

Vietnam: New law on anti-money laundering

In brief

On 15 November 2022, the National Assembly of Vietnam passed the new law on anti-money laundering ("**New Law**"), which will replace the Current Law¹ from 1 March 2023. Reporting entities as covered in the New Law should take into account certain key changes in anti-money laundering (AML) regulations.

Key takeaways

As a high-level comment, the amendments and supplementations made under the New Law are to implement the recommendations of the Financial Action Task Force (FATF). The New Law also finally excludes the regulations on peer-to-peer lending platform providers and virtual asset service providers, as introduced in the draft version. Nonetheless, the New Law mentions that the government, after being approved by the Standing Committee of the National Assembly, will provide regulations for any emerging/new activities that the reporting entities consider as posing a threat of money laundering and which are not yet covered under the New Law.

In particular, the New Law covers significant changes to the following:

- The scope of reporting entities
- New requirement on national money-laundering risk assessment and money-laundering risk assessment by the reporting entities
- AML measures
- Reporting high-value transactions, suspicious transactions and suspicious signs
- Time limit for reporting
- Obligation to retain customer data
- State authorities' responsibilities in preventing and combating money laundering

In depth

The scope of reporting entities

In addition to the financial institutions providing deposit, loan, or financial lease services as covered under the Current Law, organizations providing payment intermediary services (e.g., digital wallet services, collection and payment services) are now officially included in the New Law. Previously, such organizations were also subject to the reporting obligation under Government

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¹ Law No. 07/2012/QH13 on Anti-Money Laundering passed by the National Assembly on 18 June 2012 ("**Current Law**").

Decree No. 87/2019/ND-CP amending and supplementing a number of articles of Decree No. 116/2013/ND-CP dated 4 October 2013 detailing the implementation of a number of articles of the AML law. Entities that carry out "**life insurance business**" continue to be considered as reporting entities, while the New Law removes the wording "investment activities related to life insurance" when referring to reporting entities that carry out insurance business.

New requirement on national money-laundering risk assessment and money-laundering risk assessment from the reporting entities

The New Law provides **new requirements** on national money-laundering risk assessment ("**AML Assessment**"), which the Government must conduct every five years, and in which the State Bank of Vietnam (SBV) will take the lead and co-operate with other related ministries.²

On their own, the reporting entities must also conduct the AML Assessment, the results of which must be updated annually.³ If the reporting entity is an organization, the AML Assessment results and any relevant updates must be approved in accordance with the reporting entity's internal policies.⁴ The results of the assessment and relevant updates must be made publicly available throughout all departments/offices or the system of the reporting entities. The reporting entities must report the AML Assessment results and relevant updates to the SBV and to the ministries and branches of state authorities that manage the sector the reporting entities are operating. Results must be reported within 45 days from the date of AML Assessment completion for individual reporting entities, or from the date of the AML Assessment's approval for reporting entities that are organizations.⁵

The governor of the SBV will issue details on criteria and methods for assessing money laundering risks of the reporting entities.⁶

AML measures

KYC information

The New Law broadens the types of customers on which the reporting entities must carry out the KYC, and clarifies the scope of KYC information for each type of customer, which would include the following:⁷

- Vietnamese citizens
- Foreign individuals residing in Vietnam with single citizenship
- Non-resident foreign individuals with single citizenship
- Multiple citizenship individuals
- Stateless individuals
- Organizations

In addition, Article 10.3 of the New Law adds the "purpose and nature of the business relationship of the customer with the reporting entity" amongst the KYC information.

Sources to verify KYC information/hiring other organizations and KYC conducted via third parties

The New Law also allows reporting entities to collect information from national databases in accordance with law, through relevant authorities or other organizations, or from third parties, to compare and verify KYC information.⁸ With respect to customers that are organizations, the New Law allows the reporting entities to use, among other current sources, documents and data relating to the founder, legal representative of the organization, beneficial owner; and the charter of the organization.⁹

² New Law, Article 7.

³ New Law, Article 15.

⁴ New Law, Article 15.1.

⁵ New Law, Article 15.2.

⁶ New Law, Article 15.3.

⁷ New Law, Article 10.

⁸ New Law, Article 12.2.

⁹ New Law, Article 12.1(b).

