



**1<sup>st</sup> Follow-Up Report**

# Mutual Evaluation of Vietnam

June 2023

[Updated January 2025]



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# VIETNAM

## 1<sup>ST</sup> ENHANCED EXPEDITED FOLLOW-UP REPORT JUNE 2023

[UPDATED JANUARY 2025]

### I. INTRODUCTION

1. The mutual evaluation report (MER) of Vietnam was adopted in 2022.
2. This FUR analyses the progress of Vietnam in addressing the technical compliance requirements of the recommendations being re-rated. Technical compliance re-ratings are given where sufficient progress has been demonstrated.
3. This report does not analyse any progress Vietnam has made to improve its effectiveness.
4. The assessment of Vietnam's request for technical compliance re-ratings and the preparation of this report was undertaken by the following experts:
  - *Joseph Dixon, Financial Transactions & Reports Analysis Centre of Canada, Canada*
  - *Farahnaz binti Ibrahim, Banking Supervision Department, Bank Negara Malaysia, Malaysia*
  - *Jack Matthews, Assistant Director, Attorney General's Department, Australia*
  - *Rick Wang, Financial Supervisory Commission, Chinese Taipei*
  - *Markus Welz, European Commission*
  - *Yi Zhang, Policy & Coordination Division, AML Bureau, People's Bank of China, China*
5. The preparation of the report was supported by Gavin Raper from the APG Secretariat.
6. Section III of this report summarises the progress made to improve technical compliance. Section IV contains the conclusion and a table illustrating Vietnam's current technical compliance ratings.

### II. FINDINGS OF THE MUTUAL EVALUATION REPORT & FOLLOW-UP

7. Vietnam's 2022 MER ratings<sup>1</sup> are as follows:

R.	Rating	R.	Rating
1	PC (2022 MER)	21	PC (2022 MER)
2	LC (2022 MER)	22	PC (2022 MER)
3	PC (2022 MER)	23	PC (2022 MER)

<sup>1</sup> There four possible levels of technical compliance are: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC). Effectiveness ratings for the 11 Immediate Outcomes are: Low, Moderate (Mod), Substantial or High.

R.	Rating	R.	Rating
4	LC (2022 MER)	24	PC (2022 MER)
5	LC (2022 MER)	25	PC (2022 MER)
6	PC (2022 MER)	26	PC (2022 MER)
7	NC (2022 MER)	27	PC (2022 MER)
8	LC (2022 MER)	28	PC (2022 MER)
9	LC (2022 MER)	29	PC (2022 MER)
10	PC (2022 MER)	30	C (2022 MER)
11	PC (2022 MER)	31	LC (2022 MER)
12	NC (2022 MER)	32	LC (2022 MER)
13	PC (2022 MER)	33	C (2022 MER)
14	PC (2022 MER)	34	PC (2022 MER)
15	NC (2022 MER)	35	NC (2022 MER)
16	PC (2022 MER)	36	LC (2022 MER)
17	PC (2022 MER)	37	LC (2022 MER)
18	PC (2022 MER)	38	PC (2022 MER)
19	PC (2022 MER)	39	LC (2022 MER)
20	PC (2022 MER)	40	LC (2022 MER)

IO 1	IO 2	IO 3	IO 4	IO 5	IO 6	IO 7	IO 8	IO 9	IO 10	IO 11
Mod	Mod	Low	Low	Low	Low	Low	Sub	Sub	Low	Low

8. Given these results, Vietnam was placed on enhanced (expedited) follow-up.<sup>2</sup>

### III. PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

9. In keeping with the APG ME Procedures and the Assessment Methodology, this FUR considers progress made up until 1 June 2023 and the analysis has considered progress to address the deficiencies identified in the MER and the entirety (all criteria) of each Recommendation under review, noting that this is cursory where the legal, institutional, or operational framework is unchanged since the MER. This section summarises the progress made by Vietnam to improve its technical compliance since the MER.

#### 3.1. Progress to address technical compliance deficiencies identified in the MER

10. Vietnam requested re-ratings of R. 15 (which was rated NC); and R.1, R.10, R.11, R.13, R.14, R.16, R.17, R.18, R.19, R.20, R.21, R.22, R.23, R.24, R.25, R.26, R.27 and R.29 (which were rated PC).

11. The APG welcomes the steps that Vietnam has taken to improve its technical compliance with R.1, R.10, R.11, R.13, R.14, R.15, R.16, R.17, R.18, R.19, R.20, R.21, R.22, R.23, R.24, R.25, R.26, R.27

<sup>2</sup> There are three categories of follow-up based on mutual evaluation reports: regular, enhanced and enhanced (expedited). For further information see the APG Mutual Evaluation Procedures.

and R.29. As a result of this progress, Vietnam has been re-rated on R.13. However, insufficient progress has been made to justify a re-rating of R.1, R.11, R.10, R.14, R.15, R.16, R.17, R.18, R.19, R.20,<sup>3</sup> R.21, R.22, R.23, R.24, R.25, R.26, R.27 and R.29.

**Recommendation 1 [R.1] (Originally rated partially compliant)**

12. Vietnam was rated PC for R.1 in its 2022 MER. Deficiencies included gaps in identifying and assessing certain ML/TF risks and measures to address identified risks and a risk-based approach in allocating resources and implementing preventive measures. There is no mandate for reporting entities (REs) to undertake enhanced measures to manage or mitigate the risks associated with higher risk areas identified in the national risk assessment (NRA). The internal regulations established by REs are intended to manage and mitigate the risks identified by REs, rather than those identified by the country. Additionally, there was no requirement for REs to strengthen their controls if deemed necessary. The 2022 FUR has highlighted that Vietnam has made progress in the process of finalising and publishing its 2018-2022 ML/TF NRA which includes conducting a national threat and vulnerability assessment of ML. Moreover, sectoral vulnerability assessments have been conducted across nine areas, including banking, securities, insurance, other FIs, financial inclusion products, DNFBPs, virtual assets, legal persons and legal arrangements, and beneficial owners, as well as environmental crimes.

13. **Criterion 1.1** is *partly met*: Vietnam's second NRA of ML risk was in draft awaiting government approval at the time of reporting progress. The review team was unable to review the draft NRA, but Vietnam indicated it is intended to address deficiencies identified in the MER including assessment of legal entities and legal arrangements (including foreign trusts), human trafficking (including sexual exploitation), illegal transportation of goods and currency across borders, and organised crime. Vietnam advised the risk assessment process used tools provided by the World Bank, incorporated a wide range of quantitative and qualitative information sources and included input from the private sector and self-regulatory bodies. Vietnam further indicated that the NRA utilised quantitative information collected from ministries, agencies, state management authorities, national databases and from reports of international organizations.

14. For the assessment of TF risk, in August 2023, Vietnam issued Resolution No. 21/NQ-CP approving the TF risk assessment for the period 2018-2022. The Ministry of Public Security (MPS) led the risk assessment which followed a similar process to the NRA on ML. The risk assessment used tools provided by the World Bank however, the quality of the risk assessment could not be assessed because no public version is available.

15. **Criterion 1.2** is *met*: Vietnam has designated the State Bank of Vietnam (SBV) as the lead authority to co-ordinate actions to assess ML risks (Art. 48.9, Law on Anti-Money Laundering No.14/2022/QH15 dated 15 November 2022 (Law on AML 2022)), and the MPS as the lead authority to co-ordinate actions to assess TF risks (Art. 34.3, Law on Anti-Terrorism No. 26/VBHN-VPQH dated 29 December 2022 (Law on Anti-Terrorism 2022)).

16. **Criterion 1.3** is *met*: Vietnam completed its first NRA in April 2019. Every five years, SBV must assess national ML risks and MPS must assess national TF risks (Art. 7.1, Law on AML 2022 & Art. 34.3, Law on Anti-Terrorism 2022). Vietnam approved its updated TF risk assessment in August 2023. Vietnam's second money laundering NRA on ML was awaiting government approval at the time of reporting.

17. **Criterion 1.4** is *met*: Ministries and central authorities (Arts. 47 – 61, Law on AML 2022) are responsible for widely disseminating the results of the NRA on ML including to financial institutions (FI)

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<sup>3</sup> In keeping with APG ME Procedures, the APG 2024 Plenary Meeting in September 2024 considered and decided on the disputed Vietnam FUR 2023 R. 20 analysis. Since there was no consensus made, APG members adopted the R.20 analysis and R. 20 remains rated partially compliant.

and designated non-financial businesses and professions (DNFBP) (Art. 7.2). Dissemination of the TF risk assessment is the responsibility of MPS (Resolution No. 21/ND-CP dated August 22, 2023).

18. **Criterion 1.5** is *partly met*: After the MER, Vietnam introduced a new risk-based AML inspection manual, trained FIU officers in a range of domestic and international training courses, increased the number of ML cases under investigation and enacted the National Action Plan on AML/CFT/CPF for the period 2021 - 2025 which included nine key objectives. However, the risk-based approach to allocating resources and implementing mitigating measures was limited by the shortcomings in the national risk assessment on which it was based.

19. In August 2023, Vietnam approved the National Action Plan to address TF however, it was not able to demonstrate the extent to which a risk-based approach was employed to allocate resources and implement preventive measures could not be assessed.

20. Vietnam developed a draft second National Action Plan on AML/CFT/CPF for the period 2023-2028 using the results of its yet to be published second NRA on ML. The National Action Plan 2023-2028 contains a further nine key objectives. The draft National Action Plan 2023-2028 has been submitted to government for approval. Vietnam did not provide a copy of the draft for review team analysis.

21. Vietnam applies to a limited extent a risk-based approach (RBA) for resource allocation and for implementing measures to prevent or mitigate ML/TF risks. The draft National Action Plan 2023-2028, relies upon the NRA to guide implementation of policies, allocate resources, and prioritise actions to address specified risks. The draft National Action Plan 2023-2028 was awaiting government approval, and implementation is yet to commence.

22. **Criterion 1.6 (a) and (b)** are *not applicable*: Vietnam has not exempted any activities, FIs DNFBPs from applying the FATF Recommendations based on low risk.

23. **Criterion 1.7** is *met*: The Law on AML empowers the SBV Governor to decide criteria or methodologies for the assessment of ML risks by FIs (Art. 15.3). Circular No. 09/2023/TT-NHNN Guiding the Implementation of Selected Articles of the Law on Anti-Money Laundering dated 28 July 2023 (Circular No. 09/2023) sets out these criteria and requires the ML threat assessment to reflect the findings of the NRA on ML (Art. 3.2(a), Circular No. 09/2023). The risk assessment must be conducted annually (Art. 15, Law on AML 2022). This also applies to TF risk as Article 34 of the Law on Anti-Terrorism 2022 requires FIs to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML.

24. **Criterion 1.8** is *met*: Where FIs and DNFBPs assess ML risk as low, they are permitted to undertake simplified measures for the collection, updating and verification of customer identification data (Art. 16.2, Law on AML 2022). The risk assessment must assess ML threats, include ML threats as reflected in the national ML risk assessment and FIs ML risk management processes must be based on this risk assessment (Arts. 3.1 & 4.1, Circular No. 09/2023). FIs and DNFBPs are permitted to; (i) not collect information on the nature and purpose of the relationship or transaction if this can be inferred (from existing information), (ii) reduced frequency of updating customer identification details, and (iii) reduced degree of monitoring of transactions (Art. 4.2, Circular No. 09/2023).

25. These measures also apply to TF risk as Article 34 of the Law on Anti-Terrorism 2022 requires FIs to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML 2022.

26. **Criterion 1.9** is *partly met*: Relevant competent authorities are responsible for supervising the relevant FIs and DNFBPs for their compliance with R.1 (Arts. 48, 51-54, 58, 59, Law on AML 2022). All FIs are supervised (see c.26.1) however there are gaps in DNFBP supervision coverage. Decree No. 116/2013/ND-CP Detailing Implementation of a Number of Articles of Law on Prevention and Combat of Money Laundering (Decree No. 116/2013) designated the Ministry of Planning and Investment (MPI) as

the supervisor of trust and company service providers (TCSPs) however, Decree No. 19/2023/ND-CP Setting Forth Detailed Provisions for Selected Articles of the Law on Anti-Money Laundering dated 28 April 2023 (Decree No. 19/2023) that replaced Decree No. 116/2013 does not designate an AML supervisor for TCSPs and unlike supervisors of other DNFBPs, no supervision responsibilities are assigned to MPI in the Law on AML (Art. 55). For CFT supervision, although MPS has broad inspection and examination powers for anti-terrorism measures, there is no clear authorisation in law for supervision of FIs and DNFBPs for obligations under Recommendation 1. Vietnam did not demonstrate that supervision has been conducted to ensure FIs and DNFBPs are implementing their obligations to assess risk and take a risk-based approach.

27. **Criterion 1.10** is *met*.

28. FIs and DNFBPs are required to assess ML risks annually, disseminate the results internally and submit risk assessment reports to authorities (Art. 15, Law on AML 2022). The risk assessment must consider threats and follow a prescribed methodology rating criteria from one to five (Art. 3, Circular No. 09/2023).

29. These measures also apply to TF risk, as Article 34 of the Law on Anti-Terrorism 2022 requires FIs to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML 2022.

30. **Criterion 1.10(a)** is *met*: Although there is no explicit requirement to document the risk assessment, the obligation is inferred, as FIs and DNFBPs are required to submit the risk assessment to supervisors within 45 days of completion (Art. 15, Law on AML 2022).

31. **Criterion 1.10(b)** is *met*: Risk assessments must consider threats associated with the business environment, including industry sector, country, and jurisdiction in which they operate, the findings of the NRA, threats associated with customers, products, services, and channels through which they are delivered (Art. 2, Circular No. 09/2023). FIs and DNFBPs are required to also consider the appropriateness, comprehensiveness, and effectiveness of internal policies and procedures (Art. 3, Circular No. 09/2023).

32. **Criterion 1.10(c)** is *met*: FIs and DNFBPs are required to conduct risk assessments annually (Art. 15.1, Law on AML 2022).

33. **Criterion 1.10(d)** is *met*: FIs and DNFBPs are required to provide a copy of the risk assessment to supervisors within 45 days (Art. 15.2, Law on AML 2022).

34. **Criterion 1.11** is *mostly met*.

35. **Criterion 1.11(a)** is *mostly met*: FIs and DNFBPs are required to implement risk management processes based on their enterprise risk assessment. FIs and DNFBPs have a range of policies and procedures governing customer acceptance and customer identification, detecting and reporting suspicious transactions, and assessing new products and services (Art. 24.1, Law on AML 2022; Arts. 4 & 5, Circular No. 09/2023). However, there is no requirement for these to be approved by senior management.

36. **Criterion 1.11(b)** is *mostly met*: FIs and DNFBPs are required to have internal controls and audit compliance with policies, regulations and regulatory processes, and procedures relating to AML activities (Art. 24.1(k), Law on AML 2022). Internal AML rules and regulations must undergo annual review and be updated as appropriate (Art. 24.4); however, a minor gap exists as internal controls and audit obligations do not apply to 'extra-small enterprise' or natural persons (Art. 24.2).

37. **Criterion 1.11(c)** is *met*: FIs and DNFBPs risk management processes must be relevant to their size, scope, and characteristics (Art. 4.1, Circular No. 09/2023), and measures applied must be commensurate with customers' ML risk level, including enhanced measures (Art. 4.1(e)).

38. These measures also apply to TF risk for c.1.11(a)-(c) as Article 34 of the Law on Anti-Terrorism 2022 requires FIs to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML 2022.

39. **Criterion 1.12** is *mostly met*: Based on their assessment of ML risk, FIs and DNFBPs may apply measures for customers assessed as low risk ‘to a mitigating degree’ (Art. 16, Law on AML 2022). FIs and DNFBPs are allowed to implement simplified due diligence processes for low-risk customers and are prohibited from applying simplified CDD measures where there is a suspicion of ML (Arts. 2, 4.1(e) & 4.3, Circular No. 09/2023). However, gaps identified under criterion 1.9 to 1.11 apply.

40. These measures also apply to TF risk as Article 34 of the Law on Anti-Terrorism 2022 requires FIs to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML 2022.

#### *Weighting and Conclusion*

41. There are moderate deficiencies. Vietnam’s updated ML risk assessment is awaiting government approval and although Vietnam approved a TF risk assessment in August 2023, neither risk assessment was available for review. Vietnam applies to a limited extent to an RBA for resource allocation and for implementing measures to prevent or mitigate ML risks however, the National Action Plan for ML is yet to be approved. FIs, but not all DNFBPs, are supervised for ML and supervision of implementation measures for CFT remains unclear. FIs and DNFBPs are required to conduct risk assessments, keep them up to date and have risk-based policies, controls, and procedures. However, senior management approval of policies and procedures remains a gap. FIs and DNFBPs are required to risk assess customers and apply enhanced measures based on their risk assessment rather Vietnam’s identification of higher risks. Simplified measures can be applied where a customer’s ML risk is low however this need not be consistent with the NRA. ***Recommendation 1 remains rated partially compliant.***

#### ***Recommendation 10 [R.10] (Originally rated partially compliant)***

42. Vietnam was rated PC for R.10 in its 2022 MER. CDD was implemented with many key components in place however, deficiencies included: (i) absence of requirements for FIs to identify and verify individuals who act on behalf of a customer; (ii) lack of specific requirements for FIs to perform enhanced due diligence on high-risk situations; (iii) obligations for FIs to take risk control measures or report STRs when they are unable to comply with relevant CDD measures; and (iv) obligations for FIs to refrain from opening accounts, commencing business relations, performing transactions or terminating business relationships when CDD cannot be completed. Other shortcomings that included: (i) inadequate requirements for FIs to perform ongoing due diligence; (ii) lack of identification and verification for designated beneficiaries of life insurance or other investment-related insurance policies; (iii) insufficient detail of when and how the criteria for beneficial owner identification apply; and (iv) absence of permission for FIs to refrain from conducting CDD when there exist tipping-off risks.

43. Since the MER, Vietnam introduced the Law on AML 2022 and supporting Decrees and Circulars. Article 66.3 of the Law on AML 2022 annuls the entirety of the Law on Anti-Money Laundering No.07/2012/QH13. The Law on Anti-Terrorism 2022 incorporates Articles 34 and 35 that were amended by the Law on AML 2022 into the Law on Anti-Terrorism No.07/2012/QH13 dated 18 June 2012. This requires a new assessment of Vietnam’s compliance with this criterion based on the operation of the new law.

44. The implementing Decrees detailing enforcement provisions for various preventive measures, Decree No. 143/2021/ND-CP Amendments to Decree No. 88/2019/ND-CP Dated November 14, 2019 on Penalties for Administrative Violations in Monetary and Banking Sector (Decree No. 143/2021) amending Decree No. 88/2019/ND-CP Penalties for Administrative Violations in Monetary and Banking Sector (Decree No. 88/2019), were issued prior to the new Law on AML 2022 and Law on Anti-terrorism 2022.

Vietnam confirmed that the operative provisions in the Decrees apply to obligations under the new Law on AML and Law on Anti-Terrorism and provided recent examples of the application of sanctions.<sup>4</sup>

45. The definition of FIs includes all those defined in the FATF standards (Art. 4, Law on AML 2022).

46. **Criterion 10.1** is *met*. This was rated met in the MER. FIs are prohibited from creating and maintaining anonymous or pseudonymous accounts (Art. 8.2, Law on AML 2022).

47. **Criterion 10.2** is *partly met*.

48. **Criterion 10.2(a)** is *met*: FIs are required to undertake CDD when a customer opens an account or establishes a relationship with the FIs (Art. 9.2(a), Law on AML 2022).

49. **Criterion 10.2(b)** is *partly met*: FIs are required to undertake CDD when carrying out occasional transactions at or above a designated threshold (Art. 9.2(b), Law on AML 2022). The designated threshold is VND 400m (approx. USD 16,202 or EUR 14,861) (Art. 6.1(b), Decree No. 19/2023). However, there is no requirement to conduct CDD on occasional transactions carried out in several operations that appear to be linked.

