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Trade & Commerce

Money Laundering Sullies Global Commerce.

By Nguyen Thu Ha

[The article was published on Vietnam Investment Review prior to the issuance of the Decree No. 74/2005/ND-CP, dated 07 June 2005, on prevention and against of money laundering]

Legend has it that Al Capone, a disreputable American figure, used a string of coin-operated laundrettes to disguise his income from gambling, prostitution and other out law - operations.

Since then, “money laundering” has grown rapidly and become one of the most sophisticated criminal activities faced by authorities all over the world. Criminals and income-receivers from illegal operations are now taking advantages of the globalization of the world economy, the complexity of international transaction and the swift process in funds remittance. Estimates of the amount of money laundered globally in one year have reached trillions of dollars. This poses the real danger to the stability of the global financial market as well as the efforts of nations to crack down on criminal and terrorist activities.

According to international experts’ assessments, the weakness in inspection and supervision system in the banking industry, high demand for using cash, variety of methods for money remittance outside banking transactions have turned Vietnam into a vulnerable target country for laundering “dirty money”. Besides which, the rampant corruption has been regarded as a supporting factor encouraging money laundering in Vietnam.

Despite its susceptible status for money laundering, Vietnam has not enacted any regulations to cope with the situation which has caused difficulties in fighting activities and cracking down on the crime.

In addition, it is believed that the availability of a legal system governing the control of money laundering is a precondition for a country like Vietnam wishing to be a part of global economy and even a parameter to identify the development of a country in respect of both finance sector and jurisdiction power. For instance, the United States became the first country to make money laundering a crime and issued the most powerful law in 1986, which is the favoured weapon of prosecutors due to its heavy penalties and broad reach. Meanwhile, laws on money laundering have been recently issued in Thailand in 1999 and in the Philippines in 2001 following much urging from international watchdogs.

In fact, some Vietnamese state-owned banks of repute, which are domestically reliable thanks to their prudence and service quality meet with difficulties trying to set up subsidiary and representative offices overseas due to the lack of regulations on banking security and anti-money laundering in Vietnam. Therefore, for some Vietnamese enterprises, especially financial institutions, a legal instrument on anti-money laundering shall be regarded as a passport to enter some high-demanding markets.

Up to now there are only some prevailing regulations fighting against money laundering activities scattered in some articles of Criminal Code and Law on Credit Institutions. In November 2004, a draft Decree on Anti-money Laundering was completed by State Bank of Vietnam and submitted to the Government for discuss and issuance.

The draft Decree seems rather simple with the inclusion of only five chapters and 27 articles. However, some provisions are worthy to pay attention to, such as definitions on money laundering and suspected transactions and the methods to cope with money laundering. Accordingly, financial transactions over VND200,000,000 in cash, gold or foreign currency, and deposits over VND500,000,000 must be reported to an authority in charge which will be established as the Information Center for Anti-money Laundering. The draft decree also provides a series of criteria to define suspected transactions. Temporary methods are also provided to cope with anti-money laundering, including bank account blockage, sealing up and confiscation of property and other lawful methods.

For all nations that have anti-money laundering laws, a financial intelligence agency shall be established. Similarly, an Information Center for Anti-money Laundering under the State Bank of Vietnam shall be established to receive and process information related to money laundering activities and to update and analyse all information on exchanges in finance, currency, and properties belonging to organizations, banks, and other entities.

Besides which, it shall also support inspector of the State Bank of Vietnam in the struggle against financial and currency crimes and enhancement of international cooperation in this field.

At present, specialised Departments of the State Bank of Vietnam have also been preparing circulars providing detailed guidance on functions and duties of Information Center for Anti-money Laundering and other issues provided in the draft decree to ensure that the smooth implementation of the decree in the future.

However, as this decree shall be the first ever issued legal instrument in the field and aim at building an effective legal system, new provisions should be considered and updated regularly to continuously and successfully deal with possible changes of the situation.

Other Sectors

Finance

- On May 16, 2005, the Ministry of Finance and the Ministry of Industry issued Interministerial Circular 36/2005/TTLT-BTC-BCN, guiding the management and using of the fee for economic carrier regarding industry encouragement activities.
- On May 18, 2005, the Ministry of Finance issued Circular 38/2005/TT-BTC, guiding the order, procedures of financial settlement upon setting up, re-organization and dissolution of the State owned companies.
- The Government issued Decree 65/2005/ND-CP on May 19, 2005, on amendment of and supplementation to a number of articles of Government's

Decree 16/2001/ND-CP, dated May 02, 2001, on the organization and operation of finance leasing company.