Similar to the Current Law, reporting entities may hire other organizations to verify the KYC information.¹⁰ The New Law requires reporting entities to ensure the hired organizations keep confidentiality obligations in accordance with the law and be responsible for the results of verifying the KYC information of the hired organizations.¹¹

The Current Law allows the reporting entities to conduct KYC via intermediaries. However, the New Law no longer uses the term "intermediaries" but refers to them as "third parties",¹² and still sets forth several conditions that the third parties must satisfy. The New Law also adds requirements in case the third parties are financial institutions and have the parent company which is a financial institution.¹³

Customer classification in terms of risks on money-laundering

Based on the AML Assessment results of the reporting entities, the reporting entities must develop a procedure to manage the risk of money laundering ("**AML Procedure**"), which must include the rules for customer classification according to low, average or high risk, and the relevant measures that would apply to customers' level of risk for money-laundering.¹⁴

Politically exposed persons (PEPs), correspondent banks and new products/services

The New Law broadens the scope of PEPs to include foreign individuals with political influence who hold senior positions in international organizations, in addition to senior positions in the organizations and bodies of foreign countries.¹⁵ The New Law also adds that reporting entities can use other sources of information besides the list announced by the SBV to prepare the list of PEPs applicable to the reporting entities. In addition, the New Law also sets out more requirements that the reporting entities must apply against PEPs and their related persons.

The New Law also sets out more requirements for the reporting entities to apply in terms of PEPs and their related persons, correspondent banks, and towards new products/services, or existing products/services applying innovative technologies.¹⁶

Reporting high-value transactions and suspicious transactions and suspicious signs

Similar to the Current Law, reporting entities still have an obligation to report to the SBV when conducting high-value transactions and suspicious transactions.¹⁷ With respect to suspicious transactions, the New Law clarifies the elements of suspicious transactions that are subject to reporting obligations, including the case upon learning/having reasonable grounds that the transaction was carried out at the request of the accused, the defendant, or the convicted person, and that the assets in the transaction belong to the accused, the defendant, or the convicted person.¹⁸

The New Law continues to set out a list of basic suspicious signs and suspicious signs in various sectors, including in the banking, payment intermediary, life insurance, securities, business of games with prizes, and real estate business sectors.¹⁹

Time limit for reporting

The New Law covers several changes to the time limit for reporting. Under the New Law, the time limit for reporting high-value transactions and electronic money transfers is within one (1) working day from the date of the transaction.²⁰ The time limit for reporting suspicious transactions under the New Law is within three (3) working days from the date of the transaction or within one working day from the date the suspicious transactions are discovered.²¹ In case suspicious transactions indicating criminal activity

¹⁰ New Law, Article 13.1.

¹¹ New Law, Article 13.2.

¹² New Law, Article 14.

¹³ New Law, Article 14.2.

¹⁴ New Law, Article 16.1.

¹⁵ New Law, Article 17.1.

¹⁶ New Law, Article 17, 18 and 19.

¹⁷ New Law, Articles 25 and 26.

¹⁸ New Law, Article 26.1.

¹⁹ New Law, Articles 27-33.

²⁰ New Law, Article 37.1.

²¹ New Law, Article 37.2.

are detected upon the request of customers, the reporting entities need to report to relevant authorities and the SBV within 24 hours from the date of such detection.²²

Obligation of retaining customers' data

The New Law continues to clarify the types of information and documents that need to be retained for AML. Similar to the Current Law, the retention time limit is five years.

The New Law also clarifies that the managers and employees of reporting entities are not allowed to disclose information about having reported suspicious transactions or information related to suspicious transactions to the SBV.

Responsibilities of state authorities in preventing and combating money-laundering

The SBV is still the state body that is mainly responsible before the government in managing AML. It cooperates with other state authorities to prevent and combat money laundering. The Ministry of Public Security also works closely with the SBV and receives information on AML crimes from people and organizations that prepare the list of organizations and individuals linked to terrorism and terrorist financing. The Ministry of Defense will work with the SBV to prepare the list of organizations and individuals related to proliferation financing. The New Law also sets out the responsibilities of other state authorities involved, including the Ministry of Finance, the Ministry of Construction, the Ministry of Industry and Trade, the Ministry of Planning and Investment, the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Information and Communications and other ministries and sectors, the People's Procuracy, the People's Court, and the People's Committees at all levels.

²² New Law, Article 37.3.

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