50. **Criterion 10.2(c)** is *mostly met*: FIs are required to undertake CDD when carrying out wire transfers where the wire transfer does not contain the name, address, or account number of the originator or the transaction reference number in the absence of the originator's account number (Art. 9.2(b), Law on AML 2022). However, there is no requirement that the transaction reference number be unique to permit the traceability of the transaction.

51. **Criterion 10.2(d)** is *partly met*: FIs are required to undertake CDD when there is a suspicion that a transaction or parties to a transaction are involved in a money laundering offence (Art. 9.2(e), Law on AML 2022). A deficiency remains however as the requirement to conduct CDD when a suspicion arises does not include circumstances other than when a transaction is being conducted. These measures also apply to suspicion of TF as Article 34 of the Law on Anti-Terrorism 2022 requires FIs to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML 2022.

52. **Criterion 10.2(e)** is *met*: FIs are required to undertake CDD when there are doubts about the veracity or adequacy of previously obtained customer identification data (Art. 9.2(d), Law on AML 2022).

53. **Criterion 10.3** is *mostly met*: FIs are required to identify a customer when a customer opens an account or establishes a business relationship with the FI, or conducts occasional transactions (Art. 9.2, Law on AML 2022). A customer is defined as a 'natural or legal person that is using or intends to use any service or product supplied by a financial institution or a relevant non-financial business or profession' (Art. 3.6, Law on AML 2022) and includes legal arrangements (Art. 22, Law on AML 2022).

54. FIs are required to verify customer identification data. Verification requires an identity card or passport issued by a competent authority for individuals or for institutional customers (understood to mean legal persons and arrangements<sup>5</sup>), the incorporation permit, establishment decision or business registration certificate, and decisions on reorganisation, dissolution, bankruptcy, or termination of business (if any), and statutes as well as decisions or agreements for the 'engagement of director or general director, chief accounting or staff member in charge of accounting tasks (if any); data and documents relating to the founder

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<sup>4</sup> Decision No. 167/QĐ-XPHC on Penalties for administrative violations in monetary and banking sector dated 20 December 2023 and Decision No.94/QĐ-XPHC on administrative violation sanction dated 21 December 2023.

<sup>5</sup> Vietnam advised an institutional customer refers to 'a legal person or an organisation without legal status.'

or legal representative of that institutional customer, beneficial owner' (sic) are also permissible. These are considered to be reliable, independent source documents, data or information (Art. 12, Law on AML 2022).

55. As outlined above, CDD measures are enforceable under Decree No. 143/2021/ND-CP amending Article 39 of Decree No. 88/2019/ND-CP issued pursuant to several financial sector laws, including the Law of AML 2012 and the Law on Anti-Terrorism 2013. Enforcement action taken pursuant to the identification and verification requirements confirm the enforceability of the relevant provisions in the Law on AML 2022. A minor concern remains that the Articles in the Law on AML 2012 cited in the enforcement Decrees do not align to the same Articles in the Law on AML 2022 as they relate to verification.<sup>6</sup>

56. **Criterion 10.4** is *mostly met*: FIs are required to collect information about the representative of an individual customer and verify them but there is no requirement to verify that the person is authorised to act on behalf of, or represent, a natural person (Arts. 10.1 & 12, Law on AML 2022). For institutional customers, information is collected and verified on the 'duly authorised representative' (Arts. 10.1(e) & 12).

57. **Criterion 10.5** is *mostly met*: FIs are required to collect information about the beneficial owner and take measures to verify them using information or data obtained from a reliable source (Arts. 10.2 & 12, Law on AML 2022). Decree No. 19/2023 sets out further information on beneficial owner requirements. For institutional customers, FIs are required to identify the individual who holds, directly or indirectly, 25% or more of the charter capital of that institution, the individual who actually controls the institutional customer and if an individual cannot be identified, then a legal representative of the institution must be identified (Art. 7, Circular No. 19/2023).

58. **Criterion 10.6** is *mostly met*: FIs are required to obtain information on the purpose and nature of the business relationship with the customer (Art. 10.3, Law on AML 2022). There is no requirement to understand the purpose and nature of the business relationship.

59. **Criterion 10.7** is *met*.

60. **Criterion 10.7(a)** is *met*: FIs are required to monitor customer transactions commensurate with the customer's ML risk (Art. 4.1(e), Circular No. 09/2023) and update customer identification data to ensure that 'transactions carried out by customers are consistent with information about customers available in the existing files, known information about customers, business activities, levels of money laundering risk and origin of assets of customers' (Art. 11, Law on AML 2022).

61. For high-risk customers, ongoing monitoring occurs throughout the relationship. FIs are required to 'apply enhanced CDD measures including the intensified collection, updating and verification of customer identification data and close monitoring of customer's transactions' (sic) (Art. 16.2(b), Law on AML 2022). There are similar measures for high-risk customers in Circular No. 09/2023 which requires 'conducting enhanced monitoring of the customer's transactions' through applying transaction controls and transaction sampling to ensure the customer's transactions are in line with the purpose and nature of their business (Art. 4.5(dd)). These measures also apply to TF risk as Article 34 of the Law on Anti-Terrorism 2022 requires FIs to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML 2022.

62. **Criterion 10.7(b)** is *met*: FIs are required to update customer identification data to ensure that 'transactions carried out by customers are consistent with information about customers available in the existing files, known information about customers, business activities, levels of money laundering risk and origin of assets of customers' (Art. 11, Law on AML 2022). For high-risk customers FIs are required to also

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<sup>6</sup> This issue also applies c.10.4, c.10.5 & c.10.9-10.13.

apply enhanced measures for the collection, updating and verification of customer data (Art. 16.2, Law on AML 2022 & Arts. 4.5(b) & (c), Circular No. 09/2023).

63. These measures also apply to TF risk as Article 34 of the Law on Anti-Terrorism 2022 requires FIs to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML 2022.

64. **Criterion 10.8** is *mostly met*: A customer is defined to include natural or legal persons and legal arrangements (Arts. 3.6 & 22.2, Law on AML 2022) and FIs are required to apply CDD measures to customers (Arts. 9-14). For legal persons, this includes collection of information on, but not understanding of, the nature of the customer's business, its ownership and control (Art. 10).

65. FIs are required to conduct CDD on the trustee of legal arrangements (Art. 22). The FI is required to request information from the trustee on the legal arrangement and who exercises ultimate control but there is no requirement to understand the nature of the customer's business and its ownership and control structure.

66. Article 34 in the Law on Anti-Terrorism 2022 requires FIs and DNFBPs to apply Articles 9 - 40 in the Law on AML 2022 to the prevention and combat TF.

67. **Criterion 10.9** is *mostly met*.

68. **Criterion 10.9(a)** is *mostly met*: FIs are required to collect information on 'institutional customers' (undefined but understood to mean a legal person or legal arrangement) identity including the full name, and reference number of the incorporation permit, business reference number or tax identification number (Art. 10.1(e), Law on AML 2022). Gaps remain as there is no requirement to collect information on the legal person or legal arrangement's legal form.

69. **Criterion 10.9(b)** is *partly met*: There are no requirements for FIs to identify the legal powers that regulate and bind the legal person. However, information on the 'founder, duly organised representative, director or general director or chief accountant' must be collected (Art. 10.1(e), Law on AML 2022).

70. **Criterion 10.9(c)** is *mostly met*: FIs are required to collect information on the 'main office' but it is not explicit that this is the address of the registered office and there is no requirement to collect the principal place of business if different (Art. 10.1(e), Law on AML 2022).

71. For verification, FIs may rely upon an 'incorporation permit, establishment decision or business registration certificate, decision on reorganisation, dissolution bankruptcy, termination of business (if any), statutes and appointment decisions or agreements for engagement of the director or general director or chief accountant or staff member in charge of accounting tasks (if any), data and documents relating to the founder or legal representative of the institutional customer' (Art. 12.1, Law on AML 2022).

72. For the verification of a trustee, an FI may request the trustee provide information on the settlor/grantor, beneficiary, parties concerned (if any), the natural person who exercises ultimate control over the trust and the 'trust literature or texts' (taken to mean the trust deed) but this is not a requirement upon the FI (Art. 22.2, Law on AML 2022).

73. **Criterion 10.10** is *partly met*.

74. **Criterion 10.10(a)** is *met*: A beneficial owner is defined as, 'the natural person(s) who ultimately owns one or several asset(s), or controls a customer on whose behalf a transaction relating to asset(s). It also includes those persons who exercise control over a legal person or arrangement' (Art. 3.7, Law on AML 2022). Article 10.2 requires the FI to collect information on the beneficial owner, including relevant

customer identification data specified in Article 1 points a) – dd) (i.e., individuals' identification data). Article 12 sets out the data and documents for verifying customer identification data.

75. FIs are required to identify the natural person with ultimate controlling ownership interest, including 'the individual who holds directly or indirectly, 25% or more of the charter capital of that institution, or the individual who actually controlling institutional customers' (sic) (Art. 7.2(a) Decree No. 19/2023). Requirements to verify the beneficial owner are set out in Article 12.1 of the Law on AML 2022. The measures describe are absolute and FIs are required to verify the beneficial owner.

76. **Criterion 10.10(b)** is *partly met*: Where there is doubt as to whether the persons with the controlling ownership interest is the beneficial owners(s) or where no natural person exerts control through ownership interests, the FI is required to identify 'at least one legal representative of the institutions' (sic) (Art. 7.2(b), Decree No. 19/2023). However, a gap remains as this may not be the person exercising control of the legal person or arrangement through other means. Requirements to verify the legal representative are set out in Article 12.1 of the Law on AML 2022. The measures describe are absolute and FIs are required to verify the beneficial owner.

77. **Criterion 10.10(c)** is *partly met*: Where no natural person is identified, the FI is required to identify 'at least one legal representative of the institutions, unless the individual represents state capital in the institutions' (sic), not the person who is the senior managing official (Art. 7.2(b), Decree No. 19/2023). Requirements to verify the legal representative are set out in Article 12.1 of the Law on AML 2022. The measures describe are absolute and FIs are required to verify the beneficial owner.

78. **Criterion 10.11** is *mostly met*.

79. The Law on AML 2022 defines legal arrangements in keeping with the FATF definitions of trusts and other legal arrangements (Art. 3.12).

80. **Criterion 10.11(a)** is *mostly met*: When identifying customers as trustees (in accordance with the general CDD obligations set out in Arts 9-14 in the Law on AML 2022), through the CDD process, FIs may request the trustee provide the information in Article 22.1 and the 'trust literature or texts' (understood to mean the trust deed) (Art. 22.2). Article 22.1(a) requires the trustee to collect the settlor/grantor, trustee, beneficiary, parties concerned (if any), and the natural persons who exercise ultimate control over the trust. However, there are no requirements to identify and take reasonable measures to verify protectors (if any) and classes of beneficiaries. Article 22.1(b) states that the information in 22.1(a) be provided to enable FIs 'involved in the process of starting and maintaining relationships involving the asset(s) between customers and these natural or legal persons to put that/these asset(s) in trust upon request.' The definition of legal arrangement includes any other similar legal arrangement.

81. **Criterion 10.11(b)** is *mostly met*: The definition of legal arrangement includes other similar legal arrangements. Therefore, the requirements under 10.11(a) are applicable to other types of legal arrangements. The gaps in 10.11(a) are also applicable to 10.11(b).

82. **Criterion 10.12** is *partly met*.

83. **Criterion 10.12(a)** is *partly met*: FIs are required to identify the beneficial owners of a life insurance policy, 'the individuals who actually receive the benefits of the insured in life insurance contracts' (sic) however there is no obligation to identify the name of the beneficiary who is a natural or legal person (Art. 7.4, Decree No. 19/2023). There is no requirement that measures in 10.12(a) be conducted as soon as the beneficiary is identified or designated.

84. **Criterion 10.12(b)** is *not met*: There are no requirements for FIs to conduct CDD measures for a beneficiary that is designated by characteristics or class or by other means or that the measures be conducted as soon as the beneficiary is identified or designated.

85. **Criterion 10.12(c)** is *not met*: There is no requirement for the beneficiary to be verified or for this to occur at the time of the payout.

86. **Criterion 10.13** is *partly met*: There are general requirements for FIs to risk assess customers and apply enhanced CDD measures to high-risk customers (Art. 16.2(c), Law on AML 2022). However, there are no requirements for FIs to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable. Further, where the beneficiary is a legal person or legal arrangement, there are no requirements for the FI to apply enhanced measures, including reasonable measures to identify and verify the beneficial owner of the beneficiary, at the time of the payout. These measures also apply to TF risk as Article 34 of the Law on Anti-Terrorism 2022 requires FI to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML 2022.

87. **Criterion 10.14** is *met*: FIs are required to undertake CDD measures when a customer opens an account, or establishes a business relationship, or conducts occasional transactions that equal or exceed a threshold (defined in Art. 6, Decree No.19/2023) (Arts 9.2(a) & (b), Law on AML 2022). Verification after establishment of the business relationship is not permitted.

88. **Criterion 10.15** is *not applicable*: Customers must be verified before establishing a business relationship and FIs are not permitted to commence a business relationship with a customer prior to verification. Therefore, this criterion is not applicable (Arts. 9-14, Law on AML 2022).

89. **Criterion 10.16** is *partly met*: Under the new Law on AML 2022, there is no requirement for FIs to apply CDD requirements to existing customers based on the materiality and risk and to conduct due diligence on such existing relationships at appropriate times, taking into account whether and when CDD measures have been previously undertaken and the adequacy of data obtained. However, there are general obligations to update customer identification information based on materiality and risk, and to apply enhanced measures in high-risk situations (Arts. 11 & 16.2(b), Law on AML 2022).

90. **Criterion 10.17** is *mostly met*: FIs are required to apply enhanced customer due diligence where the ML risk is high (Art. 16.2(c), Law on AML 2022). These measures also apply to TF risk as Article 34 of the Law on Anti-Terrorism 2022 requires FIs to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML 2022. A minor gap remains as there is no requirement to conduct enhanced due diligence where a suspicion of ML/TF arises in relation to a customer classified as low risk.

91. **Criterion 10.18** is *mostly met*: The Law on AML 2022 requires FIs to conduct adequate analysis of risks for the purpose of R.10. Where an FI's risk assessment identifies a customer presents a low ML risk, they may apply simplified CDD measures (Art. 16, Law on AML 2022). This includes requirements to categorize customers by levels of money laundering risk. There are also explicit provisions stating that the simplified measures are not acceptable when there is a suspicion of ML (Art. 4.3, Circular No. 09/2023). These measures also apply to TF risk as Article 34 of the Law on Anti-Terrorism 2022 requires FIs to implement anti-terrorism measures per Articles 9 – 40 of the Law on AML 2022. However, there are no prohibitions where other specific higher-risk scenarios apply.

92. **Criterion 10.19** is *partly met*.

93. **Criterion 10.19(a)** is *partly met*: Fund managers can refuse to manage an investment portfolio where the trustor fails to provide requested information (Art. 17.2, Circular No. 99/2020/TT-BTC dated 16/11/2020 Providing Guidance on Operation of Securities Investment Fund Management Companies). There are no requirements for other FIs to not open accounts, commence business relationships or perform

transactions where CDD measures are unable to be complied with. Further, there are no obligations to terminate the business relationship in these circumstances. FIs are required to publish internal rules and regulations including a customer acceptance policy that covers ‘denial of account opening, establishment of business relationships, conduct of transactions or termination of business relationships with customers that may be allowed if any RE fails to identify customers due to these customers’ refusal to provide their information or inadequate provisions of information’ (Art. 24, AML Law 2022). However, these are policies the FI can develop, not a requirement.

94. **Criterion 10.19(b)** is *not met*: There are no rules or regulations governing the reporting of an STR in relation to the customer when an FI is unable to comply with relevant CDD measures.

95. **Criterion 10.20** is *not met*: There are no explicit provisions permitting FIs not to pursue the CDD process where there are suspicions of ML or TF, and there is a risk that the CDD process will tip-off the customer.

### *Weighting and Conclusion*

96. Since the MER, Vietnam promulgated a new Law on AML 2022, supporting Decrees and a new Law on Anti-Terrorism 2022 that include some expanded CDD obligations. Vietnam applies CDD measures to all FIs but not in situations where several operations appear to be linked. FIs are not required to verify if a person is authorised to act on behalf of an individual. FIs are required to conduct ongoing due diligence of business relationships but gaps remain on understanding business relationships, and ownership and control structures of legal persons and legal arrangements. There is also no requirement to collect the legal form or powers that regulate and bind, and it is not explicit that the address be the registered office or a requirement to collect the principal place of business if different. Gaps related to identifying and verifying the senior managing official, and natural persons exercising control of a legal person or arrangement through other means remain. While beneficial owners of legal persons must be identified and verified, there is no similar arrangement for protectors (if any), classes of beneficiaries or those in similar positions for other types of legal arrangements. Gaps remain for beneficiaries of life insurance policies and the beneficiary is not a risk factor in determining whether to apply enhanced due diligence (EDD). Verification after the establishment of a business relationship is not permitted. There are no requirements to apply CDD measures to existing customers. A risk-based approach is taken towards the application of EDD, but there is no prohibition for specific higher risks including when there is suspicion of ML/TF. There are no requirements on FIs when they are unable to comply with CDD measures nor are FIs permitted to not pursue CDD where they believe it will tip-off the customer. In the context of Vietnam, the absence of CDD measures applicable to existing customers, and gaps where CDD measures are unable to be completed, were given significant weight. **Recommendation 10 remains rated partially compliant.**

### *Recommendation 11 [R.11] (Originally rated partially compliant)*

97. Vietnam was rated PC for R.11 in its 2022 MER. The primary deficiency identified was the absence of a mandate for FIs to retain business correspondence or account files. There was: (i) the absence of a clear mandate for retaining all records obtained through CDD measures, the results of any analysis conducted, and business correspondence; (ii) no requirement for REs to furnish information promptly to authorised agencies; and (iii) the specific requirements for maintaining transaction records and other pertinent information to enable individual transaction reconstruction were inadequately defined.

98. **Criterion 11.1** is *partly met*: FIs are required to keep information, documents, or records of ‘should-be-reported large transactions’ (Art. 25), suspicious transactions (Art. 26) and wire transfers (Art. 34) and ‘should-be-reported transaction’ (Art. 38.1(d), Law on AML 2022). Must-be-reported high value transactions refers to ‘the transaction in domestic or foreign cash that is performed one or several time a day, and total value of which equals or exceeds the prescribed amount’ (sic) (Art. 3.3, Law on AML 2022). Vietnam advised should-be-reported transactions include the aforementioned transactions as well as,

transactions related to crimes (Art. 37.3, Law on AML 2022), and suspended transactions (Art. 44.2, Law on AML 2022).

99. FIs are required to retain records for five years following completion of the transaction (Art. 38.2, Law on AML 2022). However, there are no record-keeping requirements for transactions below the reportable thresholds of VND 500m (approx. USD 20,251) for domestic wire transfers (Art. 9.1(a), Circular No. 09/2023) or USD 1,000 for cross-border wire transfers (Art. 9.1(b), Circular No. 09/2023) and VND 400m (approx. USD 16,202) for large threshold transactions (Art. 3, Decision No. 11/2023/QD-TTg Range of Values of Which Transactions are Subject to Mandatory Reporting dated 27/04/2023).

100. **Criterion 11.2** is *mostly met*: FIs are required to keep information, documents, and records relating to customer identification results of analysis and assessment of customers (Art. 38.1(a) & (b), Law on AML 2022), and other information, documents and records associated with customers (Art. 38.1(c)). Other information, documents and records would include business correspondence. These records must be held for five years from the account closing date or from the date on which the transaction occurred (Art. 38.2, Law on AML 2022). A minor gap remains as records of results of analysis of transactions includes only 'should-be-reported transactions,' not all transactions.

101. **Criterion 11.3** is *partly met*: FIs are required to keep customer-related information, transaction analyses, and reports. This includes retaining documents on customer identification, transaction assessments, and reports related to specified transactions (Art. 38.1, Law on AML 2022). Collectively, the obligations in Article 38 include the necessary information to enable reconstruction of individual transactions. The deficiency described in c.11.1 cascades to this criterion.

