law on prevention and combat of money laundering.

2. Agency for prevention and combat of money laundering under The State bank of Vietnam has right to request the relevant organizations and individuals (the reporting subjects, agencies,

organizations and individuals storing dossiers, documents related to transactions and parties related to transactions), for providing information, documents, dossiers and other information, which are necessary for analysis, transfer of information about money laundering.

## **Article 20. Information transfer**

1. Agency for prevention and combat of money laundering under The State bank of Vietnam shall be responsible for transfer of information or dossiers of cases to the competent investigation agencies when there are rational grounds to doubt that transactions stated in information and report related to money laundering or conducted for money laundering which aims to finance terrorism.

2. Grounds to doubt that transactions stated in information and report related to money laundering will be considered as rational grounds when:

a) Transactions related to organizations and individuals laying in back list;

b) Transactions related to organizations and individuals which are objects subject to investigation, prosecution and adjudication of functional agencies of Vietnam and other countries, territorial regions in the world;

c) Transactions related to organizations and individuals which lay in warning list of the State bank of Vietnam and other countries, territories in the world;

d) Transactions related to convicted persons as prescribed by law on criminal procedures;

dd) Transactions performed in very short duration related to many organizations and individuals in many various countries and territories without economic basis or with insufficient vouchers of transaction;

e) Other transactions which agency for prevention and combat of money laundering, under the State bank of Vietnam, based on actual experiences and international experiences to realize that they may relate to the criminal activities.

3. Grounds to define an act relating to money laundering with the aim to finance terrorism:

a) Provision in Clause 2 Article 18 of this Decree;

b) Other transactions which agency for prevention and combat of money laundering, under the State bank of Vietnam, based on actual experiences and international experiences to realize that they may relate to activities of money laundering with the aim to finance terrorism.

4. The competent investigation agencies stated in Clause 1 of this Article include:

a) Investigation agencies under the Ministry of Public Security;

- b) Investigation agencies under the Ministry of National Defense;
- c) Investigation agencies under the Supreme People's Procuracy;
- d) Agencies competent to initial investigation.

5. The competent investigation agencies as prescribed in Clause 4 of this Article, when receive information or dossiers of cases as prescribed in Clause 1 of this Article, shall classify, solve as prescribed by law on criminal procedures involving receipt and settlement of report or denouncement of crimes and store information, reports, documents already received according to the secret regime, and have feedback to agency for prevention and combat of money laundering, under the State bank of Vietnam, as soon as having result of handling.

### **Article 21. Information exchange**

1. The State Bank of Vietnam shall coordinate and exchange information with competent agencies, as prescribed in Article 32 of Law on prevention and combat of money laundering, in the following cases:

- a) At the requests of competent investigation agencies;
- b) At the requests of the People's Procuracies at all levels; Military Procuracies at all levels;
- c) At the requests of People's Courts at all levels; Military Courts at all levels.

2. Competent agencies as prescribed in Clause 1 of this Article shall archive information, reports and documents received in according to the secret regime and notify relevant result of handling to the agency for prevention and combat of money laundering, under the State bank of Vietnam as prescribed by law.

3. The State bank of Vietnam shall take the initiative in and exchange with relevant Ministries, sectors and units the following information:

- a) Information of transaction, organizations and individuals which are doubtful to have violations of law with the aim to prevent and combat money laundering;
- b) Information about inadequacy in mechanism, policy, activities of state management with the aim to prevent and combat money laundering.

4. The State bank of Vietnam, competent agencies as prescribed in this Article and relevant Ministries and sectors may sign regulations of coordination and information exchange so as to create conditions for fast and effective coordination and information exchange.

## **SECTION 3. APPLICATION OF TEMPORARY MEASURES**

### **Article 22. Postponement in transaction**

1. Postponement in transaction as prescribed in Article 33 of Law on prevention and combat of money laundering is refusal for implementation of transaction not more than 3 working days from the day beginning application of this measure and it is form of temporary blockade before the competent state agencies issue a formal decision. If passing 3 working days as from the day beginning application of transaction postponement measure, the reporting subjects fail to receive any feedback from the competent state agencies; they are entitled to conduct transaction.

2. The reporting subjects must apply the transaction postponement measure as soon as detecting that the relevant parties lay in black list.

3. Reasons to believe that a transaction requested for implementation relates to criminal activities include:

a) Transactions are requested for implementation by a convicted person as prescribed by law on criminal procedures and assets in such transactions are originated from assets belonging to ownership or control of such individual or assets of organization in which such individual has ownership or control right during or after time of conducting criminal activity;

b) Transactions as prescribed in Clause 2 Article 18 of this Decree.

