

WHO COULD LAUNDER IN VIETNAM?

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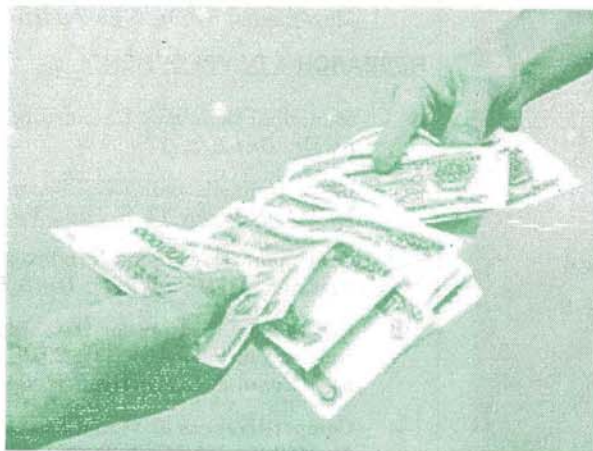
I. LAUNDERING AND COUNTERLAUNDERING ACTIVITIES IN VIETNAM

1. Loopholes for laundering

- The first loophole is the lack of supervision mechanisms in banks and financial institutions in their first stages of development, which creates favorable conditions for criminals to invest large sums of money in companies and stock markets.

- The second one is the existence of a shadow economy where gold and the dollar are considered as legal tenders. In 2004, over US\$3 billion worth of immigrant remittances was sent to Vietnam but experts said the real sum was much bigger because from 30% to 60% of remittances were sent through informal channels, and it's hard to determine their origins.

- Other sources of income that need to be laundered are money from corruption and embezzlement, tax avoid-



ance and trade in drug (many scandals involving high-ranking officials have been discovered recently). According to the Interpol, the laundering has taken

place in the Vietnamese banking system.

2. First measures of Vietnamese style to fight against laundering

The effort to fight against the laundering produces almost no result because Vietnam has no anti-laundering law of international standards. The Government has just issued Decree 74/2005 on this matter but Vietnam now needs a law, not a decree. Another problem is the lack of cooperation between banking, financial, law enforcement and securities authorities in the struggle against laundering. The cooperation between private companies (brokerage, real estate, auditing, etc.) is also hard to establish. In such a situation, the Decree 74 could be only implemented in the banking system.

The effort in Vietnam seems late when all regional countries have made anti-laundering

laws. And as a result, some local banks didn't receive support from foreign governments (three state-owned commercial banks have been refused by American authorities when they wanted to open rep offices in the U.S.).

The SBV established the Anti-Laundering Information Center in July 2005. In foreign countries, such organizations are responsible to the central government and their activities are not limited to "gathering and supplying information." This fact shows that Vietnamese authorities are still cautious about this task. In addition, the laundering is not limited to a country and it always has an international scale, so the effort to fight against it should be of the same scale and rely on international cooperation. It's hard for Vietnam to get such cooperation because it hasn't joined international anti-laundering organizations.

These analyses show that the face of enemies in this struggle in Vietnam is not clear, which makes many people think that it's hard to discover criminals of this kind.

II. MEASURES TO FIGHT AGAINST LAUNDERING: LESSONS FROM FAFT

1. Lessons from FAFT

FAFT was established in 1989 and it has established international standards for anti-laundering measures (called FAFT 40+8). At present, some



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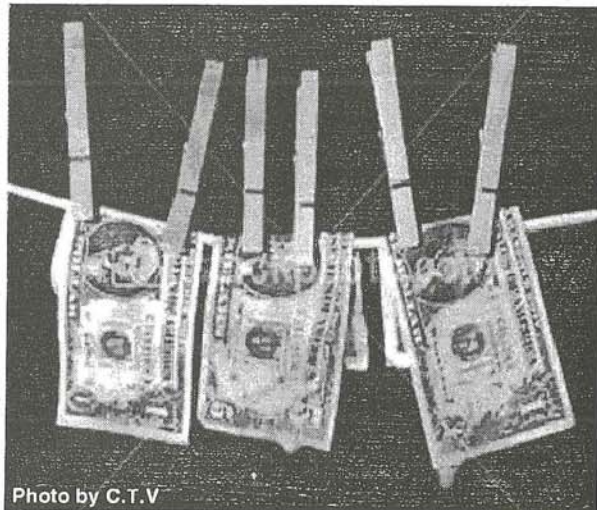


Photo by C.T.V

130 countries have committed to carry out these measures but Vietnam hasn't joined this organization. To integrate fully into the world community, Vietnam has to adopt and try its best to carry out these measures in order to show its determination to cooperate with the world community in this effort.