102. **Criterion 11.4** is *met*: FIs are required to promptly provide information, dossiers, documents, and reports at the request of certain agencies (Art. 9, Decree No. 19/2023). Three types of government agencies are authorised to request information and documents regarding AML from FIs: the SBV, investigative agencies and the People's Procuracy during prosecutions, and state inspection and specialized inspection bodies.

#### *Weighting and Conclusion*

103. There are moderate shortcomings as not all necessary records on the majority of transactions are required to be kept. Only records of VND 400m (approx. USD 16,202) or more for large threshold cash transactions, domestic transfers of VND 500m (approx. USD 20,251) or more, cross-border transfers of USD 1,000 or more, transactions related to crimes and suspended transactions are required to be kept. Gaps in record-keeping of transactions prohibit the reconstruction of most individual transactions. CDD and transaction records must be made available to FIs swiftly. **Recommendation 11 remains rated partially compliant.**

#### *Recommendation 13 [R.13] (Originally rated partially compliant)*

104. Vietnam was rated PC for R.13 in its 2022 MER. Deficiencies included no requirement for FIs to evaluate the quality of supervision of the respondent bank whether they were the subject of an investigation or regulatory action related to ML/TF, no explicit requirement to have a comprehensive understanding of the respective AML/CFT responsibilities of each institution, and no requirement to ensure that the respondent banks do not allow their accounts to be used by shell banks.

105. **Criterion 13.1** is *mostly met*.

106. FIs are required to implement AML measures relating to correspondent banking requirements (Art. 18, Law on AML 2022) and more generally, internal rules and regulations to enable the prevention, detection, combat and handling of suspicious activities relating to money laundering (Art. 24.3).

107. Article 34.1 of the Law on Anti-Terrorism 2022 requires FIs to apply TF measures to Articles 9 through 40 of the Law on AML, which includes correspondent banking relationships (Art. 18).

108. **Criterion 13.1(a)** is *mostly met*: FIs are required to fully understand the nature and reputation of the respondent bank's business, including whether it has been subject to any ML/TF investigation or regulatory action (Art. 18.1(a), Law on AML 2022 & Art. 34.1, Law on Anti-Terrorism 2022). However, there is no explicit requirement for FIs to determine the quality of supervision.

109. **Criterion 13.1(b)** is *met*: FIs are required to assess the respondent bank's ML/TF controls (Art. 18.1(b), Law on AML 2022 & Art. 34.1, Law on Anti-Terrorism 2022).

110. **Criterion 13.1(c)** is *met*: Correspondent banks are required to obtain approval from senior management before establishing new correspondent relationships (Art. 18.3, Law on AML 2022).

111. **Criterion 13.1(d)** is *met*: FIs are required to clearly understand the respective AML/CFT responsibilities that the respondent bank assumes in a correspondent banking relationship (Art. 18.1(c), Law on AML 2022 & Art. 34.1, Law on Anti-Terrorism 2022).

112. **Criterion 13.2** is *met*.

113. **Criterion 13.2(a) and (b)** are *met*: When an FI allows customers of a respondent bank to use payable-through accounts, the FI is required to ensure that the respondent bank has conducted the necessary CDD on these customers. The respondent bank should also be capable of providing customer identification data upon request to the correspondent bank (Art. 18.2, Law on AML 2022).

114. **Criterion 13.3** is *mostly met*: FIs are required to ensure that respondent banks do not permit their accounts opened at the FI to be used by shell banks (Art. 18.2, Law on AML 2022). A small gap remains as the requirement only captures the respondent bank's accounts opened at the FI, not all the respondent bank's accounts. Creating and maintaining business relationships with shell banks is prohibited (Art. 8.3, Law on AML 2022).

#### *Weighting and Conclusion*

115. Vietnam has strengthened its correspondent banking requirements although minor deficiencies remain. There is no explicit requirement for FIs to determine the quality of supervision, assess the respondent FI's TF controls, or satisfy themselves that respondent FIs do not permit all their accounts to be used by shell banks. **Recommendation 13 is re-rated largely compliant.**

#### *Recommendation 14 [R.14] (Originally rated is partially compliant)*

116. Vietnam was rated PC for R.14 in its 2022 MER. Vietnam did not demonstrate that authorities took appropriate actions to identify natural or legal persons who engage in money or value transfer services (MVTS) activities without licenses or registrations or enforce proportional and dissuasive sanctions for non-compliance. There were deficiencies in relation to inspection and supervision for CFT purposes, no requirements for credit institutions and foreign currency payment and exchanges to include their agents (branches for credit institutions) in their AML/CFT compliance programs and to monitor them for adherence to these programs. The 2022 MER also raised concerns about the involvement of natural persons as agents for MVTS providers as it is not clear whether this was allowed.

117. The findings in the MER regarding MVTS providers related to the Law on AML 2012. Since the MER, Vietnam has introduced the Law on AML 2022. Article 66.3 of the Law on AML 2022 annuls the entirety of the 2012 Law. This requires a new assessment of Vietnam's compliance with this criterion based on the operation of the new law.

118. **Criterion 14.1** is *met*: The Law on AML does not establish a single definition of MVTS provider. However, the definition of RE in Article 4 broadly captures the range of institutions that meet the MVTS provider definition in the FATF Glossary. Under this definition, to be captured as a RE, the entity must be licenced to conduct the activity.

119. Circular No. 46/2014/TT-NHNN on Guidelines for Non-Cash Payment Services dated 31 December 2014 (Circular No. 46/2014), Decree No. 80/2016/ND-CP on Amendments to Government's Decree No. 101/2012/Nd-Cp dated November 22, 2012 on Non-Cash Payments dated 1 July 2016, and Decree No. 89/2016/ND-CP on Requirements Applicable to Business Entities Acting as Currency Exchange Agents or Providing Foreign Currency Receipt and Payment Services dated 1 July 2016, establish licencing requirements for payment services, payment intermediary services, and foreign currency exchanges respectively, as well as empowering the SBV to grant licences to foreign currency payment agents. Article 4.9 of the Law on the State Bank of Vietnam No. 46/2010/QH12 dated 16 June 2010, which establishes SBV as the licencing authority for credit institutions and intermediary payment service providers remains in force. Further, the Law on AML prohibits 'illegally providing services that involve the acceptance of cash, cheques, other monetary instruments and other stores of value and the payment to a beneficiary' (Art. 8.4).

120. **Criterion 14.2** is *partly met*: SBV is the accountable regulatory authority for AML in Vietnam and its duties and powers include inspection and supervision of reporting entities' AML activities (Art. 48, Law on AML 2022). However, there is no express requirement for SBV (or any other competent authority listed in Chapter III of the Law on AML 2022) to enforce breaches of the Law on AML 2022, including to identify natural or legal persons carrying out MVTS without a licence or registration. Vietnam also does not appear to have undertaken actions against illegal MVTS since the MER.

121. Decree No. 96/2014/ND-CP Penalties for Administrative Violations Against Currency and Banking Legal Regulations dated 17 October 2014 (Decree No. 96/2014) which included sanctions for illegally providing MVTS services was superseded on 31 December 2019 by Decree No. 88/2019 which was itself amended by Decree No. 143/2021. The penalties available under Decree No. 143/2021 include:

- Fine of VND 300,000,000 – 400,000,000 (approx. USD 12,280 – 16,375) for illegally providing services of receipt of cash, cheques, or other monetary instruments or stores of value and making payments to beneficiaries at another location (Art. 1.31(2)(b)).
- Fine of VND 400,000,000 to 500,000,000 (~USD 16,375 – 20,473) for operating without a licence (Art. 1.6).
- A range of administrative penalties including fines to individuals, and suspension of licenses (Art. 46.4).

122. These penalties are not considered proportionate or dissuasive.

123. **Criterion 14.3** is *partly met*: SBV's powers and duties include inspecting, examining and supervising reporting entities (including MVTS providers as captured in Article 4) in their AML activities (Art. 48.3, Law on AML 2022). Before its repeal, this obligation was contained in Article 37(5) of the Law on AML 2012, which was supplemented with additional detail on SBV's inspection and supervision powers and functions in Decree No. 116/2013 and Decree No. 87/2019/ND-CP Amending and Supplementing a Number of Articles of Decree 116/2013/ND-CP dated October 4, 2013 of the Government Detailing the Implementation of a Number of Articles of Law on Anti- Money Laundering dated 14 November 2019. These Decrees were not provided to the review team; however, it is understood they were issued pursuant to the Law on AML 2012 and so no longer have legal force following that Law's repeal. Given this, the review team considers that Vietnam's framework for supervision of MVTS for AML purposes has moderate deficiencies.

124. In relation to CFT supervision, Vietnam has not taken further action to address the gaps identified in criterion 26.1 in the MER.

125. **Criterion 14.4** is *mostly met*: Vietnam did not demonstrate any changes since the MER which found that Article 30 of the Credit Institutions Law, and relevant Circulars issued pursuant to it (Circulars No. 21/2013/TT-NHNN Providing for the Operational Network of Commercial Bank dated 9 September 2013 and No. 53/2018/TT-NHNN on Operating Network of Non-Bank Credit Institutions dated 31 December 2018) establish that the SBV must approve the establishment of branches and representative offices of credit institutions, and that this is tantamount to registration. In addition, intermediary payment service providers were prohibited from appointing agents to provide services under Article 6.2 of Circular No. 39/2014/TT-NHNN Guiding the Intermediary Payment Services dated 11 December 2014, and foreign currency payment and exchange providers were required by Article 22 of Circular No. 34/2015/TT-NHNN Guidelines for the Provision of Foreign Currency Receipt and Payment Services dated 31 December 2015 to provide the SBV with a list of agent organisations.

126. The MER identified Vietnam's regulation of MVTS agents had a minor deficiency—with respect to whether natural persons can become MVTS agents. However, following the introduction of the Law on AML, Vietnam's deficiencies with respect to MVTS agents has widened as only credit institutions have a clear licensing/registration requirement. Other MVTS sectors do not have a clear legal basis to require licencing/registration of agents or a clear legal basis prohibiting the formation of agents.

127. **Criterion 14.5** is *met*: MVTS providers are required to have internal rules and regulations on AML that cover, amongst other things, internal control, and audit of compliance with policies, regulations, regulatory processes, and procedures relating to AML activities, and the responsibilities of each natural person or department for implementing the internal rules and regulations (Art. 24, Law on AML 2022). SBV Circular No. 09/2023 extends the scope of internal rules and regulations' application to the RE's 'entire system and its agencies' (Art. 24.3), and also requires reporting entities to annually review their internal rules and regulations (Art. 24.4).

128. MVTS providers are required to conduct an internal audit (e.g. internal controls) of its compliance with the internal rules and regulations, and internal audits must be conducted annually (Arts. 5.8 & 5.10(c), Circular No.09/2023).

129. With respect to CFT, Article 34 of the Law on Anti-Terrorism 2022 requires FIs to adopt Articles 9 - 40 of the Law on AML 2022, thereby extending measures in Article 24 for FIs to develop and audit its compliance with internal rules and regulations on AML to CFT.

#### *Weighting and Conclusion*

130. While Vietnam's Law on AML 2022 requires MVTS providers to be licensed, with detail regarding the licensing regime for each of the various MVTS sectors contained in SBV Circulars, there is no requirement for authorities to take action to identify natural or legal persons that carry out MVTS unlicensed, and Vietnam did not demonstrate that authorities take such action in any case. Penalties for breaches of licencing requirements are not proportionate or dissuasive. Gaps remain with respect to monitoring of MVTS providers for AML/CFT compliance, and deficiencies identified in the MER with respect to agents remain. Agents are required to be covered by the MVTS provider's internal rules and regulations, and gaps with respect to monitoring of agents' compliance by REs have narrowed, as MVTS providers are required to monitor the compliance of its entire system and agencies through an internal audit report, which is inferred as being required annually. Gaps also remain with respect to CFT controls and monitoring for compliance with these requirements. ***Recommendation 14 remains rated partially compliant.***

*Recommendation 15 [R.15] (Originally rated non-compliant)*

131. Vietnam was rated NC for R.15 in its 2022 MER. There was no assessment of ML/TF risks of new products and business practices, it was unclear whether risk assessments occurred prior to the launch of new products, practices and technologies, and only limited steps taken in assessing risks of VA/VASPs. There were no obligations for VASPs to identify, assess and mitigate ML/TF risks, no licencing or registration requirements or measures preventing criminals and their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function. Vietnam has not taken actions to identify unlicensed or unregistered VASPs nor were VASPs supervised, provided guidance and feedback, subject to proportionate or dissuasive sanctions or required to implement preventive measures. VASPs also had no targeted financial sanctions (TFS) measures or reporting obligations and there was no legal basis for supervisors to exchange information with foreign counterparts.

132. **Criterion 15.1** is *partly met*: Vietnam has taken steps to require the SBV, competent authorities, and reporting entities, to identify and assess the ML risks of new products and business practices. However, Vietnam has not yet assessed ML risks of new products and new business practices. There is no requirement under Vietnam's laws for authorities to identify and assess the TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies both new and pre-existing products.

133. FIs are required to issue policies and procedures to identify and assess ML risks before providing new products or services, including services using innovating technologies (Art. 19, Law on AML 2022). There is no similar requirement for FIs' to assess and identify TF risks in these circumstances.

134. Penalties are available for instances of non-compliance under Decree No. 88/2019, as amended by Decree No. 143/2021. However, these penalties are not proportionate or dissuasive.

135. **Criterion 15.2** is *partly met*.

136. **Criterion 15.2(a)** is *partly met*: FIs are required to issue policies and procedures to identify and assess ML risks before providing new products or services, including services using innovating technologies (Art. 19, Law on AML 2022). This obligation includes new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products (Art. 19.2). Article 34 of the Law on Anti-Terrorism 2022 extends Article 19 obligations to also require FIs to issue policies and procedures for identification and assessment of TF risks. However, Article 19 only requires FIs to *issue* policies and procedures, rather than an obligation to conduct a risk assessment.

137. **Criterion 15.2(b)** is *mostly met*: FIs are required to issue policies and procedures for the purposes of managing ML risks when entering into transactions with customers using new products or services and existing products or services using innovative technologies, and 'apply measures' with the aim of reducing ML risks (Arts. 19.1 & 19.2, Law on AML 2022). Article 34 of the Law on Anti-Terrorism 2022 extends Article 19 obligations to also require FIs to issue policies and procedures for the purpose of managing TF risks and to apply measures with the aim of reducing TF risk. A minor deficiency remains regarding whether measures have to be appropriate to manage and mitigate the risks.

138. **Criterion 15.3** is *not met*.

139. **Criterion 15.3(a)** is *not met*: The ML/TF risks of VASPs do not appear to have been comprehensively assessed. Vietnam has assessed and given ML/TF risk ratings for virtual assets, as well as several service specific risk ratings. The risk ratings are understood to be from the NRA on ML which is awaiting approval and the NRA on TF which is approved but not publicly available. Vietnam indicated that the NRA used the World Bank NRA process, however it is not clear how these risks were assessed, the methodologies applied or if all relevant virtual asset activities were assessed.

140. **Criterion 15.3(b)** is *not met*: Vietnam did not demonstrate that it has taken a risk-based approach to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks of VA/VASPs. The lack of measures taken is inconsistent with the draft findings of Vietnam's NRA (see c.15.3(a)). The prohibition on VAs remains limited to virtual currencies for the purpose of payment and does not extend to 'assets' and other usages of virtual currencies. VASPs continue to be neither regulated nor comprehensively prohibited.

141. **Criterion 15.3(c)** is *not met*: Vietnam has not implemented measures requiring VASPs to take appropriate steps to identify, assess, manage and mitigate their ML and TF risks.

142. **Criterion 15.4(a) & (b)** is *not met*: VASPs are not reporting entities under Article 4 of the Law on AML. There are no measures or requirements imposed by Vietnam in relation to licensing or registration of VASPs. Similarly, there are no measures imposed by Vietnam to prevent criminals or their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in, a VASP.

143. **Criterion 15.5** is *not met*: Vietnam did not demonstrate that it has taken actions or implemented measures to identify natural or legal persons that carry out VASP activities. As there is no licensing or registration requirement in Vietnam, all natural or legal persons that carry out VASP activities would be unlicensed. However, as VASPs are not prohibited, no penalties or sanctions are applied.

144. **Criterion 15.6(a) & (b)** is *not met*: As VASPs are not reporting entities under Article 4 of the Law on AML or regulated for AML purposes. There are no measures or requirements imposed by Vietnam in relation to supervision.

145. **Criterion 15.7** is *not met*: VASPs are not regulated or prohibited in Vietnam. Vietnam has not provided guidance or feedback to assist VASPs in applying measures to combat ML and TF.

146. **Criterion 15.8(a) & (b)** is *not met*: VASPs are not reporting entities under Article 4 of the Law on AML 2022 and Vietnam does not prohibit VASPs. As such, VASPs that do operate in Vietnam are not subject to AML/CFT requirements and are not subject to sanctions.

147. **Criterion 15.9(a) & (b)** is *not met*: VASPs are not reporting entities under Article 4 of the Law on AML 2022. Vietnam does not prohibit VASPs. As such, VASPs are not subject to requirements regarding preventive measures.

148. **Criterion 15.10** is *partly met*: Vietnam has not implemented measures to address deficiencies identified in the MER with targeted financial sanctions. These deficiencies apply equally to TFS obligations on VASPs.

149. **Criterion 15.11** is *partly met*: Based on their functions and duties 'competent regulatory authorities' can conduct international cooperation regarding AML (CFT is dealt with under unchanged provisions in the Law on Anti-Terrorism 2022) (Art. 6, Law on AML 2022). The functions and duties of competent regulatory authorities are set out at Chapter III of the Law on AML 2022. These authorities include,<sup>7</sup> the SBV, MPS, SPP, People's Courts, MND, MOF, MOC, MOJ, MIT, MPI, MHA, MOFA, MIC, as well as a catch-all provision for other Ministries and Central Authorities. This framework enables competent authorities to exchange information with a broad range of foreign counterparts. The deficiencies identified in the MER with respect to R.40 appear to remain largely unchanged despite the introduction of

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<sup>7</sup> Supreme People's Procuracy (SPP), Ministry of National Defence (MND), Ministry of Commerce (MOC), Ministry of Justice (MOJ), Ministry of Industry and Trade (MIT), Ministry of Home Affairs (MHA), Ministry of Foreign Affairs (MOFA), Ministry of Information and Communications (MIC)

the new Law on AML 2022. However, as Vietnam has not provided an update against the criteria for R.40, it is difficult to make a definitive assessment.

### *Weighting and Conclusion*

150. Vietnam has taken some steps to improve its legal framework for the identification and assessment of ML risks associated with new technologies by authorities, as well as requiring FIs to issue policies/procedures for identification and assessment of ML risks associated with new technologies (including before commencing to provide relevant products and services). However, there is a weakness with the enforceability of obligations on FIs to identify and assess those risks. FIs are now required to apply measures with the aim of reducing ML risks when providing new products or services or providing existing products or services through new technologies, though there remains a lack of clarity about whether measures need to be appropriate. Amendments to the Law on Anti-Terrorism extend these requirements on reporting entities also cover TF. Vietnam has significant shortcomings in its identification of risks from VA/VASPs and risk-based regulation of VASPs. Given Vietnam's risk and context as a significant VASP sector, higher weight is afforded to these deficiencies. **Recommendation 15 remains rated non-compliant.**

### *Recommendation 16 [R.16] (Originally rated partially compliant)*

151. Vietnam was rated PC for R.16 in its 2022 MER. Deficiencies included the absence of explicit requirements for (i) originator and beneficiary information, in association with cross-border wire transfers; (ii) verification of originator information, while providing cross-border wire transfers; (iii) batch file cross-border wire transfers; (iv) precise requirements for cross-border wire transfers under USD 1000; (v) verification of information, when there is a suspicion of ML/TF; (vi) specific requirements for maintaining all originator and beneficiary information collected of ordering FIs; (vii) prohibitions on executing the wire transfer when the ordering FI did not comply with criteria 16.1 to 16.7; and (viii) specific requirements for complying with R.16 when MVTs operate through their agents.