4. When applying the transaction postponement measure, the reporting subjects must report immediately in writing and notify immediately by telephone to competent state agencies, concurrently report to the State bank of Vietnam for coordination.

5. In necessary case, the State bank of Vietnam and competent state agencies have right to request the reporting subjects for performing the transaction postponement measure.

6. The competent state agencies specified in Clause 1, Clause 4, Clause 5 of this Article include:

a) Investigation agencies at all levels;

b) The People's Procuracies at all levels; Military Procuracies at all levels;

c) The People's Courts at all levels; Military Courts at all levels.

The competent state agencies mentioned above shall timely handle reports about application of transaction postponement measure as prescribed by law on prevention and combat of money laundering and law on prevention and combat of terrorism.

7. The reporting subjects shall not bear legal liability about consequences arising when applying transaction postponement measure in accordance with this Article.

### **Article 23. Blockade of accounts**

1. The reporting subjects shall conduct blockade of accounts when the competent state agencies issue decisions on blockade of accounts.

2. The Chief Justices of the Peoples' Courts, Chief Justices of the Military Courts, and Directors of the People's Procuracies, Directors of Military Procuracies, and heads of investigation agencies have competence to issue decision on requesting the reporting subjects for application of account blockade and take responsibility for such decisions.

3. A decision on account blockade must be presented in writing, and minimally include the following content: Account number or name of relevant organization, individual; name of the reporting subject who must conduct measure of account blockade; time, time limit to apply measure of account blockade; reason of requesting for conducting measure of account blockade.

4. The reporting subjects must report to the State bank of Vietnam as soon as conducting measure of account blockade as prescribed in Clause 1 of this Article.

5. The State bank of Vietnam shall coordinate with relevant agencies in handling the blocked accounts as prescribed in Clause 1 of this Article.

### **Chapter 3.**

## **RESPONSIBILITIES OF STATE AGENCIES IN PREVENTION AND COMBAT OF MONEY LAUNDERING**

### **Article 24. Responsibilities of the State bank of Vietnam**

1. To be responsible before Government to execute state management on prevention and combat of money laundering through the following measures:

a) To coordinate with the Ministry of Justice in submitting the program on elaborating legal documents about prevention and combat of money laundering to Government;

b) To assume the prime responsibility for, and coordinate with relevant Ministries and sectors in, periodically assessing risks of money laundering in Vietnam; formulating and submitting to competent authorities for approving and promulgating strategies, national plans on the prevention and combat of money laundering;

c) To coordinate with Ministry of Internal Affairs, the Ministry of Finance and relevant Ministries and sectors in, reviewing, summing up, reporting and proposing plans, measures to ensure organizational structure, human, financial and technical resources for units in charge of prevention and combat of money laundering;

d) To assist the Prime Minister in directing ministries and sectors to coordinate with the Supreme People's Court and the Supreme People's Procuracy in prevention and combat of money laundering and prevention and combat of terrorist donation.

2. To promulgate documents guiding implementation of legal provisions on prevention and combat of money laundering.

3. To timely notify competent agencies of prevention and combat of terrorism information about act of money laundering with the aim to finance terrorism as prescribed in Clause 3 Article 20 of this Decree and law on prevention and combat of terrorism.

4. To cooperative, exchange, provide information with domestic competent agencies as prescribed in Article 20 and Article 21 of this Decree.

5. To inspect, examine, supervise activities of prevention and combat of money laundering in respect to the reporting subjects under its state management responsibility; handle or propose competent authorities for handling for violations of law on prevention and combat of money laundering.

6. International cooperation in prevention and combat of money laundering:

a) To propose competent authorities; assume the prime responsibility for, and coordinate with the Ministry of Foreign Affairs, relevant ministries and sectors in, negotiating, signing and organizing implementation of International treaties, international agreements on prevention and combat of money laundering;

b) To act as focal agency in negotiating, signing international agreements on exchanging information about prevention and combat of money laundering; exchanging information with foreign agencies for prevention and combat of money laundering, and other foreign agencies and organizations as prescribed in Article 27 of this Decree;

c) To act as focal agency in participating in implementation, carrying out Vietnam's obligations with role as member of international organizations for prevention and combat of money laundering;

d) To act as focal agency in researching, training, supporting information, techniques and exchanging experiences in prevention and combat of money laundering.

7. To perform other responsibilities specified in Article 37 of Law on prevention and combat of money laundering.

#### **Article 25. Responsibilities of the Ministry of Public Security**

1. To receive, collect and handle information which is transferred by Agency for prevention and combat of money laundering under The State bank of Vietnam, information which is provided by the reporting subjects as prescribed in Law on prevention and combat of money laundering and this Decree; notify relevant result of handling to Agency for prevention and combat of money laundering.