The following are some decisive problems used for determine if a country "want" or "dare" to deal with in order to become an FAFT member.

- Countries should point out a series of crimes relating to laundering (at least 20 illegal acts suggested by the 40+8). Besides organized crimes, there are major and remarkable ones relating to abuse of family power, corruption, bribery, insider dealing or illegal exploitation of natural resources.

- Financial institutions must observe international standards of banking management and develop risk management systems in order to file and detect suspicious transactions.

- Financial institutions meet compulsory requirements needed for discovery and report on suspicious transactions.

- Laws on commerce, companies, securities and investment must be made clear and transparent with a view to avoiding misun-

derstanding and agreements behind closed doors.

- International cooperation must be beefed up in order to carry out a global campaign to fight against laundering. The struggle carried out within a closed economy without meeting international standards means that the country has problems with the anti-laundering campaign.

- FAFT suggests watching and recording activities of politically exposed persons; and advises financial institutions to establish risk control systems to determine whether a customer is such a person, and take measures to find out origins of their assets and analyze their business activities.

- FAFT suggests establishing Financial Intelligence Unit that acts as a national center responsible for receiving, gathering, analyzing and disseminating reports on suspicious transactions, laundering, and support to terrorism. To help FIU operate effectively, the central government should build a mechanism for mobilizing relevant bodies in this struggle.

In short, the most important stress of all above-mentioned suggestions is put on the task of watching for crimes, starting from the slightest doubt about both top-ranking person-

nel and smallest criminals who do the dirty jobs.

2. Some suggestions for the struggle in Vietnam

The laundering differs over countries because of local characteristics, so measures couldn't be applied mechanically to a specific country. But measures taken by a country couldn't be too different from international standards. So in my opinion, the struggle against the laundering in Vietnam should consider the following matters.

- Crimes relating to the laundering should be listed clearly and in detail, and these crimes should include 20 crimes suggested by FAFT. The Decree 74 by the Government, strangely, didn't list any crimes relating to the laundering. If the laundering is considered as a crime, causes that lead to this crime should be seen as forms of crimes. Besides common ones, such as embezzlement, smuggling, tax avoidance and bribery, the following acts should be considered as crimes: abuse of political power, destruction of the environment and insider dealing. For the time being, the Government should issue guidelines on such a list of crimes. Such guidelines, at least, will show the determination to fight against the laundering by the Viet-

namese government, and create conditions for financial institutions to establish necessary inspection mechanisms.

- Financial institutions must apply customer due diligence measures, and information gathered from these measures must be kept secret by the SBV. At present, the public feel confused when banks are required to make reports on transactions that are worth VND200 million or more. The Government had better help the public understand the need to prevent the laundering as part of the anti-corruption campaign and call for their support.

In recent years, many cases of tax avoidance and drug trafficking have been brought to court but some cases relating to the abuse of political power (wrong distribution of quotas in the Ministry of Commerce) and insider dealing (wrong estimate of assets in state-owned companies to be privatized) haven't been seen as acts leading to the laundering.

- Starting this struggle by issuing only a decree is not suitable to the scale of the problem and degree of the danger. The National Assembly should consider making the anti-laundering law as soon as possible instead of waiting for five or ten years as planned. Moreover, this act isn't suitable to international practices.

- An organization for this struggle run directly by the central government must be established as replacement for the SBV-RUN Anti-Laundering Information Center. Vietnam needs a strong agency to deal with crimes that usually involve persons in high places and aren't limited to the banking system.

- Vietnam must try its best to become an FAFT member with a view to get international support and cooperation in this difficult and complicated struggle. ■