152. **Criterion 16.1** is *mostly met*.

153. **Criterion 16.1(a)** is *mostly met*: Domestic FIs serving in the capacity as ordering FIs in electronic funds transfer (EFT) transactions shall only conduct EFT transactions if the order has complete and accurate information as prescribed by the laws on non-cash payments and foreign exchange management (Art. 8.2, Circular No. 09/2023). Circular No. 46/2014 states that to execute a payment order, the payment order must contain: the name, checking account number and address of the sender (Art. 8.1(c), Circular No. 46/2014). The payment order must be verified (Art. 8.2(b), Circular No. 46/2014) and the sender must prepare and send the payment order to the beneficiary bank (Art. 8.2(c), Circular No. 46/2014). There is no threshold for the information required. A payment order must include an order number (Art. 8.1(a), Circular No. 46/2014) however a minor deficiency exists as there is no requirement for this to be a unique number which would permit traceability of the transaction if there were no originator account number.

154. **Criterion 16.1(b)** is *mostly met*: Domestic FIs serving in the capacity as ordering FIs in EFT transactions are required to only conduct EFT transactions if the order has complete and accurate information as prescribed by the laws on non-cash payments and foreign exchange management (Art. 8.2, Circular No. 09/2023). Circular No. 46/2014 states that to execute a payment order, the payment order must contain: the name, address and checking account number of the beneficiary (Art. 8.1(dd)). Further, the sender must prepare and send the payment order to the beneficiary bank (Art. 8.2(c), Circular No. 46/2014).

155. A payment order must include an order number (Art. 8.1(a), Circular No. 46/2014) however a minor deficiency exists as there is no requirement for this to be a unique number which would permit traceability of the transaction if there were no originator account number.

156. **Criterion 16.2** is *not met*: FIs involved in cross-border EFT transactions are required to gather specified information of originator and beneficial, and electronically report to the AML agency transactions of USD 1,000 or more. Electronic fund transfer reports shall include: institution details, customer information (individual and institutional), transaction specifics, and additional data requested by AML agency for oversight (Art. 9.1 & 9.3, Circular No. 09/2023's). However, there are no specific requirements for batch file cross-border wire transfers.

157. **Criterion 16.3 (a) and (b)** is *not applicable*: Vietnam does not apply a *de minimis* threshold. Circular No. 46/2014 states that to execute a payment order, the payment order must contain: the name, checking account number and address of the sender (Art. 8.1(c)) and the name, address and checking account number of the beneficiary (Art. 8.1(dd)). This applies to all payments regardless of amount.

158. **Criterion 16.4** is *not met*: FIs are required to adopt risk management policies and relative procedures and check the information in transaction it accurate and complete and report suspicious transactions (Art. 8.3(b) & 8.4(b), Circular No. 09/2023). However, there is no explicit requirement for FIs to verify the information pertaining to its customer where there is a suspicion of ML/TF.

159. **Criterion 16.5** is *met*: Vietnam enacted the Law on AML in 2022 and Circular No 09/2023 in July 2023 which include obligations for ordering FIs. Article 8.2 of Circular No. 09/2023 requires EFT transactions comply with Circular No. 46/2014 which was in effect at the time of the MER. Therefore, there is no change to the rating.

160. **Criterion 16.6** is *not applicable*: Consistent with the MER, there remains no provision that would allow information that should accompany a domestic wire transfer to be provided by other means from the transfer.

161. **Criterion 16.7** is *partly met*: Ordering FIs are required to retain reports of wire transfer or electronic funds transfers which contain the required information on the originator and the beneficiary for five years (Art. 9.3, Circular No. 09/2023 & Art. 38, Law on AML 2022). However, these requirements only apply to domestic EFT transactions of VND 500m or more (approx. USD 20,251) and cross-border wire transfers of USD 1,000 or more.

162. **Criterion 16.8** is *partly met*: FIs are only permitted to conduct EFT transactions when the EFT has complete and accurate information as required by the Circular No. 46/2014 (Art. 8.2, Circular No. 09/2023). However, there are gaps as described in c.16.1, 16.2, 16.4 and 16.7.

163. **Criterion 16.9** is *not met*: FIs are required to adopt risk management policies and procedures to identify wire transfers that contain required information that is inaccurate or incomplete (Art. 34.2, Law on AML 2022). Domestic intermediary FIs must identify wire transfers with incomplete or inaccurate information as per the Circular No. 46/2014 and Ordinance on Foreign Exchange Control No. 28/2008/PL-UBTQH11 (Art. 8.2, Circular No. 09/2023). FIs are required to then take suitable actions, including rejection, suspension, or reporting suspicious transactions that have incomplete or inaccurate originator and beneficiary information (Art. 8.3, Circular No. 09/2023). However, there is no explicit requirement for FIs to ensure all originator and beneficiary information that accompanies a cross-border wire transfer is retained with it.

164. **Criterion 16.10** is *not met*: Vietnam enacted the Law on AML in 2022 and Circular No 09/2023 in July 2023. However, there is no explicit provision requiring the intermediary FI to keep a record of all information received where technical limitations prevent the required originator or beneficiary information accompanying a wire transfer from remaining with a related domestic wire transfer. Although there is a general transaction record keeping requirement, it does not address the specific record-keeping requirements covering circumstances in c.16.10.

165. **Criterion 16.11** is *met*: Domestic intermediary FIs are required to identify wire transfers with incomplete or inaccurate information as per the Circular No. 46/2014 and Ordinance on Foreign Exchange Control No. 28/2008/PL-UBTQH11 (Art. 3(a), Circular No. 09/2023). FIs are required then to take suitable actions, including rejection, suspension, or reporting suspicious transactions (Art. 8.3, Circular No. 09/2023). These measures are considered consistent with straight-through processing.

166. **Criterion 16.12** is *met*: FIs are required to establish risk management policies and procedures to carry out, reject or temporarily suspend a transaction and check whether a transaction contains required information which is incomplete or inaccurate (Art. 34.2, Law on AML 2022). Required information is not defined but inferred to be information required by the laws on non-cash payments and foreign exchange management per Circular No. 09/2023 (see c.16.1). Intermediary FIs are required to also apply post transaction controls or report the transaction as suspicious (Art. 34.2, Law on AML & Art. 8.3, Circular No. 09/2023).

167. **Criterion 16.13** is *met*: Beneficiary FIs are required to take measures to monitor cross-border wire transfer transactions which have incomplete or inaccurate information about the originators or beneficiaries (Art. 8, Circular No. 09/2023). Required originator and beneficiary information is set out in Article 8 of Circular No. 46/2014.

168. **Criterion 16.14** is *met*: For international wire transfers of USD 1,000 or more or in another foreign currency of equivalent value, beneficiary FIs are required to report the identity of the beneficiary and their verification documents. To report these details, the FI must therefore verify the beneficiary's identity (Arts. 9.1(b) & 3, Circular No. 09/2023). This information must be kept for a period of five years from the date the transaction is completed (Art. 38, Law on AML 2022).

169. **Criterion 16.15** is *met*: For cross-border wire transfers, beneficiary FIs are required to have risk-based policies and procedures in place to determine transactions eligible for execution. Appropriate measures include rejection or suspension of transactions, or post-transaction monitoring measures in the event of transactions contain required information that is inaccurate or incomplete. Beneficiary FIs are required to report transactions lacking information as suspicious activity (Art. 34.2, Law on AML and Art. 8.4, Circular No. 09/2023). Required originator and beneficiary information is set out in Article 8 of Circular No. 46/2014.

170. **Criterion 16.16** is *partly met*: MVTS providers are defined as FIs (Art. 4.1, Law on AML 2022) and internal rules and regulation apply to agents of FIs (Art. 24.3, Law on AML 2022). Therefore, MVTS providers are required to comply with wire transfers requirements however, the deficiencies identified above in R.16 cascade to this criterion. (Art. 24.1 & 24.3, Law on AML 2022).

171. **Criterion 16.17** is *partly met*.

172. **Criterion 16.17(a)** is *partly met*: As FIs, MVTS providers are required to check if wire transfer information is inaccurate or incomplete, and to report an STR if identified (Art. 34.2, Law on AML 2022). However, in the case of MVTS providers that control both the ordering and beneficiary side of a wire transfer, there is no requirement to take into account information from both the ordering and beneficiary sides to determine whether an STR has to be filed.

173. **Criterion 16.17(b)** is *not met*: There is no explicit requirement for MVTS providers to file an STR in any country affected by the suspicious wire transfer or make relevant transaction information available to the FIU.

174. **Criterion 16.18** is *met*: When providing electronic transactions, FIs are required to apply measures in wire transfers to postpone, freeze transaction, and comply with the regulations on prohibiting transactions with organizations and individuals in list of designations of the United Nations Security Council's

resolutions related to terrorism, terrorism financing, proliferation financing (PF), and blacklist prepared by the MPS or MND (Arts. 3 & 44.1, Law on AML 2022).

#### *Weighting and Conclusion*

175. For cross-border wire transfers, in the absence of an account number for originator or beneficiary information, there are no requirements to ensure payments are accompanied by unique transaction reference numbers. There are also no obligations relating to batched cross-border wire transfers. Domestic wire transfers must have required originator information. Record-keeping requirements of domestic originator and beneficiary information apply only to transactions above VND 500m (approx. USD 20,251) and cross-border transfers of USD 1,000. and there is no explicit requirement prohibiting the ordering FI from executing wire transfers that lack required information. There are no obligations on intermediaries to ensure originator and beneficiary information is retained with the wire transfer. Where technical limitations prevent required information accompanying cross-border wire transfers from remaining with a related domestic wire transfer, there is no record-keeping requirement on intermediary FIs. Beneficiary institutions take reasonable measures to identify cross-border wire transfers lacking originator or beneficiary information and have risk-based policies for determining when to execute, reject or suspend a wire transfer and take appropriate follow up action. Gaps applying to FIs also apply to MVTs providers and MVTs providers that control both sides of the transaction are not required to take into account all information from both the ordering and beneficiary sides of the wire transfer or to file an STR in any country affected and make relevant information available to the FIU. **Recommendation 16 remains rated partially compliant.**

#### *Recommendation 17 [R.17] (Originally rated is partially compliant)*

176. Vietnam was rated PC for R.17 in its 2022 MER. There were moderate deficiencies in the requirement to obtain the CDD information from third parties in a timely manner, and for financial groups, no requirement to implement group-wide programs against ML/TF and deficiencies regarding CDD, record-keeping and politically exposed-persons.

177. **Criterion 17.1** is partly met.

178. The Law on AML 2022 permits an FI to rely on third parties to perform CDD provided they are FIs or DNFBPs engaged in relationships with customers (Art. 14.1(a)) and that the FI takes responsibility for the third party's performance (Art. 14.3). The identification of customers covers a range of activities set out in Articles 9-14 (Art. 9.1) and includes identification of the customer (Art. 10), identification of the beneficial owner (Art. 10.2) and understanding the nature of the business (Art. 10.3).

179. **Criterion 17.1(a)** is partly met: FIs are required to ensure that third parties conducting CDD do so in accordance with the requirements prescribed under Articles 9-14 of the Law on AML 2022 (Art. 14.1(b), Law on AML 2022). However, the deficiencies as noted under R.10 apply (see R.10) and there is no requirement for FIs to obtain the necessary CDD information immediately.

180. **Criterion 17.1(b)** is partly met: FIs are required to ensure that third parties provide the copies of identification data and other relevant documentation relating to CDD requirements to them upon request without delay (Art. 14.1, Law on AML 2022).

181. **Criterion 17.1(c)** is partly met: FIs are required to ensure that third parties are supervised or monitored by competent authorities (Art. 14.1(d)). The Law on AML 2022 requires that third parties be FIs or DNFBPs (Art. 14.1(a)). Therefore, where third parties are domestic entities, the obligations of the Law on AML to have measures in place to comply with CDD (Arts. 9-14) and recording-keeping requirements apply (Art. 38). However, the deficiencies as noted under R.10 and R.11 apply (see R.10 & R.11). Where third parties are foreign FIs or DNFBPs, the FI must satisfy itself that both the third party and its parent are supervised and monitored by competent authorities and that they comply with Articles 9 (CDD), 14.1 (third

parties), 17 (foreign PEPs), 38 (record-keeping) and 40 (confidentiality and security of information) of the Law on AML or relevant FATF recommendations (Art. 14.2).

182. **Criterion 17.2** is *not met*: There are no requirements for countries to have regard to information available on the country level of risk when determining in which countries third parties can be based.

183. **Criterion 17.3** is *partly met*.

184. **Criterion 17.3(a)** is *partly met*: Financial groups are required to have group-wide CDD and record-keeping requirements (Arts. 24.1 & 24.3, Law on AML 2022). However, deficiencies in Recommendation 10 to 12 (see MER) and 18 cascade to this criterion.

185. **Criterion 17.3(b)** is *partly met*: FIs' implementation of CDD and record-keeping requirements and AML/CFT programs are supervised by SBV or MOF. Therefore, third parties who are members of domestic financial groups are supervised. There are no requirements that third parties who are members of foreign financial groups be supervised at a group level by a competent authority.

186. **Criterion 17.3(c)** is *partly met*: FIs are required to apply risk mitigation policies to sectors at high risk of money laundering (Art. 14.2, Law on AML 2022). However, there is no requirement that a third party that is part of the same financial group have AML/CFT policies to adequately mitigate any higher country risk.

#### *Weighting and Conclusion*

187. The moderate deficiencies relate to the lack of, i) requirement for FIs to obtain immediately the necessary CDD information from the third parties, ii) that the level of country risk is considered when determining which countries the third party may be based in, iii) third parties who are members of foreign financial groups be supervised at a group level by a competent authority, iv) requirement on financial groups to implement group-wide programs against ML/TF in accordance with R.18. **Recommendation 17 remains rated partially compliant.**

#### *Recommendation 18 [R.18] (Originally rated partially compliant)*

188. Vietnam was rated PC for R.18 in its 2022 MER. Moderate deficiencies included the lack of specific provisions that address the screening procedures to ensure high standards when hiring employees, no requirement for financial groups to establish and implement programs at the group level, which include mechanisms for sharing information and no explicit obligations to ensure that foreign branches and majority-owned subsidiaries comply with the AML/CFT measures stipulated in Vietnam.

189. **Criterion 18.1** is *mostly met*.

190. FIs are required to conduct an ML risk assessment and update this yearly (Art. 15, Law on AML 2022). Procedures for the management of ML risk must be based on this risk assessment (Art. 16) and FIs are required to also implement internal rules and regulations on anti-money laundering (Art. 24, Law on AML 2022). All these obligations also apply to terrorism financing (Art. 34, Law on Anti-Terrorism 2022).

191. Further details for the risk assessment, risk management procedures and internal procedures are set out in Articles 3-5 of Circular No. 09/2023. The Circular also defines FIs and DNFBPs as reporting entities (Art. 2). The risk assessment must include assessment of threats associated with the products and services offered, and the channels through which these are delivered to customers (Art. 3) and risk management measures must be relevant to the size, scope, and characteristics of the FI (Art. 4.1).

192. **Criterion 18.1(a)** is *mostly met*: FIs other than extra-small enterprises or natural persons in Art. 24.2, Law on AML 2022) are required to appoint a manager as the compliance officer (Art.24.1, Law on

AML 2022 & Art. 5.9(a), Circular No. 09/2023). Compliance management arrangements include the requirement for FIs must publish internal rules and regulations that enable the prevention and detection of ML and reporting of suspicious activity. These rules must be reviewed annually and modified or amended as required (Arts. 24.1 & 24.3, Law on AML 2022).

193. **Criterion 18.1(b)** is *partly met*: FIs must have recruitment procedures but there is no obligation for screening procedures to ensure high standards when hiring employees (Art. 24.1(i), Law on AML 2022 & Art. 5.6, Circular No. 09/2023)

194. **Criterion 18.1(c)** is *mostly met*: FIs are required to have annual training for leaders and employees related to their AML work (Art. 24.1, Law on AML 2022 & Art. 5.10(a), Circular No. 09/2023).

195. **Criterion 18.1(d)** is *mostly met*: FIs are required to have an independent internal audit function (Art. 24.1(k), Law on AML 2022 & Art. 5.8, Circular No. 09/2023)).

196. The obligations in 18.1(a)-(d) do not apply to ‘extra-small enterprise (sic)’ (Art. 24.1 & 24.2, Law on AML 2022, Art. 5. Circular No. 09/2023) which is only a small gap considering Vietnam’s risk and context. Extra-small businesses are those with 10 or less staff and total annual revenue not exceeding VND 3b (approx. USD 121,517).

197. **Criterion 18.2** is *partly met*.

198. Art. 24.3 of the Law on AML specifies that internal rules and regulations be applied to the ‘entire system and at its agencies’, which is understood to mean the financial group, including branches and subsidiaries. These obligations also apply to measures against terrorism financing (Art. 34, Law on Anti-Terrorism 2022).

199. **Criterion 18.2(a)** is *not met*: There are no requirements for group-wide programs to include policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management.

200. **Criterion 18.2(b)** is *not met*: There are no requirements for group-wide programs to include the provision of customer, account and transaction information from branches and subsidiaries when necessary for AML/CFT purposes at the group-level compliance, audit or AML/CFT function.

201. **Criterion 18.2(c)** is *not met*: There are no requirements for group-wide programs to include adequate safeguards on the confidentiality of information exchanged, including safeguards for tipping off.

202. **Criterion 18.3** is *partly met*: FIs’ AML measures apply to their foreign branches and majority-owned subsidiaries (Art. 24.3, Law on AML 2022). These obligations also apply to measures against terrorism financing (Art. 34, Law on Anti-Terrorism 2022). However, there is no requirement on the financial groups to apply appropriate additional measures to manage the ML/TF risks and inform their home supervisors in a situation where the host country does not permit the proper implementation of AML measures consistent with the home country requirements.

### *Weighting and Conclusion*

203. Vietnam has made progress to address the deficiencies in c.18.1 however there remains a minor gap for extra-small enterprises and screening procedures when hiring. There remain no requirements for financial groups to implement group-wide programs relating to policies and procedures for information sharing mechanisms for the purposes of CDD and ML/TF risk management, provision at group compliance, audit and/or AML/CFT functions of customer, account and transaction information from branches and subsidiaries where necessary for AML/CFT purposes or adequate safeguards on the confidentiality and use

of information exchanged including safeguards to prevent tipping-off. There are also no specific requirements to ensure that where host countries do not permit the proper implementation of AML/CFT measures consistent with home country requirements, that foreign branches and majority-owned subsidiaries of FIs apply appropriate additional measures to manage the ML/TF risks and inform home country supervisors. **Recommendation 18 remains rated partially compliant.**

#### **Recommendation 19 [R.19] (Originally rated partially compliant)**

204. Vietnam was rated PC for R.19 in the MER. Shortcomings including the limited scope of enhanced due diligence measures imposed on FIs with regard to natural and legal persons from countries which is called for by the FATF, which does not cover business relationships. Vietnam lacks a specific provision to apply suitable countermeasures on countries posing a higher risk, and it remains unclear if measures are in place to ensure FIs advise of concerns about inadequacies in the AML/CFT systems of other countries on an ongoing basis.

205. **Criterion 19.1** is *mostly met*: FIs are required to pay special attention to unusual transactions, including those involving organizations and individuals from countries and territories listed by the FATF (Art. 20, Law on AML 2022). However, business relationships are still not covered by the enhanced due diligence measures to be applied by FIs on natural and legal person from countries which is called for by the FATF. Enhanced measures must be applied proportionate to risk as FIs' risk management procedures must be risk-based (Arts. 15, 16 & 24, Law on AML 2022). These obligations also apply to measures against TF (Art. 34, Law on Anti-Terrorism 2022).

206. **Criterion 19.2** is *not met*: There is no provision for Vietnam to apply countermeasures proportionate to the risks/high risk countries as per c.19.2(a) and (b).

