

# The Struggle Against Laundering and Liberation of Capital Movements

by Dr. NGUYỄN THỊ NGỌC TRANG

**I**n this paper, we want to access the policy to struggle against the laundering introduced by Decree 74 and connect it with measures to liberate international flows of capital mentioned in the draft of foreign exchange (the Draft for short) the SBV will submit to the NA by the end of 2005.

## 1. Liberation of current transaction and the danger of laundering

One of the most radical reforms in the Draft is simplification of procedures for sending foreign exchange abroad by individuals, including non-residents and foreigners with income in the VND in Vietnam, without securing permit from the SBV.

This regulation is suitable to the government's commitment to lift trade barriers but on the other hand it leads to chance to do laundering at large scale when money is sent abroad by small sums. It is not an easy task for the Vietnamese banking system to detect this crime when its ability to manage risks is very poor. Many people are of the opinion that this regulation will increase the outflow of foreign exchange causing the balance of payments deficit.

## 2. Liberation of capital accounts and the danger of laundering

a. Individuals are allowed to borrow from foreign parties: The Draft supports this policy because all sectors in Vietnam are badly in need of capital, and banning it means going against the integration trend. In fact, the better part of US\$3 billion worth of immigrant remittances is sent through informal ways to Viet-



nam every year because many overseas Vietnamese want to lend money to their relatives or invest in Vietnam but have no conditions for making direct investment. It is impossible for the Government to ban this activity, so it has to legalize and liberate it.

It's clear that the laundering criminals could easily do their business in Vietnam through personal relations which are hard to control when the inspection mechanisms of financial institutions and security forces are full of defects.

b. Individuals are allowed to invest in foreign countries: When allowing the inflow of capital, the Government should allow the outflow. In other words, allowing acts of borrowing, lending and repaying is the fullest liberation of exchange through capital accounts. When allowing citizens to borrow from foreign parties creates conditions for international laundering to take place in Vietnam, the policy to allow citizens to repay or lend money to foreign parties could help to send laundered money to their home countries easily.

At present, however, the overseas investment is allowed by Decree 22 dated April 14, 1999 only for companies, not private persons. The Draft wants to extend this right to private persons, which is suitable to international commitments made by the Government. There is an argument that it's hard for the government to control all flows of capital, which leads to reductions in foreign exchange reserve and laundering. Moreover, overseas investment could

be put in real estate or securities which aren't encouraged by Vietnamese laws and are considered by many international financial institutions as the last stage of the laundering process.

From HCMC alone, some 20 companies have made overseas investment while many multinationals have allowed their local employees to buy securities traded on international stock exchanges. The two-way trade and investment as required by the Vietnam-US BTA is irreversible. To hinder this trend will discourage foreign investors and make the business climate in Vietnam less attractive and competitive.

c. Companies are allowed to issue shares on foreign markets: The liberation of capital movements will be promoted when the Government allows companies to issue shares and bonds to foreign markets. At present, Vinamilk Company is to list its shares in the Singaporean stock exchanges and some Singaporean companies have planned to do the same in Vietnamese securities trading centers.

International counter-laundering organizations also consider the act of listing shares in stock exchange as a channel for outflows of capital when criminals establish legal companies and issue shares on foreign stock exchanges.

## 3. Struggle against dollarization and laundering

In Vietnam today, the dollar has become a legal tender like the national currency and it's about time the Government took measures to

prevent it, and the Draft also suggests some of them.

To struggle the dollarization, the SBV must stipulate that the VND is the only legal tender in Vietnam and the use of the dollar is illegal. One of the causes of dollarization is the ban on keeping foreign exchange by individuals, therefore the Government should recognize this right in an effort to prevent the dollarization, which means that individuals could open accounts in foreign exchange and make transactions legally through the accounts.

This reasonable and progressive policy also leads to the danger of laundering when all foreign exchange with origin unknown held by the public could be now kept legally in current accounts. And money could be transferred abroad in small quantities easily because the SBV will stop checking documents of transactions in foreign exchange.

Another aspect is the fact that financial institutions and individuals are allowed to deal in derivative instruments in the VND and foreign currencies, which is also a measure to struggle against the dollarization. In the past, the public tended to keep the foreign exchange or put money in real estate and now they could buy options as a means of avoiding depreciation of the national currency. As for criminals, this will be a way to change dirty sums in the VND into hard currencies and send them to foreign countries through current accounts opened legally in Vietnam. To achieve their aim, they are ready to buy options in the dollar regardless of exchange rates, which will cause troubles for the foreign exchange market. This danger becomes more



apparent when the SBV plans to liberate all transactions in foreign exchange while local commercial banks tend to ignore regulations on legal capital stipulated by the Basel Agreement.

#### 4. Some suggestions

- Although individuals are allowed to buy and send foreign exchange abroad on the condition that they have corresponding income in the VND, their transactions must be done through banks. Individuals who take along foreign exchange or gold exceeding the limit when going abroad should make declaration. For the time being, only banks with good inspection system and qualified analysts approved by the SBV could carry out such transactions.

- When all private persons and organizations are allowed to borrow, lend, repay and invest with foreign parties, all their transactions must be done through current accounts in approved banks and included in financial statements audited by qualified auditing companies.

Another problem to consider is whether companies and private persons are allowed to open accounts in foreign banks or not. In my opinion, the SBV should be cautious about allowing it because Vietnam hasn't joined international counter-laundering organizations (such as APG and FATF), and as a result, Vietnam meets with difficulties in preventing private persons in Vietnam from laundering the money in foreign markets.

- To prevent the laundering by issuing shares on foreign markets, the SBV should force issuers to disclose as much financial information as possible.

- As for trading in derivatives, the SBV could set price ceiling and floor to prevent criminals from buying them at any prices and causing harm to the market. All unusual transactions of derivatives must be examined carefully as signs of laundering.

- Besides cooperation between Vietnamese law enforcement forces, Vietnam should consider joining international organizations specializing in struggling against the laundering in the near future.

In short, the liberation of capital movements should be linked with measures to fight against the laundering, otherwise Vietnam could face financial crises and become a destination for international criminals. ■



Photo by C.T.V