2. Annually, to sum up criminal cases involving money laundering and exchange result with the State bank of Vietnam; coordinate with the State bank of Vietnam in elaborating documents for popularization and warning about new methods, tricks, and activities of domestic and foreign money laundering offenders.

3. Annually, to send reports on summing up implementation of responsibilities of the Ministry of Public Security in prevention and combat of money laundering in Vietnam's territory to the State bank for summing up and submitting to Government.

4. To assume the prime responsibility for, and coordinate with relevant Ministries and sectors in proposing elaboration, promulgation or promulgating, under its competence, legal documents in activities of fight, prevention and combat of money laundering.

5. To perform other responsibilities specified in Article 38 of Law on prevention and combat of money laundering.

#### **Article 26. Responsibilities of other Ministries and sectors**

1. To coordinate with the State bank of Vietnam in performing state management of prevention and combat of money laundering:

a) Researching, proposing completion of legal framework on prevention and combat of money laundering in their management fields;

b) Periodically assessing and proposing measures to handle risks of money laundering in their management fields;

c) Appointing and ensuring the organizational structure, human, financial and technical resources for focal units and units in charge of on prevention and combat of money laundering under their ministries, sectors.

2. Guiding, directing units in system and the reporting subjects under their management competence in carrying out measures to prevent and combat money laundering.

3. Conducting inspections and examination over activities of prevention and combat of money laundering in respect to the reporting subjects under their management competence.

a) Periodically conducting inspections and examinations or conducting inspections and examinations at the request of Agency for prevention and combat of money laundering under The State bank of Vietnam; notifying result of inspections and examinations to Agency for prevention and combat of money laundering under The State bank of Vietnam;

b) Notifying Agency for prevention and combat of money laundering under The State bank of Vietnam about doubtful transactions which they have received or detected during the course of inspection and examination;

c) Handling and proposing competent authorities for handling, in respect to violations of law on prevention and combat of money laundering.

4. Coordinating and exchanging information with The State bank of Vietnam and relevant Ministries, sectors and units:

a) To sum up to send and notify immediately when there is change in list of the reporting subjects under management responsibility of their ministries and sectors to the agency for prevention and combat of money laundering, under the State bank of Vietnam;

b) To coordinate in exchanging and handling information as prescribed in Article 21 of this Decree;

c) To coordinate, exchange, supply, handle information in the course of inspection, investigation, prosecution, adjudication involving activities of money laundering.

5. Annually, to make summing reports about implementation of prevention and combat of money laundering and send them to the State Bank of Vietnam for summing up and submitting to Government.

6. To perform other responsibilities specified in Law on prevention and combat of money laundering.

7. Other Ministries and sectors specified in this Article mean Ministries and sectors managing the reporting subjects stated in Clauses 3, 4 Article 4 of Law on prevention and combat of money laundering, including:

a) The Ministry of Finance manages the reporting subjects which perform one or some following activities: Consultancy, guarantee for securities issue, agent of securities distribution; management of investment capital list; management of cash or securities for other organizations or individuals; provision of insurance and investment services related to life insurance; provision of accounting service; trading in games with prizes, casino;

b) The Ministry of Finance manages the reporting subjects which perform one or some following activities: Trading in service of real estate management, service of real estate brokerage; trading in real estate transaction floor;

c) The Ministry of Natural Resources and Environment manages the reporting subjects which perform one or some following activities: Trading in service of land management, purchase and sale brokerage, transfer of land use right;

d) The Ministry of Planning and Investment manages the reporting subjects which perform one or some following activities: Service of investment entrustment; service of establishment, management, administration of enterprises; service of provision of directors, clerks of enterprises to the third party;

dd) The Ministry of Justice manages the reporting subjects which perform one or some following activities: Provision of notarization service, legal services of lawyers, law-practice organizations;

e) The Ministry of Industry and Trade manages the reporting subjects which perform activities of trading in precious metals and gems.

## **Chapter 5.**

### **INTERNATIONAL COOPERATION IN PREVENTION AND COMBAT OF MONEY LAUNDERING**

#### **Article 27. International cooperation in exchanging information and documents involving prevention and combat of money laundering**

1. Types of information and documents allowed exchanging and providing for foreign partners:

a) Legal documents, general information about mechanism, policy in prevention and combat of money laundering; general information about prevention and combat of money laundering in each field; information about international cooperation in prevention and combat of money laundering;

b) Information in official report about implementation of Resolutions of United Nations Security Council;

c) Information, reports in framework to perform international treaties, commitments and memorandums which Vietnam has signed or acceded;

d) General and detailed information to support for course of handling doubtful transaction;

dd) General and detailed information to support for course of investigation, prosecution and adjudicate of offenders;

e) Other information which are summed up by the State bank of Vietnam as a focal agency to submit to Government for decision.