207. **Criterion 19.3** is *partly met*: The Law on AML 2022 clarifies the concept of the 'Blacklist' (Art. 3.9) and 'Grey list' (Art. 3.10) published by MPS and SBV respectively, there are no specific measures to ensure FIs are advised of concerns about weakness in the AML/CFT systems of other countries.

#### *Weighting and Conclusion*

208. Vietnam has made progress to address the deficiencies, including specifying FIs' responsibilities concerning enhanced CDD and clarifying scopes of designated lists and the accountability of governmental agencies. However, moderate shortcomings remain, as enhanced due diligence measures to be applied by FIs on natural and legal person from countries, which is called for by the FATF, still do not cover business relationships. Moreover, there is no specific provision for Vietnam to apply countermeasures proportionate to the risks/high risk countries when called upon to do so by the FATF or independently of any call by the FATF to do so, and there are no specific measures to ensure FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries on an on-going basis. **Recommendation 19 remains rated partially compliant.**

#### **Recommendation 20 [R.20] (Originally rated partially compliant)**

209. Vietnam was rated PC for R.20 in its 2022 MER. There was no definite or enforceable obligation for reporting entities to report STRs concerning TF to AMLD or a requirement to report attempted transactions related to TF. While there are other reporting duties associated with TF, these requirements are narrower in scope than what is mandated.

210. **Criterion 20.1** is *partly met*: FIs are required to report suspicious transactions to SBV, (i) where it is known that the transaction is conducted at the request of a suspect, defendant or convict, and there are reasonable grounds to suspect the property involved in the transaction is owned or controlled by the suspect, defendant or convict, or (ii) when there is a reasonable basis to suspect assets in transactions

related to money laundering. There is no positive obligation on FIs to submit an STR to the SBV where it suspects that funds are the proceeds of criminal activity (beyond money laundering).

211. Article 26.1(a) of the Law on AML 2022 only infers a positive obligation on FIs to report STRs where they have knowledge that the transaction was ordered by a suspect, defendant or convictee AND, have reasonable suspicion that the property involved in the transaction is owned or controlled by that person. This is a considerably narrower reporting obligation than that assessed in the MER, and the requirement for the FI to have knowledge of the identity of the person requesting the transaction ostensibly narrows this obligation further.

212. For suspicious transactions related to TF, Article 45 of the Law on Anti-Terrorism 2022 provides that SBV is responsible for receiving STRs relating to TF. However, there remains no explicit requirement in the Law on Anti-Terrorism 2022 for REs to report STRs related to TF to Vietnam's FIU.

213. Additionally, Article 34.2 of the Law on Anti-Terrorism 2022 requires FIs, organisations, and individuals engaging in relevant non-financial businesses to report customers or transactions suspected of terrorism financing or customers named on the 'Blacklist' to the CT forces of MPS and the SBV. The blacklist is defined as including natural or legal persons involved in acts of terrorism and terrorism financing, and is compiled by MPS (Art. 3.9, Law on AML 2022).

214. There are several concerns emanating from this provision:

- it is unclear whether it imposes an enforceable obligation or whether the report takes the form of an STR. SBV or other authorities have not given additional guidance or instructions to REs to implement this provision that makes clear that this is an STR reporting obligation.
- It is also unclear what the role of MPS is in receiving these reports. Considering these reports are reported to MPS' CT forces, and not just to the FIU, reports made for the purposes of Article 34.2 appear to have a different purpose or nature to an STR. This aligns with advice from Vietnam that reports made under this provision 'are not STRs'.
- Where reports are made under Article 34.2 in relation to blacklisted customers or their transactions, there is a conflict with Decree No. 19/2023, which requires a report on suspended transactions of blacklisted customers be provided to the agency performing the function and tasks of preventing AML under the State Bank of Vietnam (Art. 12.2(d)).
- Although AMLD continues to act as the FIU, following repeal of Decree No. 74/2005/ND-CP On Prevention And Combat of Money Laundering dated 7 June 2005 (Decree No. 74/2005) which establishes Vietnam's FIU (see MER 29.1) it is now unclear which department is designated as the FIU in law.

215. The MER identified that Article 30 of the Law on AML 2012, which imposed an STR reporting obligation on REs where they detected that designated persons or entities were attempting transactions, or there were reasonable grounds to believe that organisations and/or individuals were conducting ML activities linked to terrorist activities, was deficient. While these requirements were narrower than the requirements of this criterion, they did provide a clear reporting obligation in some instances of TF suspicion. However, Vietnam's new Law on AML 2022 does not address this deficiency and has not inserted an analogous provision. As such, the Law on AML 2022 when read alongside the Law on Anti-Terrorism 2022 imposes less obligations on REs with respect to reporting TF suspicions.

216. For the timing of reporting, Article 37 of the Law on AML 2022 provides that REs shall report suspicious transactions specified in Article 26 within 3 working days following the date of the transaction,

or within 2 working days following the date on which the suspicious transaction was detected. Where a suspicious transaction is associated with a criminal act, the report should be made within 24 hours.

217. **Criterion 20.2** is *partly met*: Article 7.2 of Circular No.9/2023 clarifies that the reporting of suspicious transactions as prescribed in Article 26 of the Law on AML 2022 shall not depend on the transaction amount, or whether the transaction has been completed or not. However, the deficiencies explored in criterion 20.1 with the STR reporting obligation in Article 26 have carried through to impact the scope of this obligation. In addition, the deficiency identified in the MER regarding attempted transactions relating to TF remains unaddressed. This issue is not addressed by the Circular. The review team has doubts, consistent with the MER, as to the legal authority of a Circular issued by a single agency (SBV) extending to legal obligations that attach due to the operation of a separate law (the Anti-Terrorism Law 2022) that the Circular was not pursuant to. The deficiencies identified in the MER with respect to attempted transactions relating to TF also adversely impact on this criterion.

#### *Weighting and Conclusion*

218. FIs are required to submit STRs to the SBV where the FI knows the transaction is conducted at the request of a suspect, defendant, or convictee and has reasonable grounds to suspect that the property involved is owned or controlled by the suspect, defendant or convictee. FIs are also required to submit STRs to the SBV where there is no plausible ground to suspect that the property involved in the transaction is related to ML when examination of the customer or transaction shows one or more signs of suspicious activity. These requirements are considerably narrower than the requirements of Recommendation 20 and do not capture situations where the funds are the proceeds of criminal activity beyond ML. In addition, while there is now an obligation on reporting entities to submit STRs relating to TF in some circumstances, the extension of ML STR reporting obligations under Article 26 of the Law on AML 2022 is not fit for purpose to cover all situations of TF suspicion. There remain several other significant concerns regarding the scope and legal enforceability of TF-related STR reporting obligations. **Recommendation 20 remains rated partially compliant.**

#### *Recommendation 21 [R.21] (Originally rated partially compliant)*

219. Vietnam was rated PC for R.21 in its 2022 MER. There are no specific provisions to protect FIs, their directors, officers, or employees from potential administrative, civil, or criminal liability if they report suspicious transactions to the FIU in good faith or as part of their routine duties. Moreover, there is no explicit prohibition for directors, officers, or employees from disclosing STRs or associated information to the FIU.

220. **Criterion 21.1** is *partly met*: Article 28 of the Law on AML 2012 expressly provided that FIs' reporting obligations were not regarded as a violation of bank secrecy or other secrecy laws. Following the introduction of the new Law on AML 2022, and the 2012 Law's annulment, this protection has been included in Article 39.2 which provides that where an FI discharges its reporting obligations, it should not be held as a violation against information confidentiality or security laws. While this provision does somewhat strengthen the analogous provision assessed during the MER, the provision is unclear as to which laws regulating information confidentiality and security are captured. The review team also have doubts as to whether the inclusion of 'other entities or persons' is sufficient to protect directors, officers, or employees of a RE from liability as the protection is couched in terms of discharging a reporting obligation. As this obligation attaches to the FI, and not its directors, officers, or employees (see Articles 25 and 26), there is uncertainty as to whether protection extends to directors, officers, and employees. In addition, the provision does not provide protections to FIs or their directors, officers, and employees from administrative, civil, or criminal liability for disclosure of information beyond these laws, in situations that would ordinarily attract liability, such as in breach of confidentiality clauses in contracts. The Law on AML is also not clear on whether directors, officers and employees are protected in instances where they don't know precisely what the underlying criminal activity was, and regardless of whether any illegal activity actually occurred.

221. **Criterion 21.2** is *partly met*: Article 40.2 of the Law on AML 2022 includes an express provision prohibiting reporting entities, management, or employees, from disclosing ‘the act of reporting a suspicious transaction’ or ‘information relating to a suspicious transaction’ to the SBV. However, this provision does not apply to all directors of the FI. Further, no guidance has been provided to FIs to ensure compliance does not inhibit information sharing under Recommendation 18.

#### *Weighting and Conclusion*

222. The extent to which FIs’ reporting obligations are exempted from information disclosure and confidentiality provisions is unclear, contractual obligations are not specifically included, and directors are not included. In addition, no specific provisions apply to protect FIs, their directors, officers, and employees from administrative, civil, or criminal liability if they report suspicious transactions to the FIU in good faith or in the regular performance of duties. While Vietnam has strengthened tipping off protections, they do not apply to directors or contractors and are not supplemented with regulatory guidance to ensure the provisions do not inhibit information sharing under Rec 18. **Recommendation 21 remains rated partially compliant.**

#### **Recommendation 22 [R.22] (Originally rated partially compliant)**

223. Vietnam was rated PC for R.22 in its 2022 MER. Deficiencies included gaps in CDD measures as set out in R.10 as well as deficiencies in record-keeping obligations (R.11), PEPs requirements (R.12), compliance with new technology obligations (R.15) and third-party obligations (R.17).

224. **Criterion 22.1** is *mostly met*: The definition of RE in the Law on AML 2022 (Art. 4.2) includes casinos, real estate agents, dealers in precious metals and stones (DPMS), lawyers, notaries, other independent legal professionals, and accountants however there is a gap in relation to trust and company service providers (TCSPs). The definition does not cover acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement. This is a minor gap as trusts cannot be created in Vietnam and would only apply to where the TCSP acts as trustee to a foreign trust or another form of legal arrangement.

225. DNFBPs are required to conduct the same CDD measures as FIs as outlined in R.10 which is rated partially compliant. The circumstances when CDD measures must be conducted are set out in Article 9 of the Law on AML 2022 and Articles 6.2-6.7 of Decree No. 19/2023.

226. **Criterion 22.1(a)** are *met*: Casinos are required to conduct CDD measures where customer transactions total VND 70,000,000 (approx. USD 2,831) or equivalent foreign currency or more in one day (Art. 6.2, Decree No. 19/2023 & Art. 9.3(a), Law on AML 2022).

227. **Criterion 22.1(b)** is *met*: Real estate agents are required to conduct CDD measures regardless of any threshold (Art. 6.3, Decree No. 19/2023 & Art. 9.3(b), Law on AML 2022).

228. **Criterion 22.1(c)** is *met*: DPMS are required to conduct CDD measures where customers engage in cash transactions of VND 400,000,000 (approx. USD 16,202 or EUR 14,861) (Art. 6.4, Decree No. 19/2023 & Art. 9.3(c), Law on AML 2022).

229. **Criterion 22.1(d)** is *met*: Organisations and persons providing legal services (lawyers, notaries, other independent legal professionals, and accountants) are required to conduct CDD measures when acting for clients in the circumstances required by the FATF Standards (Arts. 6.3, 6.5 & 6.6, Decree No. 19/2023 & Art. 9.3(d), Law on AML 2022).

230. **Criterion 22.1(e)** is *mostly met*: TCSPs are required to conduct CDD measures when acting for clients in the circumstances required by the FATF standards (Arts. 6.6 & 6.7, Decree No. 19/2023 & Art. 9.3(dd), Law on AML 2022). Acting as (or arranging for another person to act as) a nominee shareholder

for another person is not permitted in Vietnam (See MER 24.12). However, there is a small gap when acting as (or arranging for another person to act as) a trustee as described above.

231. **Criterion 22.2** is *partly met*: DNFBPs are required to retain information, documents, records and/or reports (Art. 38, Law on AML 2022) however, the deficiencies described in R.11 cascade to this criterion. Further, gaps in relation to TSCPs in c.22.1 result in corresponding deficiencies in record keeping obligations required in c.22.2.

232. **Criterion 22.3** is *partly met*: A foreign PEP is defined as, ‘someone who holds a prominent public position or role in a foreign body or institution or international organisation (Art. 3.15, Law on AML 2022). DNFBPs must have risk management systems to identify that a customer or beneficial owner is a foreign PEP or that the a holder of the life insurance policy under which the beneficiary or the beneficial owner of the beneficiary is a foreign PEP (Art. 17.2(a), Law on AML 2022), obtain senior management approval before starting a relationship with a foreign PEP (Art. 17.2(b)) and verify the ‘origin of property’ of the customer and beneficial owner (Art. 17.2(c)). Senior manager approval is only required at commencement of the relationship and enhanced ongoing monitoring of the relationship is only required if the customer is rated high risk (Art. 4.5(dd), Decree No. 19/2023).

233. There are no requirements in relation to domestic PEPs, which is a significant deficiency and DNFBPs only need to apply the requirements of 12.1 to family members of foreign PEPs but not their close associates (Art. 17.3, Law on AML 2022). DNFBPs must have systems to determine if the beneficiary or beneficial owner of a beneficiary is a foreign PEP and closely monitor any business relationship with a holder of a life insurance policy (Art. 17.2, Law on AML 2022). There is no requirement to inform senior management before a payout.

234. **Criterion 22.4** is *partly met*: DNFBPs are required to issue policies and procedures to identify and assess the ML risk of new products or services, existing products or services using innovative technologies, conduct risk assessment before providing new products or services and apply measures when providing products or services mentioned above with the aim of reducing money-laundering risks (Art. 19, Law on AML 2022). Article 34 of the Law on Anti-Terrorism 2022 extends Article 19 obligations to issue policies and procedures for identification and assessment of TF risks. However, Article 19 only requires DNFBPs to *issue* policies and procedures, rather than an obligation to conduct a risk assessment (see c.15.2).

235. **Criterion 22.5** is *partly met*: DNFBPs may rely on third parties to conduct CDD measures (Art. 14, Law on AML 2022) however both the third party and its parent company must be FIs or DNFBPs and the RE must ensure that the third party satisfies the requirements of CDD, PEP, record-keeping and ‘FATF’s relevant recommendations’ (Art. 14, Law on AML 2022). It is unclear whether the third party must immediately provide the necessary CDD information to reporting entities. While there is no specific requirement for DNFBPs to implement group-wide programs against ML/TF, the deficiencies regarding CDD, record-keeping and PEPs remain, and no specific requirement for DNFBPs when relying on a third party which is part of the same group to perform CDD measures.

### *Weighting and Conclusion*

236. DNFBPs are defined as reporting entities in the Law on AML 2022 however there is a minor gap for TCSPs as the definition does not cover acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement. DNFBPs must conduct the same CDD measures as FIs and the same deficiencies apply (see R.10). DNFBPs must retain information, documents, records, and records of reports for reporting entities however deficiencies in R.11 cascade to this criterion.

237. DNFBPs must manage risks of foreign PEPs however this does not include close associates and ongoing approval by senior management of business relationships is not required. Domestic PEPs are not covered, and this receives significant weighting.

238. DNFBPs must issue policies and procedures relevant to new technology requirements rather than be required to conduct risk assessments, undertake these prior to launch or implement appropriate measures to manage risk. DNFBPs may rely on third parties but it is unclear whether CDD records must be provided immediately and there is no requirement to implement group-wide programs. Deficiencies for CDD, record-keeping and PEPs remain. **Recommendation 22 remains rated partially compliant.**

**Recommendation 23 [R.23] (Originally rated partially compliant)**

239. Vietnam was rated PC for R.23 in its 2022 MER. Gaps in relation to R.18, 19, 20 and 21 applied equally to DNFBPs.

240. **Criterion 23.1** is *partly met*.

241. DNFBPs must submit STRs to SBV where they know the transaction is conducted at the request of a suspect, defendant, or convictee and has reasonable grounds to suspect that the property involved is owned or controlled by the suspect, defendant or convictee and when there is a reasonable basis to suspect assets in transactions relate to ML (Art. 26, Law on AML 2022). This includes attempted transactions (Art. 7.2 Circular No. 09/2023). DNFBPs must report suspicious matters to ‘the agency performing the functions and tasks of AML’ which is understood to be the FIU (Art. 7.1, Circular No.09/2023). However, a gap remains as there is no obligation to report an STR where a DNFBP suspects that funds are the proceeds of criminal activity (other than money laundering). For suspicion of TF, there is no explicit requirement to report STRs to the FIU (as opposed to SBV more generally). Deficiencies in STR reporting requirements in R.20 cascade to this criterion.

242. **Criterion 23.1(a)** is *partly met*: Lawyers, notaries, other independent legal professionals, and accountants are required to report STRs when on behalf of, or for, a client, they engage in a suspicious financial transaction in relation to activities described in 22.1(d) (Art. 26, Law on AML 2022).

243. **Criterion 23.1(b)** is *partly met*: DPMS are required to report suspicious transactions regardless of the amount (Art. 26, Law on AML 2022).

244. **Criterion 23.1(c)** is *partly met*: TCSPs are required to report suspicious transactions when acting on behalf or for a client, they engage in a transaction in relation to activities described in c.22.1(e) however, deficiencies in the coverage of TCSPs (see c.22.1(e)) cascade to this criterion.

245. **Criterion 23.2** is *partly met*: Art. 24 of the Law on AML requires that internal rules and regulations on AML of institutional reporting entities should include recruitment and training of personnel specializing in AML activities. Circular No. 09/2023/ stipulates that regulations on recruitment must include regulations on identification and selection of recruited personnel (Art. 5.6, Circular No. 09/2023). Gaps relating to screening procedures during hiring of employees and ‘extra-small enterprises’ remain (see c.18.1) (Arts. 24.1 & 24.2, Law on AML 2022 & Art. 5, Circular No. 09/2023).

246. There is no requirement for DNFBPs to implement group-wide programs relating to (a) policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management, (b) the provision of customer, account and transaction information from branches and subsidiaries when necessary for AML/CFT purposes at the group-level compliance, audit or AML/CFT function, or (c) adequate safeguards on the confidentiality of information exchanged, including safeguards for tipping off. Moreover, there is no provision to ensure that foreign branches and majority-owned subsidiaries of DNFBPs apply appropriate additional measures to manage the ML/TF risks and inform their home supervisors in a

situation where the host country does not permit the proper implementation of AML/CFT measures consistent with the home country requirements. A gap in the coverage of DNFBPs cascades to this criterion (see c.22.1).

247. **Criterion 23.3** is *partly met*: Vietnam has made progress to address the deficiencies, including specifying DNFBPs' responsibilities concerning enhanced customer due diligence and clarifying scopes of designated lists and the accountability of various governmental departments. However, enhanced due diligence measures to be applied by DNFBPs on natural and legal person from countries, which is called for by the FATF, still do not cover business relationships. There is no specific provision for Vietnam to apply countermeasures proportionate to the risks/high risk countries, and there are no specific measures to ensure DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries. Deficiencies in R.19 and the gap in coverage of DNFBPs cascades to this criterion (see c.22.1).

248. **Criterion 23.4** is *partly met*: Gaps in relation to R.21 and the coverage of DNFBPs (see c.22.1) cascade to this criterion.