- Decision 29/2005/QD-BTC, dated May 20, 2005, of the Ministry of Finance, regulating the financial policy toward some sources of revenue of Vietnamese representative offices located overseas.
- Circular 40/2005/TT-BTC, dated May 25, 2005, of the Ministry of Finance, guiding the financial policy toward sanitary water supply project, used official development assistant source (ODA).
- Decision 31/2005/QD-BTC, dated May 27, 2005, of the Ministry of Finance, on adding to the List of project borrowing development investment credit capital of the State.
- On May 31, 2005, the Ministry of Finance issued Decision 32/2005/QD-BTC, on amendment of and supplementation to the Regulations on granting, using and management of the price evaluator card, issued together with Decision 21/2004/QD-BTC, dated February 24, 2004.
- On May 31, 2005, the Ministry of Finance issued the Regulations on examination and granting certificate of auditor and certificate of accounting practicing issued with Decision 59/2004/QD-BTC, dated July 02, 2004, of the Minister of Finance.
- Decision 34/2005/QD-BTC, dated June 02, 2005, of the Ministry of Finance, on termination of issuance of National construction bonds in 2005 – education bonds.
- The Ministry of Finance issued Circular 44/2005/TT-BTC, on June 03, 2005, guiding to form State budget forecast in 2006 and period of 2006-2010.
- Circular 45/2005/TT-BTC, dated June 06, 2005, of the Ministry of Finance, providing guidelines for the implementation of Decree 78/2003/ND-CP, dated July 01, 2003, Decree 151/2004/ND-CP, dated August 05, 2004, Decree 213/2004/ND-CP, dated December 24, 2004 and Decree 13/2005/ND-CP, dated February 03, 2005, of the Government, on issuing the List of goods and duty rates of Vietnam for the purpose of the implementation of Common Effective Preferential Tariff Agreement (CEPT) of Asian nations.
- On June 08, 2005, the Prime Minister issued Decision 135/2005/QD-TTg, on the approval of the orientation of management of debts to foreigner to 2010.
- On June 09, 2005, the Prime Minister issued Decision 136/2005/QD-TTg, on financial support from State budget for the enforcement of civil judgement.
- Circular 48/2005/TT-BTC, dated June 09, 2005, of the Ministry of Finance, guiding the implementation of Government's Decree 196/2004/ND-CP, dated December 02, 2004, with detailed regulation on the implementation of Ordinance on National reserve.
- The Prime Minister issued Decision 138/2005/QD-TTg, on June 13, 2005, on responsibility allowance for procurators, investigators and supervisors in procuracy sector.

- Decision 144/2005/QD-TTg, dated June 14, 2005, of the Prime Minister, on amendment of and supplementation to a number of articles of Regulation on financial management toward Vietnamese Social Insurance, issued together with Decision 02/2003/QD-TTg, dated January 02, 2003.

Currency & Banking

- On June 07, 2005, the Government issued Decree 74/2005/ND-CP, on money laundering prevention and combating.
- The State Bank of Vietnam issued Decision 783/2005/QD-NHNN, on May 31, 2005, on amendment of and supplementation to Clause 6, Article 1 of Decision 127/2005/QD-NHNN, dated February 03, 2005, on amendment of and supplementation to a number of articles of Regulation on lending of credit institutions, issued with Decision 1627/2001/QD-NHNN, dated December 31, 2001.

Health care

- Circular 17/2005/TT-BYT, dated May 23, 2005, of the Ministry of Health, guiding the business expenses and conference expenses toward dependent accounting estimating units under the Ministry of Health.

Construction

- Decision 81/2005/QD-UB, dated June 03, 2005, of the People's Committee of Hanoi, promulgating the price on new construction applied on residing house, temporary accommodation, architectural works in Hanoi.
- The Government issued Decree 71/2005/ND-CP, on June 06, 2005, on management of construction investment of particular works.

Transportation

- Decision 27/2005/QD-BGTVT, dated May 17, 2005, of the Ministry of Transportation, on the management of interior waterway.
- Decision 28/2005/QD-BGTVT, dated May 18, 2005, of the Ministry of Transportation, regulating the pennant, clothing, badge, sign, means, technical equipment of all levels of transport inspectors.

Insurance

- On May 16, 2005, the Government issued Decree 63/2005/ND-CP, on issuing health insurance regulations.

Customs

- On June 16, 2005, the Government issued Decree 79/ND-CP, on conditions of registration and operation of customs service agents.

Miscellaneous

- Government's Decree 67/2005/ND-CP, dated May 19, 2005, with detailed regulations on the implementation of a number of articles of the Ordinance on judicial examination.
- Government's Decree 68/2005/ND-CP, dated May 20, 2005, on safety of chemical.
- On May 26, 2005, the Government issued Decree 69/2005/ND-CP, on amendment of and supplementation to a number of articles of Government's Decree 48/2001/ND-CP, dated August 13, 2001, on the organization and operation of people's credit fund.
- The Prime Minister issued Decision 143/2005/QD-TTg, on June 14, 2005, on Overall Project on the relationship between Vietnam and European Union and Government's action program on the development of the relationship between Vietnam and European Union to 2010 and orientation to the year of 2015.
- The Prime Minister issued Decision 528/QD-TTg, on June 14, 2005, on the approval of the List of equitized enterprises selling shares by auction, listing and registration for transaction at Vietnam securities exchange centres.

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