2. Forms of exchanging, providing information and document:

a) Information, documents and request for providing information, documents stated in points a, b, c clause 1 of this Article may be made in writing or email, facsimile or other electronic means;

b) Information, documents and request for providing information, documents stated in points d, dd and e clause 1 of this Article must be made in writing.

3. Content of request

a) Written request for exchanging, providing information and document minimally includes the following information: Name of the requested organization or country, address, telephone number, facsimile number, email; name of the requesting organization or country, address, telephone number, facsimile number, email; specific information which needs be exchanged, provided; basis, reason of request for exchanging and providing information; subjects and purpose of using the provided information, documents; time limit of request for exchanging, providing information; characteristics in details of support case for determining place storing

information, documents which need be exchanged or provided; copies of vouchers, evidences or final judgment of competent agencies of the requesting country; name and position of person competent to sign on the written request, affixing seal of the requesting organization (if any);

b) Letters, facsimiles requesting for exchanging, providing information must include the following information: Name of the requested organization or country, name of the requesting organization or country, address, facsimile number, email; specific information which needs be exchanged, provided; basis, reason of request for exchanging and providing information; subjects and purpose of using the provided information, documents; time limit of request for exchanging, providing information; name and position of person signing on the written request.

4. Request for exchanging, providing information may be refused in the following cases:

a) Information requested for exchanging or providing may cause harms to the sovereignty, national security or other important interests of Vietnam;

b) Information requested for exchanging or providing does not conform to international treaties of which the Socialist Republic of Vietnam is a member, international agreements which Vietnam has signed or acceded to and other regulations of Vietnamese laws.

c) Requests for exchanging or providing information fail to contain sufficient contents as prescribed in Clause 3 of this Article;

5. Agencies and organizations have right of international cooperation in exchanging and providing information about prevention and combat of money laundering:

a) The State bank of Vietnam has competence to perform or act as focal agency in exchange and provision of information specified in Clause 1 of this Article;

b) The Ministry of Foreign Affairs shall assume the prime responsibility for, and coordinate with relevant agencies in providing or guiding relevant agencies in providing information specified in point b, c Clause 1 of this Article;

c) The Ministry of Public Security, the Ministry of Justice shall, depend on their functions and tasks, coordinate with the Supreme People's Procuracy, the Supreme People's Court , in performing or acting as focal agency in performing the exchange and provision of information as prescribed in point dd Clause 1 of this Article;

d) Ministries, sectors and other agencies under Government shall, depend on their functions and tasks, conduct performing the exchange and provision of information specified in point a Clause 1 of this Article, concurrently notify timely in writing about content, time, relevant parties and other international cooperation programs to the State bank of Vietnam or agencies specified in point c of this Clause.

## **Article 28. International cooperation in determining and blocking assets of money laundering offenders**

1. Orders of and procedures for determining and blocking assets of money laundering offenders shall comply with Law on legal assistance, International treaties of which the Socialist Republic of Vietnam is a member, Code of criminal procedures and other provisions of relevant laws.

2. Request for determining and blocking assets in Vietnam of overseas money laundering offenders must satisfy contents in requirement in point a Clause 3 Article 27 of this Decree and be send to the Ministry of Justice enclosed with decision or judgment of Court in which individual possesses assets being requested for determination and blockade in Vietnam is sentenced to be money laundering offender.

### **Article 29. Performing legal assistance and cooperation in extradition of money laundering offenders**

1. Process of, procedures for and methods of legal assistance in prevention and combat of money laundering shall comply with Law on legal assistance and Code of criminal procedures of Vietnam, International treaties of which the Socialist Republic of Vietnam is a member, agreements of legal assistance between Vietnam and other countries.

2. Process of, procedures for and methods of cooperation in extradition of money laundering offenders shall comply with Law on legal assistance and Code of criminal procedures of Vietnam, International treaties of which the Socialist Republic of Vietnam is a member, agreements of legal assistance between Vietnam and other countries. The Ministry of Public Security shall act as focal unit in performing and requesting for extradition of money laundering offenders.

## **Chapter 6**

### **PROVISIONS OF IMPLEMENTATION**

#### **Article 30. Effect**

1. This Decree takes effect on October 10, 2013.
2. This Decree replaces Government's Decree No. [74/2005/ND-CP](#) dated June 07, 2005, on prevention and combat of money laundering.

#### **Article 31. Responsibility for implementation**

Ministers, Heads of ministerial-level agencies, Heads of Governmental agencies, chairpersons of People's Committees of provinces and central-affiliated cities, and relevant organizations and individuals shall implement this Decree.

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Tan Dung**