#### *Weighting and Conclusion*

249. DNFBPs are required to submit STRs to the SBV however deficiencies in R.20 relating to the scope of STR reporting and whether reports are received by the FIU also apply to DNFBPs. There is also a minor gap in coverage of activities relating to TCSPs (see R.22.1). DNFBPs must implement programs against ML/TF however in relation to R.18, deficiencies remain for screening procedures of employees and for extra-small enterprises, and requirements for DNFBP groups to implement measures beyond those in 18.1 are largely unaddressed. For higher risk countries, moderate short comings remain as enhanced due diligence does not apply to business relationships, there is no requirement to apply countermeasures proportionate to the risks/high risk countries when called upon by the FATF or independently of any call by the FATF, and there are no specific measures to ensure DNFBPs are advised of concerns about weaknesses in the AML/CFT systems of other countries. Moreover, there is no regulatory details or guidelines provided to ensure compliance with the requirements of the c.23.4. Overall, Vietnam has not yet fully met the requirements of Recommendation 23. **Recommendation 23 remains rated partially compliant.**

#### *Recommendation 24 [R.24] (Originally rated partially updated)*

250. Vietnam was rated PC for R.24 in its 2022 MER. Information regarding creation and types of non-commercial legal persons is only publicly available in the decrees governing their formation. Gaps in the assessment risks of different types of legal persons, including certain not-for profit legal persons. Basic information publicly available does not cover all regulating powers and there are gaps in mechanisms to ensure that information on the beneficial ownership of a company is obtained by that company and available at a specified location in their country or can be otherwise determined in a timely manner by a competent authority. There was no obligation that information on basic regulating powers was kept up to date, and gaps with the availability of information obtained through CDD undermines the mechanism to ensure that information on beneficial ownership of a legal person can be determined in a timely manner by a competent authority. Beneficial ownership information held by REs does not need to be accurate and up-to-date and there are no requirements for natural persons or DNFBPs to cooperate with competent authorities on behalf of legal persons. Not all record-keeping obligations are met and there are weaknesses in powers of competent authorities to obtain timely access to all basic and beneficial ownership information and in sanctions available to enforce compliance with measures related to transparency of legal persons. Further it is unclear whether there are any explicit mechanisms for Vietnamese competent authorities to obtain beneficial ownership information on behalf foreign counterparts and there is no monitoring of the quality of assistance Vietnam receives from other countries in response to requests for basic and beneficial ownership information.

251. Since the MER, Vietnam issued a new Law on Enterprises 2020 No. 59/2020/QH14 dated 17 June 2020 (Law on Enterprises) rescinding the Law on Enterprises 2014 No. 68/2014/QH13.

252. **Criterion 24.1** is *partly met*: Per the MER, information regarding the creation and types of non-commercial legal persons is only publicly available in the Decrees governing their formation.

253. **Criterion 24.2** is *partly met*: Vietnam's assessment of risk associated with legal persons remains unchanged from the MER. Vietnam is currently in the process of updating its NRA (see R.1).

254. **Criterion 24.3** is *met*: New legislation was introduced by Article 32.1 Law on Enterprises and Article 21.1 Law on AML. All the fields of the company registry (covering all basic information) as provided under Article 21 is publicly available on the website [www.dangkykinhdoanh.gov.vn](http://www.dangkykinhdoanh.gov.vn). The webpage of the National Business Registration Portal is also available in English.

255. **Criterion 24.4** is *mostly met*: Obligations in relation to maintenance of information required by c.24.3 and maintenance of a register of shareholders or members are unchanged from that assessed in the MER.

256. **Criterion 24.5** is *mostly met*: Companies and the Business Registry are required to keep basic information accurate and up to date (Arts. 21.1 & 21.2, Law on AML 2022). The Business Registry must consider the validity of an enterprise registration application and determine whether to issue enterprise registration, request additional information or reject the application (Art. 26.5, Law on Enterprises). Companies are also required to update the Business Registry within 10 days of a change to basic company information and the Business Registry must consider the validity of the application and determine whether to issue a new Certificate of Registration, request additional information or reject the application (Arts. 30.2 & 30.3, Law on Enterprises). However, there is no requirement to keep up to date the register of shareholders or members, the number of shares held by each shareholder and categories of shares (including the nature of voting rights).

257. **Criterion 24.6** is *partly met*.

258. Since the MER, Vietnam has introduced a new beneficial ownership obligation on the company registry and legal persons in the Law on AML 2022 (Art. 21). Vietnam adopts a number of mechanisms to ensure that beneficial ownership information is available and can be determined in a timely manner by competent authorities.

259. **Criterion 24.6(a & b)** is *partly met*: The Law on AML 2022 requires the company registry or the authority granting incorporating permits or licenses to legal persons to maintain beneficial ownership information (Art. 21.1, Law on AML 2022). However, the definition of beneficial ownership does not fully meet the FATF standard. There is no explicit requirement for ultimate effective control of a legal person rather only control, and it is unclear how this interpreted (Art. 3.7, Law on AML 2022). Also, the Law on Enterprises does not require the company registry to collect or maintain beneficial ownership information. Further, there are no obligations on legal persons to file changes to beneficial ownership information within set times. Consequently, the mechanism under Article 21.3 in the Law on AML 2022 to require entities, institutions, and legal persons to provide beneficial ownership information is collected by the company registry and kept up to date is unclear and it is not clear that it would allow for timely access.

260. Legal persons are obligated to obtain, update, record and keep its basic information and beneficial ownership information (Art. 21.2). The deficiency in 24.6(a) for beneficial ownership also applies. The Law on AML 2022 came into effect on 1 March 2023 and as a result the companies and registry mechanisms and powers to ensure that up to date and accurate beneficial information is available upon request are not yet well implemented.

261. **Criterion 24.6(c)** is *partly met*: (i) REs must identify the individual who holds 25% or more of the charter capital of the institution or the individual who is actually controlling the institutional customer per R.10 & R.22 (Art. 7.2, Decree No. 19/2023). The review of CDD information on file is only triggered when transactions by the customer no longer match the FI/DNFBP's understanding of its profile. This is done on a risk sensitive basis. For 24.6(c)(iii) see c.24.3. No updated information was provided on 24.6(c)(ii) or (iv).

262. **Criterion 24.7** is *partly met*: Vietnam requires its company registry to keep and update basic information about a legal person including its beneficial owner(s) (Art. 21.1, Law on AML 2022). Legal persons are also required to obtain and update their basic information including their beneficial owners (Art. 21.2). REs must keep up to date beneficial ownership information collected as part of CDD measures (Art. 11, Law on AML 2022). However, in the absence of obligations for filing beneficial owner details when there is a change, or steps for the registry to verify and check the accuracy of filed beneficial owner information, it is not clear that Vietnam ensures that the records are accurate and up to date.

263. **Criterion 24.8** is *partly met*: When performing regulatory functions regarding AML or conducting investigations, prosecutions, trials, or legal proceedings, SBV and competent state authorities have the power to require entities, institutions and legal persons to provide information on beneficial owners (Art. 21.3, Law on AML 2022). However, Article 21.3 provides no specific requirements or obligations for natural persons or DNFBPs authorised to act on behalf of a company to cooperate with competent authorities.

264. **Criterion 24.9** is *mostly met*: Requirements on persons authorities and entities in R.24 are under Article 21 in the Law on AML and the Law on Enterprise. The company registry, or the authority granting incorporating permits or licenses to legal persons shall be required to update and keep or maintain basic and beneficial owner information for at least five years after the date on which the legal person is dissolved or otherwise ceases to exist in accordance with law (Art. 21.1, Law on AML 2022). Article 21.2 of the Law on AML 2022 obliges legal persons to obtain, update, record and keep basic information and beneficial ownership information, but there is no specific timeframe on how long information must be maintained. REs must maintain CDD information and records for five years (Art. 38.2, Law on AML 2022).

265. The Law on Enterprise requires companies to retain basic company information but is silent on beneficial owner information and any time period for which records must be retained (Art. 11). There are also no time periods for which administrators, liquidators or other persons involved in the dissolution of companies must retain beneficial ownership information after the date on which the company is dissolved or ceases to exist. However, there are adequate provisions in the Law on AML 2022 that cover the majority of key documents required by the criterion. The Law on AML 2022 requires the company registry to maintain information and records on basic and beneficial ownership information for at least five years after the date on which the legal person is dissolved or otherwise ceases to exist (Art. 21.1).

266. **Criterion 24.10** is *mostly met*: SBV and competent state authorities have the right to request entities, institutions, and legal persons access to basic and beneficial owner information (Art. 21.3, Law on AML 2022). However, there is no requirement that the Business Registration Authority provide information in a timely manner.

267. REs must provide information including documents and records of customer identification to competent authorities (Art. 39, Law on AML 2022).

268. Article 9 Decree No. 19/2023/ND-CP stipulates 'the reporting entities must promptly provide information, dossiers, documents and reports [...] at the request of the following competent state agencies.' Inter alia investigation agencies and state inspection agencies – therefore law enforcement authorities – are mentioned in said Article. Moreover, Vietnam clarified that 'promptly will be mentioned in a written request for a RE providing information, records, documents, and reports. The written request will set a deadline for

the RE to respond to and provide information for competent authorities. In emergent cases (sic), representatives of competent authorities will work onsite at the RE' headquarter and require it to provide with information, records, documents, and reports within a required time'.

269. Per the MER, law enforcement agencies (LEA) have adequate powers to obtain all necessary documents to use in investigations (see R.31).

270. **Criterion 24.11** is *not applicable*: Legal persons are not able to issue bearer shares/ bearer share warrants. The updated Law on Enterprises requires that share certificates contain, the full name, signature, mailing address, nationality, and legal document number if the shareholder is an individual; names, EID (enterprise identification) numbers or legal document number and headquarters address if the shareholder is an organization (Art. 121(d)). Therefore, legal persons are not able to issue bearer shares.

271. **Criterion 24.12** is *not applicable*: Per the MER and c.24.11 Vietnam does not recognise nominee shares or nominee directors.

272. **Criterion 24.13** is *partly met*: While there is liability for legal or natural person that fail to comply with the requirements for transparency of legal persons, but available sanctions are not proportionate and dissuasive. The Decree, Penalties for Administrative Violations Against Regulations on Planning and Investment No. 122/2021/ND-CP, was issued pursuant to the Law of Enterprise 2020 and includes a range of penalties with respect to violation of enterprise registration. A few examples include:

- A fine of between VND 20m to 30m (approx. USD 810 to 1,215) for providing untruthful, inaccurate information in an application for enterprise registration or changes to registration information (Art. 43);
- Warnings or fines of between VND 3m to 30m (approx. USD 122 to 1,215) for late changes to enterprise registration certificates and business location registration information (Art. 44);
- A fine of between VND 10m to 15m (approx. USD 405 to 608) for failing to publish enterprise registration information on the National Business Registration Portal (Art. 45); and
- A fine of between VND 10m to 15m (approx. USD 405 to 608) for failing to comply with a request of the business registration authorities (Art. 48).

273. Decree No. 143/2021 and Decree No. 88/2019 include sanctions for REs failure to collect and maintain records of basic and beneficial ownership information collected during customer identification processes. These include:

- A fine of between VND 100m to 150m (approx. USD 4,050 to 6,080) for failing to identify, update or verify the identification of customers (Art. 22 Decree No.143/2021 & Art. 39, Decree No. 88/2019); and
- A fine of between VND 30m to 40m (approx. USD 1,216 to 1,620) for failing to provide information and documents as prescribed by law (Art. 47, Decree No. 88/2019).

274. **Criterion 24.14** is *mostly met*: There is now a mechanism in place for enabling competent regulatory authorities to conduct international cooperation on the 'communication, provision, and transfer of AML information with foreign competent authorities' (Art. 6.2(c), Law on AML 2022). AML information is not defined but is understood to include information and documents related to AML/CFT programs including customer identification information such as basic and beneficial ownership information (see c.10.10) but not basic or beneficial information held by company registries or information on shareholders.

275. However, the powers available in Article 6.2 are limited to regulatory competent authorities only. Vietnam did not provide information on the extent to which; (a) basic information held in the corporate registry can be accessed by foreign competent authorities, (b) information on shareholders can be exchanged, or (c) beneficial ownership information obtained. If a company was not a customer of an RE, the mechanism in Art. 6.2(c) would be insufficient to provide beneficial ownership information. Further, the MER at c.40.18 identified that LEAs are not specifically authorised to use their powers to conduct inquiries and obtain information on behalf of foreign counterparts.

276. **Criterion 24.15** is *partly met*: The AML Department of the SBV archives all foreign FIUs' responses, including requests for basic and beneficial ownership information. When receiving foreign FIUs' responses to outgoing requests, SBV fills in a feedback form requested by foreign FIUs. The feedback form includes information supporting monitoring quality of responses. There are internal guidelines in place on archiving administrative confidential documents and procedures on handling FIU incoming and outgoing request of AMLD.

277. Competent regulatory authorities can conduct international cooperation on AML including the communication, provision, and transfer of AML information, which would include basic and beneficial ownership information, with foreign counterparts (Art. 6, Law on AML 2022). Vietnam did not demonstrate mechanisms for authorities outside the FIU to monitor the quality of assistance they receive from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.

#### *Weighting and Conclusion*

278. Since the MER Vietnam has introduced a new Law on Enterprises, Law on AML, and Law on Anti-Terrorism. The laws are comprehensive and create a solid legal framework however moderate shortcomings remain. Information on the different types of legal persons is not publicly available and the risk assessment on legal persons is not finalised. All basic company information is available but gaps relating to information held by companies or their shareholders and members, and ensuring information on regulating powers is kept up to date remain unchanged from the MER. Vietnam has strengthened its mechanisms regarding companies' beneficial ownership information however implementation is at a very early stage. Company records must be held for five years by reporting entities but there is no time period specified for the company itself or administrators, liquidators or other persons involved in the company's dissolution. Competent authorities and LEAs have powers necessary to access basic and beneficial ownership information, but access is not always timely. Vietnam continues to prohibit bearer shares and warrants and nominee shareholders and directors. Following changes to the legal framework it is understood that the general wording of Article 46 of the Law on AML is used as the legal basis for sanctioning any legal or natural person that does not comply with the requirements in R.24 however, available sanctions are not proportionate and dissuasive Vietnam has limited monitoring of the s the quality of assistance on international cooperation relating to basic and beneficial ownership information. **Recommendation 24 remains rated partially compliant.**

#### *Recommendation 25 [R.25] (Originally rated partially compliant)*

279. Vietnam was rated PC for R.25 in its 2022 MER. There were requirements that trustees of foreign trusts operating in Vietnam maintain information on the identity of the settlor, the trustee, protector (if any), beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control. Trustees were not required to keep records up to date and accurate, and professional trustees were only obligated to comply with CDD requirements in limited circumstances when acting in their capacity as REs. Trustees did not have to disclose their status to FIs and DNFBBPs when forming a business relationship or carrying out the occasional transactions and there were no provisions allowing timely access to information held specifically by trustees in Vietnam. It is unclear whether there are any explicit mechanisms for Vietnamese competent authorities to obtain beneficial ownership information on behalf foreign counterparts

and there are no sanctions for trustees who fail to perform the duties relevant to meeting their obligations. This is also a lack of clarity regarding REs who fail to disclose information and there are no sanctions specifically against trustees.

280. Since the MER, Vietnam has introduced the new AML Law 2022 and the Anti-Terrorism Law 2022.

281. The Law on AML 2022 defines a legal arrangement as,

‘a trust or any other similar legal arrangement recognized and established by foreign laws, under which the trustee is allowed to acquire the legal ownership and control of the property through the transfer process from the settlor/grantor to conduct the operation, management and supervision of such property for the benefit of the beneficiary or for the agreed purposes’ (Art. 3.12).

282. **Criterion 25.1** is *mostly met*.

283. **Criterion 25.1(a) and (b)** is *not applicable*: Express trusts and similar legal arrangements cannot be created under Vietnamese law.

284. **Criterion 25.1(c)** is *mostly met*: There is no prohibition on express trusts created in another jurisdiction or trustees from those trusts from operating in Vietnam. A trustee is required to collect and update the identities of the settlor/grantor, trustee, beneficiary, parties concerned (if any), the natural person(s) who exercise ultimate control(s) over the trust. A gap remains as the obligation does not extend to protectors (if any) and classes of beneficiaries or to other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors. It is also unclear how trustees ensure information is accurate. Trustees are required to keep information for at least five years after the date on which the trustee ceases to participate in trust activities (Art. 22.1(a), Law on AML 2022)

285. **Criterion 25.2** is *partly met*: Trustees are required to collect and update identities from the settlor/grantor, trustee, beneficiary, parties concerned until (if any), the natural person(s) who exercise ultimate control(s) over the trust (Art. 22.1(a), Law on AML 2022). However, there is no explicit requirement for trustees to keep accurate records or for information to be up to date as possible and be updated on a timely basis.

286. **Criterion 25.3** is *not met*: There is no enforceable obligation on trustees to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold. Because of the broad wording of the legal basis in Article 22.1(b) in the Law on AML 2022 (‘provide the information’) it is understood that there is no restriction in the law if it is while forming a business relationship or carrying out the occasional transactions. However, the wording ‘upon request’ (Art. 22.1(b)) requires FIs and DNFBPs to request information from trustees rather than oblige trustees to disclose their status to FIs and DNFBPs.

287. **Criterion 25.4** is *met*: Per the MER, there are no explicit laws or enforceable means preventing trustees from disclosing information regarding legal arrangements to competent authorities or from providing FIs or DNFBPs upon request, with information on the beneficial ownership and the assets of the trust to be held or managed under the terms of the business relationship.

288. **Criterion 25.5** is *mostly met*: SBV and other competent state authorities can request natural or legal persons to provide information on the beneficial ownership and control of the trust including the beneficial ownership, residence of the trustee, and where FIs or DNFBPs hold assets in trust (Arts. 10, 22.1 & 22.3, Law on AML 2022). Trustees are required to collect information in relation to legal arrangements as described in c.25.1 and provide this upon request to competent authorities (Art. 22.1(b)). However, there is no provision to enable timely access to information held by trustees.

289. Article 10 of Decision No.19/2023 requires ‘relevant organisations and individuals’, to provide upon request, records, documents, and archive reports’ to SBV and that ‘information, dossiers and documents’ be provided within the requested time. This would include all information collected under CDD measures for legal arrangements by reporting entities (see c.10.11).

290. For law enforcement authorities, powers in the Criminal Procedure Code require timely compliance with requests for information (Art. 168). Competent authorities other than law enforcement agencies and SBV do not have the powers necessary to be able to obtain timely access to information. Sanctions can be applied for obstruction of proceedings however these do not ensure timely access to information (Art. 13, Ordinance on Sanctions for Administrative Violations for Acts of Obstruction of Proceedings Activities No. 02/2022/UBTVQH15).

291. **Criterion 25.6** is *mostly met*: There is now a mechanism in place for enabling competent regulatory authorities to conduct international cooperation on the ‘communication, provision, and transfer of AML information with foreign competent authorities (Art. 6.2(c), Law on AML 2022). AML information is not defined but is understood to include information and documents related to AML/CFT programs including customer identification information such as basic and beneficial ownership information on trusts but not other legal arrangements and there are gaps relating to information held on the protector (if any) and classes of beneficiaries (see c.10.11). In accordance with mechanisms under R.37 and R.40, there are no barriers to exchanging information on trusts requested by competent authorities under Article 22.1(b).

292. However, the powers available in Article 6.2 are limited to regulatory competent authorities only. If a trustee was not a customer of an RE, the mechanism in Art. 6.2(c) would be insufficient to provide beneficial ownership information. Further, the MER at c.40.18 identified that LEAs are not specifically authorised to use their powers to conduct inquiries and obtain information on behalf of foreign counterparts.

293. **Criterion 25.7** is *not met*: Decree No. 19/2023 replaced Decree No. 116/2013 cited in the MER and is now annulled. Decree No. 19/2023 does not include proportionate and dissuasive sanctions able to be imposed on trustees. In the limited circumstances where professional trustees act in their capacity as reporting entities, there are no applicable sanctions for non-compliance with the Law on AML 2022.

294. **Criterion 25.8** is *not met*: Decree No. 19/2023 replaced Decree No. 116/2013 cited in the MER and is now annulled. Decree No. 19/2023 does not include sanctions able to be imposed specifically against trustees for failing to disclose information.

#### *Weighting and Conclusion*

295. Express trusts and similar legal arrangements are not able to be formed under Vietnamese law, but express trusts created under the laws of another jurisdiction and trustees of those trusts are not prohibited from operating in Vietnam (including forming relationships with FIs and DNFBPs). Since the MER, Vietnam has introduced legislation on the transparency of information regarding legal arrangements (Art. 22.1, Law on AML 2022). Trustees are required to maintain information for five years, but they do not collect information on protectors (if any) and classes of beneficiaries or on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors. There is no explicit requirement that information be accurate, and trustees need only disclose their status when requested. Trustees, FIs and DNFBPs must provide access to information but there is a gap for trustees to provide this in a timely manner. There is a new mechanism for international cooperation, but its powers are limited to regulatory competent authorities. Sanctions for trustees are not proportionate or dissuasive.

***Recommendation 25 remains rated partially compliant.***

### *Recommendation 26 [R.26] (Originally rated partially complaint*

296. Vietnam was rated PC for R.26 in its 2022 MER. There were gaps in supervision for IPSPs and online lending institutions and no supervisor for intermediary payment service providers (IPSP). It is unclear whether there is a supervisor or regulator for CFT, a licencing authority for fund management companies, and whether online lending institutions must be licenced or registered before operating. There are limited fit and proper controls in place to prevent criminal associates from owning or controlling FIs as beneficial owners. There is no supervision of the non-cash payment sector or online lending institutions. The frequency and intensity of supervision undertaken by supervisors is not based on ML/TF risks, policies, internal controls and procedures associated with the institution or group, and supervisors have not assessed the risk profile of FIs and financial groups or periodically reviewed risks in response to major events.

297. **Criterion 26.1** is *partly met*: SBV and MOF are the designated AML supervisors for FIs (Arts. 48 & 51, Law on AML 2022). SBV licences and supervises credit institutions and intermediary payment services for non-bank institutions (Art. 4, Law on State Bank of Vietnam No. 46/2010/QH12) and is responsible for AML supervision of ‘reporting entities under the range of its responsibilities for monetary and banking activities’ (Art. 48.3, Law on AML 2022). IPSPs are now defined as reporting entities (Art. 4.1(dd), Law on AML 2022) and online lenders are also supervised by SBV.

298. Non-bank credit institutions include ‘finance companies, financial leasing companies and other non-bank credit institutions’ (Art. 4, Law on Credit Institutions No.47/2010/QH12) which would include online lenders and are supervised by SBV. Further, Article 1.11 of Circular No. 06/2023/TT-NHNN amends Circular No. 39/2016/TT-NHNN on Lending Transactions of Credit Institutions and Foreign Bank Branches with Customers to include digital lending (understood to mean online lending such as through websites and mobile apps) and permits credit institutions to conduct digital lending.

299. Vietnam has not designated a supervisor with responsibility for supervising CFT requirements. MPS has general inspection and examination powers for anti-terrorism measures (which are unchanged from the time of the MER), but it does not have powers for supervision of FIs for compliance with CFT requirements. FIs have CFT obligations following amendments to Article 34 in Law on Anti-Terrorism 2022 however the supervisory framework (Arts. 3.3, 39 and 40) is unchanged from the MER.

300. **Criterion 26.2** is *met*: The State Securities Commission (SSC) has the power to issue, reissue, revise, revoke the securities trading license of securities companies, fund management companies, branches in Vietnam of foreign securities companies and fund management companies (Arts. 70 & 71, Securities Law 2019). As a type of non-bank credit institution (see 26.1), online lenders must be licenced by SBV (Art. 8.1, Law on Credit Institutions).

301. **Criterion 26.3** is *partly met*: The analysis and conclusions of the MER remain.

302. **Criterion 26.4** is *partly met*.

303. **Criterion 26.4(a)** is *partly met*: The deficiencies in the MER related to c.26.4(a) remain and there is no supervision with regard to TF risks for CFT requirements.

304. **Criterion 26.4(b)** is *partly met*: While Vietnam has clarified supervision for AML of some sectors (see 26.1), in line with the MER supervision having regard to ML risk, Vietnam did not demonstrate that supervision for AML of FIs other than foreign exchanges and money remittance providers, is occurring. There is no supervision with regard to TF risks for CFT requirements.

305. **Criterion 26.5** is *not met*: The frequency and intensity of supervision is not determined on the basis of a) the ML/TF risks and the policies, internal controls and procedures associated with the institution or group, as identified by the supervisor’s assessment of the institution’s or group’s risk profile; b) the

ML/TF risk present in Vietnam; and c) the characteristics of the FIs or groups, in particular the diversity and number of FIs and the degree of discretion allowed to them under the risk-based approach

306. **Criterion 26.6** is *not met*: Supervisors do not review the assessment of the ML/TF risk profile of an FI (including the risks of non-compliance) periodically or when there are major events or developments in the management and operations of the FI or group.

#### *Weighting and Conclusion*

307. SBV and MOF are the designated AML supervisors for all FIs. However, given the responsibility for AML supervision has been removed from the BSA within SBV, it is unclear which designated section within SBV now undertakes this supervisory role. For CFT, it remains unclear who is the designated supervisor despite FIs now having CFT obligations. There remain deficiencies relating to market entry fit & proper requirements, risk-based supervision and monitoring, the determination of frequency and intensity of on-site and off-site supervision, and the review of FI or group risk profiles either periodically or in response to major events or developments. **Recommendation 26 remains rated partially compliant.**

#### **Recommendation 27 [R.27] (Originally rated partially compliant)**

308. Vietnam was rated PC for R.27 in its 2022 MER. lack the authority to conduct CFT inspections or apply sanctions for non-compliance with CFT requirements. No supervisor is authorised to conduct AML/CFT inspections or compel production of information for IPSPs and online lending institutions, and the power to conduct CFT inspection is not clearly authorised by law. There are minimal CFT requirements imposed on FIs, and penalties for AML breaches do not apply to CFT breaches. There is no legal basis authorising AML/CFT supervisors to sanction foreign currency exchange companies, IPSPs, or online lending institutions for non-compliance with AML requirements. Since the MER, Vietnam has introduced the AML 2022 and Law on Anti-Terrorism 2022 which address some aspects of powers of supervisors.

309. **Criterion 27.1** is *partly met*: The SBV and MOF remain the designated AML supervisors with the power to supervise and ensure compliance by all FIs with AML requirements (Arts. 48 & 51, Law on AML 2022). The power to supervise FIs' compliance with CFT requirements remain unclear. The Law on Anti-Terrorism 2022 imposes new CFT requirements on FIs (Art. 34, Law on Anti-Terrorism 2022) and the MPS has general inspection and examination powers for anti-terrorism measures (Art. 40, Law on Anti-Terrorism 2022) but Article 40 is unchanged from the Law on Anti-Terrorism 2013 and there are no explicit powers to supervise or monitor and ensure compliance of FIs with CFT requirements.

310. **Criterion 27.2** is *partly met*: The Law on AML gives SBV and MOF the authority to inspect and monitor FI's AML compliance (Art. 48.3 & 51.2, Law on AML 2022). SBV has the authority/power to supervise or monitor online lending and IPSPs for compliance with AML requirements (see 27.1). However, the power to conduct CFT inspections is not clearly authorised by law. Supervisors do not have the authority to conduct CFT inspections or apply sanctions for non-compliance with CFT requirements.

311. **Criterion 27.3** is *mostly met*: All FIs are supervised for AML requirements by either SBV or MOF (see 26.1). FIs must give SBV and MOF information, documents, records, and reports relating to customer identification, analysis and assessment of customers and transactions, other information, documents and records associated with customers and transaction and on reports of large value transactions, suspicious transactions and wire transfers (Art. 39, Law on AML 2022 & Art. 10, Decree No. 19/2023).

312. As the power to conduct CFT supervision is unclear in law, it is also unclear whether any competent authority has powers to compel production of information relevant to monitoring for compliance with CFT obligations.

313. **Criterion 27.4** is *partly met*: Since the MER, Decree No. 96/2014 was superseded by Decree No. 88/2019 which sets out sanctions for various laws including breaches of the Law on AML 2022 and Law on Anti-Terrorism 2022. Decree No. 143/2021 amends Decree No. 88/2019 by increasing and expanding applicable sanctions which include fines, suspension of employment, prohibition from holding management or supervisory positions and dismissal.

314. For currency and credit institutions, failure to comply with AML/CFT requirements, supervisors can impose a range of disciplinary and financial sanctions and have powers to withdraw, restrict or suspend licences (Arts. 5, 21-34, Decree No. 143 & Art. 3, 39-49 & 53, Decree No. 88).

315. For securities firms, Decree No. 156/2020/ND-CP Prescribing Penalties for Administrative Violations Against Regulations on Securities and Securities Market dated 31 December 2020 (Decree No. 156) and Decree No. 128/2021/ND-CP Providing Amendments to Government's Decree No. 156/2020/ND-CP Dated December 31, 2020 Prescribing Penalties For Administrative Violations Against Regulations on Securities and Securities Market (Decree No. 128) prescribe penalties for administrative violations against AML/CFT regulations on securities and securities market. Supervisors can impose disciplinary and financial sanctions and have powers to withdraw, restrict or suspend licences (Arts 4, 5, 45 – 47 & 49, Decree No. 156 & Arts 1, 36, 37 & 39, Decree No. 128).

316. For CFT, as per the MER, it remains unclear whether any supervisor is authorised to impose sanctions when FIs fail to comply with CFT requirements. Further, there are no powers to withdraw, restrict or suspend an FI's licence for breaches of CFT requirements. Vietnam has also not sought re-rating of R.35 which was rated non-compliant in the MER.

#### *Weighting and Conclusion*

317. SBV and MOF are designated AML supervisors with the power to supervise and ensure compliance by all FIs with AML requirements and conduct inspections. Supervising authorities are also able to compel production of documents and information for AML purposes, primarily related to customer identification and reportable transactions but not all records applicable to an AML/CFT program.

318. However, the power to supervise FIs compliance with CFT requirements remains unclear. Consequently, it is also unclear whether any competent authority has powers to compel production of information relevant to monitoring for compliance with CFT obligations and whether any supervisor is authorised to impose sanctions when REs fail to comply with CFT requirements. There are also no powers to withdraw, restrict or suspend an FI's licence for breaches of CFT requirements.

319. Since the MER, IPSPs and online lending institutions have been covered by the AML Law 2022 and all AML obligations now apply in combating TF. While there are range of penalties and sanctions that can be taken on any breaches/violations of AML/CFT requirements, there is still a lack of clarity of the authority to impose CFT sanctions. ***Recommendation 27 remains rated partially compliant.***

#### *Recommendation 29 [R.29] (Originally rated partially compliant)*

320. Vietnam was rated PC for R.29 in its 2022 MER. There was no explicit legal obligation to lodge TF-related STRs (see R.20 and R.23) and there were gaps in information protection and sharing. Additionally, AMLD does not have direct access to LEA databases or platforms for electronic information exchange. Vietnam also lacks dedicated, secure, and protected channels for the dissemination of intelligence, relying on physical document sharing and verbal communication in meetings. There was no security clearance process for AMLD staff members and AMLD was not fully operationally independent and autonomous from the SBV.

321. Since the MER, Vietnam has introduced a new AML Law - the Law on Anti-Money Laundering 2022. Article 66(3) of the Law on AML 2022 annuls the entirety of the 2012 Law. The annulment presumably flows through to any decrees made under the previous law (such as Decree No. 116/2013). Vietnam has also introduced a new Law on Anti-Terrorism 2022. Further, Vietnam advised that Decree No. 74/2005 that establishes the FIU within SBV as the sole body to receive and process information concerning transactions and other information is no longer in effect.

322. **Criterion 29.1** is *partly met*: Vietnam advised Decree No. 74/2005 is no longer in effect which creates uncertainty as to whether AMLD within SBV is established as the FIU with responsibility for receipt and analysis of STRs and other information. In practice, AMLD continues to act as Vietnam's FIU however it is unclear whether AMLD or another agency within SBV has been established in law as the FIU with responsibility to receive and analyse STRs and other information relevant to ML, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis.

323. Decision No 1367/QS-NHNN and Decision No. 2393/QD-NHNN remain in effect. Decision No 1367/QS-NHNN defines the functions, tasks, powers, and organisational structure of the Department for Anti-Money Laundering (AMLD) under the Banking Supervision Authority. AMLD's tasks, as amended by Decision No. 2393/QD-NHNN include receiving information and reports in accordance with the laws on anti-money laundering and counter-financing of terrorism (Art. 2.2), analysing and processing reports and suspicious information (Art. 2.3) and transferring information or case records to competent authorities and coordinate information exchange (Art. 2.4).

324. For TF, SBV's responsibilities include receiving information and reports on suspicious transactions relating to terrorism and terrorism financing from FIs and DNFBPs (Art. 45, Law on Anti-Terrorism 2022).

325. Vietnam advises that the FIU (AMLD) is the sole body to receive STRs related to ML/TF/PF (Art 26, Law on AML & Art. 7, Circular No. 09/2023) and STRs related to TF are reported only to SBV and not to any other agency. The STR template in Appendix 2 of Circular 09/2023 states 'This template is applied to STRs submitted by reporting entities to Agency performing the functions and tasks of anti-money laundering under the SBV. This template is not permitted to be submitted to other competent agencies.

326. **Criterion 29.2** is *met*.

327. **Criterion 29.2(a)** is *met*: REs must report STRs to SBV where there is a suspicion of money laundering (Art. 26, Law on AML 2022).

328. Article 34.1 of the Law on Anti-Terrorism 2022 requires FIs and DNFBPs to apply Article 9 to Article 40 of the Law on AML 2022 to TF and CFT. Therefore, the obligation to report STRs for ML as required by Article 26 in the Law on AML also applies to TF.

329. **Criterion 29.2(b)** is *met*: REs must file reports to SBV on large value transactions (Arts. 3.3 & 25, Law on AML 2022) and electronic transfers (Art. 34, Law on AML 2022).

330. **Criterion 29.3** is *partly met*.

331. **Criterion 29.3(a)** is *met*: REs must provide SBV with information, documents, records, and reports, including large transactions, STRs and wire transfers (Art. 39, Law on AML 2022 & Art. 10, Decree No. 19/2023)). Per Article 34 in the Law on Anti-Terrorism, these obligations also apply to TF.

332. **Criterion 29.3(b)** is *partly met*: SBV is responsible for cooperating and exchanging information about prevention and combat of money laundering with competent authorities during investigations, prosecutions, trials, or proceedings (Arts. 42 & 48, Law on AML 2022). The range of competent authorities

required to cooperate with SBV on ML include MPS, Ministry of National Defence, MOF, Ministry of Construction, MOJ, Ministry of Home Affairs, Ministry of Foreign Affairs (Arts. 49-54,56-58, Law on AML 2022). Information from open or public sources can also be accessed.

333. For TF, there are no explicit provisions for SBV to have access to the widest range of financial, administrative and law enforcement information. MPS must cooperate with relevant ministries, central departments, and agencies in implementation of anti-terrorism efforts which would include SBV but there is no explicit provision for SBV to access TF related information from MPS or for MPS to share TF information (Art. 40, Law on Anti-terrorism 2022).

334. SBV is also able to access cross-border declaration forms upon request from Customs (Art. 35, Law on AML 2022).

335. Per the MER, AMLD remains unable to directly access LEA databases or platforms to exchange information electronically.

336. **Criterion 29.4** is *mostly met*.

337. **Criterion 29.4(a)** is *met*: Article 10.3(b) of Decree No. 19/2023 requires SBV to use available information and collection of additional information to track transactions, identify connections of suspected activities related to ML and other criminal offences. This formalises and reaffirms prior Decision No. 99/2019/QD-CucIII.2 On Issuing the Procedure of Handling Suspicious Transaction Information by the Director of AMLD that outlined the responsibilities of analyst for conducting operational and strategic analysis.

338. **Criterion 29.4(b)** is *mostly met*: Article 10.3(a) of Decree No. 19/2023 requires SBV to analyse received information and reports to identify trends and patterns of money laundering in order to develop strategies and objects to combat ML. Since the MER Vietnam has produced two strategic analysis products on, (i) transactions related to indicators of tax evasion and tax fraud, and (ii) fake card payment transactions. There has been no strategic analysis of TF.

339. **Criterion 29.5** is *partly met*: While laws provide clear expectations on the need to analyse and share information with relevant agencies, there is still no secure and safe platform used for this purpose. AMLD is still developing an IT system to support the collection, analysis, and transfer of intelligence information confidentiality and safely.

340. SBV is responsible for referring information or case files to competent authorities for use in the verification, investigation, prosecution, and trial or proceedings within seven days where there are reasonable grounds to suspect a transaction specified in information or a report related to ML, and for cooperating and exchanging information and ML with competent authorities (Art. 42, Law on AML 2022 & Art. 11, Decree No. 19/2023).

341. For TF, SBV must immediately inform MPS of information or reports on suspicious transactions relating to terrorism and terrorism financing (Art. 45, Law on Anti-Terrorism 2022). SBV must also exchange and provide information where suspected transactions relate to organisations and individuals on the blacklist (Art. 11.3, Decree No. 19/2023).

342. **Criterion 29.6(a), (b) & (c)** is *partly met*: The rating from the MER remains. No further progress was reported by Vietnam.

343. **Criterion 29.7** is *partly met*: The rating from the MER remains as no update was provided. However, Decree No. 74/2005 that establishes the FIU within SBV is no longer in effect.

344. **Criterion 29.8** is met: The rating from the MER remains as no update was provided.

*Weighting and Conclusion*

345. While amendments made to the Law on AML 2022 and Law on Anti-Terrorism 2022 supplemented by Decree No. 19/2023, have provided some clarity on the requirement for reporting entities to report suspicious transactions for both ML and TF related cases, deficiencies remain. As the Decree establishing AMLD as the FIU is no longer in effect it is unclear if AMLD is the FIU in law. There is also uncertainty on whether reports suspected terrorism financing where the customer is named a blacklist maintained by MPS result in an STR to AMLD.

346. For TF, there are no explicit provisions for SBV to access the widest range of information, AMLD does not have direct access to relevant databases or information exchange platforms, there is limited development of strategic analysis products for ML and none for TF and dissemination channels are not secure or protected. Deficiencies cited in the MER relating to the protection of information, operational independence and Egmont membership remain not addressed. **Recommendation 29 remains rated partially compliant.**

**IV. CONCLUSION**

347. Overall, Vietnam has made minimal progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated to LC R.13. Insufficient progress has been made to support a re-rating for R.1, R.10, R.11, R.14, R.15, R.16, R.17, R.18, R.19, R.20,<sup>8</sup> R.21, R.22, R.23, R.24, R.25, R.26, R.27 and R.29.

348. A summary table setting out the underlying deficiencies for each of the recommendations assessed in this report is included at Annex A.

349. Overall, in light of the progress made by Vietnam since its MER was adopted, its technical compliance with the FATF Recommendations as follows as of the reporting date June 2023:

R.	Rating	R.	Rating
1	PC (2022 MER; 2023 FUR)	21	PC (2022 MER ; 2023 FUR)
2	LC (2022 MER)	22	PC (2022 MER ; 2023 FUR)
3	PC (2022 MER)	23	PC (2022 MER ; 2023 FUR)
4	LC (2022 MER)	24	PC (2022 MER ; 2023 FUR)
5	LC (2022 MER)	25	PC (2022 MER ; 2023 FUR)
6	PC (2022 MER)	26	PC (2022 MER ; 2023 FUR)
7	NC (2022 MER)	27	PC (2022 MER ; 2023 FUR)
8	LC (2022 MER)	28	PC (2022 MER)
9	LC (2022 MER)	29	PC (2022 MER ; 2023 FUR)
10	PC (2022 MER; 2023 FUR)	30	C (2022 MER)
11	PC (2022 MER ; 2023 FUR),	31	LC (2022 MER)

<sup>8</sup> In keeping with APG ME Procedures, the APG 2024 Plenary Meeting in September 2024 considered and decided on the disputed Vietnam FUR 2023 R. 20 analysis. Since there was no consensus made, APG members adopted the R.20 analysis and R. 20 remains rated partially compliant.

R.	Rating
12	<b>NC</b> (2022 MER)
13	<b>PC</b> (2022 MER), <b>↑ LC</b> (2023 FUR)
14	<b>PC</b> (2022 MER ; 2023 FUR)
15	<b>NC</b> (2022 MER ; 2023 FUR)
16	<b>PC</b> (2022 MER; 2023 FUR )
17	<b>PC</b> (2022 MER ; 2023 FUR)
18	<b>PC</b> (2022 MER ; 2023 FUR)
19	<b>PC</b> (2022 MER ; 2023 FUR)
20	<b>PC</b> (2022 MER ; 2023 FUR)

R.	Rating
32	<b>LC</b> (2022 MER)
33	<b>C</b> (2022 MER)
34	<b>PC</b> (2022 MER)
35	<b>NC</b> (2022 MER)
36	<b>LC</b> (2022 MER)
37	<b>LC</b> (2022 MER)
38	<b>PC</b> (2022 MER)
39	<b>LC</b> (2022 MER)
40	<b>LC</b> (2022 MER)

350. Vietnam has 14 Recommendations rated C/LC. Vietnam is moved to enhanced follow-up.

*Summary of Technical Compliance –Deficiencies underlying the ratings <sup>9</sup>*

<b>Compliance with FATF Recommendations</b>		
<b>Recommendation</b>	<b>Rating</b>	<b>Factor(s) underlying the rating<sup>10</sup></b>
1. Assessing Risk and Applying a Risk-Based Approach	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>• The ML risk assessment is not approved, and the TF risk assessment was not provided (c.1.1).</li> <li>• A risk-based approach to resource allocation and preventive measures is applied to a limited extent (c.1.5).</li> <li>• There is no AML supervisor for TSCPs and no clear authorisation in law for CFT supervision of FIs and DNFBPs (c.1.9).</li> <li>• Policies, controls, and procedures do not have to be approved by a senior manager, monitoring of implementation of controls do not apply to extra-small enterprises and natural persons (c.1.11(c)).</li> <li>• Gaps identified under c.1.9 to c.1.11 apply (c.1.12).</li> </ul>
10. Customer Due Diligence	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>• There is no requirement to conduct CDD on occasional transactions carried out in several operations that appear to be linked, transaction reference numbers in wire transfers do not need to be unique to permit traceability, or when a suspicion arises in circumstances other than conducting a transaction (c.10.2(b)(c) &amp; (d)).</li> <li>• Articles in the enforcement decrees for verification do not align to the relevant articles in the Law on AML 2022 (c.10.3).</li> <li>• There is no requirement to verify a representative of an individual customer is authorised to act on their behalf (c.10.4).</li> <li>• There is no requirement to understand the purpose and intended nature of the business relationship (c.10.6).</li> <li>• For legal persons and legal arrangements, there is no requirement to understand the nature of the customer's business and its ownership and control structure (c.10.8).</li> <li>• There is no requirement to collect information on the legal person or legal arrangement's legal form, or identify the legal powers that regulate and bind the</li> </ul>

<sup>9</sup> Ratings and factors underlying the ratings are only included for those recommendations under review in this FUR.

<sup>10</sup> Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.

<b>Compliance with FATF Recommendations</b>		
<b>Recommendation</b>	<b>Rating</b>	<b>Factor(s) underlying the rating<sup>10</sup></b>
		<p>legal person, collection of information on the registered office is not explicit and there is no requirement to collect the principal place of business (c.10.9(a)(b) &amp; (c)).</p> <ul style="list-style-type: none"> <li>• There is no requirement to identify and take reasonable measures to verify the identity of the person exercising control of the legal person or arrangement (c.10.10(b)).</li> <li>• There is no requirement to identify the senior managing official (c.10.10(c)).</li> <li>• For legal arrangements and other types of legal arrangements, there is no requirement to identify and take reasonable measures to verify protectors (if any) and classes of beneficiaries and FIs are not required to collect information, only to request information, (c.10.11(a) &amp; (b)).</li> <li>• There is no obligation to identify the name of the beneficiary who is a natural or legal person or that measures be conducted as soon as the beneficiary is identified, conduct CDD measures of a beneficiary designated by characteristics or class or by other means, and the beneficiary does not need to be verified or for this to occur at the time of payout, (c.10.12(a)(b) &amp; (c)).</li> <li>• The beneficiary of a life insurance policy is not a risk factor in determining whether to enhanced CDD measures are applicable and there are no requirements for the FI to apply enhanced measures, including reasonable measures to identify and verify the beneficial owner of the beneficiary, at the time of the payout (c.10.13).</li> <li>• CDD requirements do not need to be applied to existing customers based on materiality and risk, or to conduct due diligence on existing relationships at appropriate times, taking into account whether and when CDD measures have been previously undertaken and the adequacy of data obtained (c.10.16).</li> <li>• There is no requirement to conduct EDD where a suspicion of ML/TF arises in relation to a customer classified as low risk (c.10.17).</li> <li>• There are no prohibitions on simplified due diligence where other specific higher-risk scenarios apply (c.10.18).</li> <li>• There are no requirements for other FIs to not open accounts, commence business relationships or perform</li> </ul>

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		<p>transactions where CDD measures are unable to be complied with or terminate the business relationship in these circumstances, nor must an FI consider reporting an STR (c.10.19(a) &amp; (b)).</p> <ul style="list-style-type: none"> <li>There are no explicit provisions permitting FIs not to pursue the CDD process where there are; suspicions of ML or TF, and there is a risk that the CDD process will tip-off the customer (c.10.20).</li> </ul>
11. Record Keeping	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>Record-keeping obligations do not include all transaction types (c.11.1).</li> <li>Results of analysis of transactions includes only 'should-be-reported' transactions, not all transactions (c.11.2).</li> <li>The deficiency described in c.11.1 cascades to this criterion (c.11.3).</li> </ul>
13. Correspondent Banking	PC (2022 MER), LC (2023 FUR)	<ul style="list-style-type: none"> <li>There is no explicit requirement for FIs to determine the quality of supervision, and whether the respondent bank has been subject to any TF investigation or regulatory action, (c.13.1(a)).</li> <li>FIs are required to satisfy themselves that respondent banks do not permit their accounts opened at the FI to be used by shell banks, but not all of the respondent bank's accounts (c.13.3).</li> </ul>
14. Money or value transfer services	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>There is no express requirement for SBV (or any other competent authority) to enforce breaches of the Law on AML, including to identify natural or legal persons carrying out MVTs without a licence or registration, or apply sanctions of providing illegal MVTs services (c.14.2).</li> <li>It is unclear if Vietnam has a legal framework for supervision of MVTs for AML purposes and CFT supervision is unclear. (c.14.3).</li> <li>Deficiencies with respect to MVTs agents has widened as only credit institutions have a clear licensing/registration requirement and other MVTs sectors do not have a clear legal basis to require licencing/registration of agents or a clear legal basis prohibiting the formation of agents (c.14.4).</li> </ul>
15. New Technologies	NC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>ML risks of new products and businesses practices are yet to be assessed and no requirement to identify or assess TF risks of new products and business practices, including delivery mechanisms and the use of new or</li> </ul>

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		<p>developing technologies. Obligations on reporting entities do not appear enforceable and there are no penalties able to be imposed for non-compliance (c.15.1).</p> <ul style="list-style-type: none"> <li>• FIs are not required to undertake TF risk assessments prior to the launch of new products, practices and technologies and take appropriate measures for ML/TF risks (c.15.2(a) &amp; (b)).</li> <li>• ML/TF risks of VA activities and activities or operations of VASPs are yet to be assessed, no measures have been taken to prevent or mitigate ML/TF, and appropriate steps to identify, assess, manage, and mitigate ML/TF risks have not been taken (c.15.3(a)(b) &amp; (c)).</li> <li>• VASPs are not required to be licenced or registered (c.15.4(a) &amp; (b)).</li> <li>• No actions have been taken to identify natural or legal persons carrying out unlicensed or unregistered VASP activities (c.15.5).</li> <li>• VASPs are not subject to regulation or risk-based supervision or monitoring and no supervisors have powers to monitor or ensure compliance by VASPs with AML/CFT requirements (c.15.6(a) &amp; (b)).</li> <li>• No guidance or feedback provided to VASPs (c.15.7).</li> <li>• VASPs and their directors and senior managers are not subject to sanctions (c.15.8(a) &amp; (b)).</li> <li>• VASPs do not have to comply with preventive measures set out in R.10-21 (c.15.9(a) &amp; (b)).</li> <li>• No measures or requirements imposed on VASPs in relation to target financial sanctions (c.15.10).</li> <li>• No legal basis for supervisors to exchange information with their foreign counterparts for VASPs (c.15.11).</li> </ul>
16. Wire Transfers	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>• No requirement for a unique transaction reference number in the required originator or beneficiary information (c.16.1(a) &amp; (b)).</li> <li>• No specific requirements for batch file cross-border wire transfers (c.16.2).</li> <li>• No requirement for FIs to verify the information pertaining to its customer where there is a suspicion of ML/TF (c.16.4).</li> </ul>

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		<ul style="list-style-type: none"> <li>• Not all originator and beneficiary information is maintained (c.16.7).</li> <li>• The ordering institution is able to execute the wire transfer without complying with all requirements of 16.1-16.7 (c.16.8).</li> <li>• No requirement to ensure all originator and beneficiary information that accompanies a cross-border wire transfer is retained with it (c.16.9).</li> <li>• No requirement that the intermediary FI keep a record of all information received where technical limitations prevent the required originator or beneficiary information accompanying a wire transfer from remaining with a related domestic wire transfer (c.16.10).</li> <li>• MVTS providers must comply with wire transfers requirements however, there are deficiencies in R.16 (c.16.16).</li> <li>• No requirement to take into account information from both the ordering and beneficiary sides to determine whether an STR has to be filed or to file an STR in any country affected (c.16.17(a) &amp; (b)).</li> </ul>
17. Reliance on Third Parties	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>• No requirement for FI to obtain the necessary CDD information immediately (c.17.1).</li> <li>• No requirement to take into account the information regarding the level of risk associated with a particular country while deciding which countries they can allow third parties to operate from (c.17.2).</li> <li>• No requirement for third parties who are members of foreign financial groups be supervised at a group level by a competent authority and there is no requirement for the third party to have AML/CFT policies to mitigate any higher country risk. Additionally, financial groups are not required to implement group-wide programs against ML/TF in accordance with R.18 (c.17.3).</li> </ul>
18. Internal Controls and Foreign Branches and Subsidiaries	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>• No requirement for extra small enterprises to appoint a compliance officer at the management level (c18.1(a)).</li> <li>• FIs are not required to have screening procedures to ensure high standards when hiring employees (c18.1(b)).</li> <li>• No requirement for extra small enterprises to have an ongoing employee training program (c18.1(c)).</li> </ul>

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		<ul style="list-style-type: none"> <li>• No requirement for extra small enterprises to have an independent audit function (c18.1(d)).</li> <li>• No requirement for group-wide programs to include; policies and procedures for sharing information required for the purposes of CDD and AML/CFT risk management, the provision at group-level compliance, audit, and AML/CFT functions, of customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes, adequate safeguards on the confidentiality of information exchanged, including safeguards for tipping off (c.18.2(a)-(c)).</li> <li>• No requirement on financial groups to apply appropriate additional measures to manage ML/TF risks, or to inform their home supervisors if the host country doesn't allow proper implementation of AML measures consistent with their home country's requirements (c.18.3).</li> </ul>
19. Higher Risk Countries	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>• FIs are not required to apply EDD, proportionate to risks, to business relationships with natural and legal person form countries which is called for by the FATF (c.19.1).</li> <li>• There is no provision for Vietnam to apply proportionate countermeasures on higher risk countries (c.19.2).</li> <li>• There are no specific measures to ensure FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries (c.19.3).</li> </ul>
20. Reporting on Suspicious Transactions	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>• No obligation on FIs to submit an STR where it suspects that funds are the proceeds of criminal activity (beyond money laundering). The extension of ML STR reporting obligations under article 26 of the Law on AML 2022 is not fit for purpose to cover all situations of TF suspicion (c.20.1).</li> <li>• There is no requirement for FIs to report attempted transactions related to TF (c.20.2)</li> </ul>
21. Tipping-Off and Confidentiality	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>• No specific provisions to protect FIs, their directors, officers, and employees from administrative, civil, or criminal liability if they report STRs (c.21.1): <ul style="list-style-type: none"> <li>- In situations that would ordinarily attract liability, such as in breach of confidentiality clauses in contracts.</li> <li>- Where they don't know precisely what the underlying criminal activity was, and regardless of whether any illegal activity actually occurred.</li> </ul> </li> </ul>

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		<ul style="list-style-type: none"> <li>No explicit prohibition on directors, officers, and employees from disclosing ‘the act of reporting a suspicious transaction’ or ‘information relating to a suspicious transaction’ to the SBV. Further, no guidance has been provided to FIs to ensure compliance does not inhibit information sharing under Recommendation 18 (c.21.2).</li> </ul>
22. Designated Non-Financial Businesses and Processions (DNFBP): Customer Due Diligence	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>The definition of RE in the Law on AML does not cover acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement (c.22.1(e)).</li> <li>Record-keeping gaps set out in R.11 apply to DNFBPs and for TCSP gaps in 22.1(e) (c.22.2).</li> <li>There are no requirements in relation to domestic PEPs, to the close associates of foreign PEPs and there is no requirement to inform senior management before a payout (c.22.3).</li> <li>No obligation for DNFBPs to conduct a risk assessment as required by c.15.2 (c.22.4).</li> <li>It is unclear whether the third party must immediately provide CDD information to REs. Also, deficiencies include no group-wide programs required for DNFBPs against ML/TF, and no specific requirement for DNFBPs relying on same group third party for CDD measures. Further, CDD, record-keeping, and PEP deficiencies remain (c.22.5).</li> </ul>
23. DNFBPS: Other Measures	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>No obligation to report an STR where a DNFBP suspects that funds are the proceeds of criminal activity (other than money laundering). Deficiencies in STR reporting requirements in R.20 and coverage of activities in 22.1(e) cascade to this criterion (c.23.1).</li> <li>Deficiencies in c.18.1 and c.22.1 cascade to this criterion (c.23.2).</li> <li>There is no requirement to apply proportional countermeasures to risks/high risk countries or notify DNFBPs of concerns regarding weaknesses in the AML/CFT systems of other countries. Deficiencies in R.19 and the gap in coverage of DNFBPs cascades to this criterion (c.23.3).</li> <li>Gaps in relation to R.21 and the coverage of DNFBPs (see c.22.1) cascade to this criterion (c.23.4).</li> </ul>

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24. Transparency and beneficial ownership of legal persons	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>• Information regarding creation and types of non-commercial legal persons is only publicly available in the decrees governing their formation (c.24.1).</li> <li>• Deficiencies in the assessment of risks of different types of legal persons from the MER remain (c.24.2).</li> <li>• Deficiencies from MER remain - gaps with mechanisms to ensure that information on the beneficial ownership of a company is obtained by that company and available at a specified location in their country; or can be otherwise determined in a timely manner by a competent authority (c.24.4).</li> <li>• No requirement to keep up to date the register of shareholders or members, the number of shares held by each shareholder and categories of shares (including the nature of voting rights) (c.24.5).</li> <li>• The beneficial owner definition does explicitly require ultimate effective control of a legal person, there is no requirement for the company registry to collect or maintain beneficial ownership information, there are no obligations on legal persons to file changes to beneficial ownership information within set times and it is unclear if information can be accessed in a timely manner (c.24.6(a)(b)).</li> <li>• Review of CDD information on file is only triggered when transactions by the customer no longer match the FI/DNFBP's understanding of its profile and no information was provided on c.24.6(c)(i) or (iv) (c.24.6(c)).</li> <li>• Records of beneficial ownership are not required to be accurate and up to date as possible (c.24.7).</li> <li>• No specific requirements or obligations for natural persons or DNFBPs authorised to act on behalf of a company to cooperate with competent authorities (c.24.8).</li> <li>• No timeframe on how long legal persons must maintain information or administrators, liquidators or other persons involved in the dissolution of companies must retain beneficial ownership information after the date on which the company is dissolved or ceases to exist (c.24.9).</li> <li>• No requirement that the Business Registration Authority provide information in a timely manner (c.24.10).</li> </ul>

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		<ul style="list-style-type: none"> <li>• Sanctions are not proportionate and dissuasive (c.24.13).</li> <li>• International cooperation is limited to regulatory competent authorities and it is unclear the extent to which basic information held in the corporate registry can be accessed by foreign competent authorities, information on shareholders can be exchanged or beneficial ownership information obtained (c.24.14(a)(b) &amp; (c)).</li> <li>• Vietnam did not demonstrate mechanisms for authorities outside the FIU to monitor the quality of assistance they receive from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad (c.24.15).</li> </ul>
25. Transparency and Beneficial Ownership of Legal Arrangements	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>• No requirement to obtain and hold accurate information on protectors (if any) and classes of beneficiaries or to other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors (c.25.1(c)).</li> <li>• No requirement for trustees to keep accurate records or for information to be up to date as possible and be updated on a timely basis (c.25.2).</li> <li>• No enforceable obligation on trustees to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold (c.25.3).</li> <li>• No provision to enable timely access to information held by trustees and competent authorities other than law enforcement agencies and SBV do not have the powers necessary to be able to obtain timely access to information (c.25.5).</li> <li>• There are gaps on international cooperation in relation to basic and beneficial ownership information of other legal arrangements and information held on the protector (if any) and classes of beneficiaries (see c.10.11), powers available are limited to competent regulatory authorities, and LEAs are not specifically authorised to use their powers to conduct inquiries and obtain information on behalf of foreign counterparts (c.25.6).</li> <li>• Trustees are not subject to proportionate or dissuasive sanctions (c.25.7).</li> </ul>

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		<ul style="list-style-type: none"> <li>No sanctions for failing to grant competent authorities timely access to information (c.25.8).</li> </ul>
26. Regulation and supervision of Financial Institutions	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>No designated CFT supervisor (c.26.1).</li> <li>Limited fit and proper requirements in place to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function in an FI (c.26.3).</li> <li>No clear consolidated group supervision for AML/CFT purposes of core principles institutions and supervision of other FIs other than foreign exchange and money remittance providers is not occurring. There is no supervision with regard to TF risks for CFT requirements (c.26.4(a) &amp; (b)).</li> <li>Frequency and intensity of supervision is not determined on the basis of ML/TF risks and policies, internal controls and procedures, and supervisors' assessment of the FI or groups risk profile; ML/TF risks present in Vietnam; and characteristics of the FI or group (c.26.5(a)(b) &amp; (c)).</li> <li>Supervisors do not review the assessment of the ML/TF risk profile of an FI (including the risks of non-compliance) periodically or when there are major events or developments in the management and operations of the FI or group (c.26.6).</li> </ul>
27. Powers of Supervisors	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>Powers to supervise or monitor for CFT requirements remain unclear (c.27.1).</li> <li>Power to conduct CFT inspections is not clearly authorised by law (c.27.2).</li> <li>It is unclear whether any competent authority has powers to compel production of information relevant to monitoring for compliance with CFT obligations (c.27.3).</li> <li>It is unclear whether any supervisor is authorised to impose sanctions for CFT requirements (c.27.4).</li> </ul>
29. Financial Intelligence Units	PC (2022 MER; 2023 FUR)	<ul style="list-style-type: none"> <li>It is unclear whether AMLD within SBV is established as the FIU with responsibility for receipt and analysis of STRs and other information (c.29.1).</li> <li>No explicit provisions for SBV to have access to the widest range of financial, administrative and law enforcement information (c.29.3(b)).</li> </ul>

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		<ul style="list-style-type: none"> <li>• Vietnam has not conducted strategic analysis of TF related trends and patterns (c.29.4(b)).</li> <li>• No dedicated, secure and protected channel for dissemination (c.29.5).</li> <li>• No security clearance process for AMLD staff members or security policy (c.29.6).</li> <li>• AMLD is not fully operationally independent and autonomous from the SBV (c.29.7).</li> </ul>