



2nd Follow-Up Report

Mutual Evaluation of Vietnam

October 2024





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Asia/Pacific Group
on Money Laundering

VIETNAM

2ND ENHANCED (EXPEDITED) FOLLOW-UP REPORT 2024

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:
 - *Jack Matthews, Assistant Director, Attorney General's Department, Australia*
 - *Masayuki Nakamura, Deputy Director, Ministry of Finance, Japan*
 - *Nimantha Athukorala, Senior Assistant Director, Financial Intelligence Unit, Central Bank of Sri Lanka, Sri Lanka.*
 - *Sarah Donald, Assistant Director, Attorney General's Department, Australia*
5. The preparation of the FUR was supported by Melissa Sevil, Alex Neville, Charmaine Li and Sylvia Deutsch from the APG Secretariat, with additional support from other Secretariat members.
6. Section IV of this report summarises the progress made to improve technical compliance. Section V contains the conclusion and a table illustrating Vietnam's current technical compliance ratings.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

7. Vietnam's current ratings ¹ are follows:

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

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

R.	Rating
1	PC (2022 MER; 2023 FUR)
2	LC (2022 MER)
3	PC (2022 MER)
4	LC (2022 MER)
5	LC (2022 MER)
6	PC (2022 MER)
7	NC (2022 MER)
8	LC (2022 MER)
9	LC (2022 MER)
10	PC (2022 MER; 2023 FUR)
11	PC (2022 MER; 2023 FUR),
12	NC (2022 MER)
13	PC (2022 MER), LC (2023 FUR)
14	PC (2022 MER; 2023 FUR)
15	NC (2022 MER; 2023 FUR)
16	PC (2022 MER; 2023 FUR)
17	PC (2022 MER; 2023 FUR)
18	PC (2022 MER; 2023 FUR)
19	PC (2022 MER; 2023 FUR)
20	PC (2022 MER; 2023 FUR)

R.	Rating
21	PC (2022 MER; 2023 FUR)
22	PC (2022 MER; 2023 FUR)
23	PC (2022 MER; 2023 FUR)
24	PC (2022 MER; 2023 FUR)
25	PC (2022 MER; 2023 FUR)
26	PC (2022 MER; 2023 FUR)
27	PC (2022 MER; 2023 FUR)
28	PC (2022 MER)
29	PC (2022 MER; 2023 FUR)
30	C (2022 MER)
31	LC (2022 MER)
32	LC (2022 MER)
33	C (2022 MER)
34	PC (2022 MER)
35	NC (2022 MER)
36	LC (2022 MER)
37	LC (2022 MER)
38	PC (2022 MER)
39	LC (2022 MER)
40	LC (2022 MER)

8. Given these results and the effectiveness ratings, Vietnam is on enhanced (expedited) follow-up².

III. PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

9. In keeping with the APG ME Procedures, this FUR considers progress made up until 1 June 2024 and considers 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 or previous FUR. This report does not address the progress Vietnam has made to improve its effectiveness.

10. This section summarises the progress made by Vietnam to improve its technical compliance by implementing requirements in place at the time of the MER.

Progress to address technical compliance deficiencies identified in the MER.

11. Vietnam requested re-ratings of R.1, and R. 7 (which were rated NC); and R.3, R.6, and R.20 (which were rated PC).

12. The APG welcomes the steps that Vietnam has taken to improve its technical compliance with R.1, R.3, R.6, R.7 and R.20. As a result of this progress, Vietnam has been re-rated on R.1, R.6 and R.7.

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

13. Vietnam was rated PC for R.1 in its 2022 MER. The report noted gaps in the identification and assessment of certain money laundering/terrorist financing (ML/TF) risks and measures to address identified risks that are given particular weight. Other deficiencies identified in the report include: (i) no risk-based application to allocating resources and implementing measures to prevent or mitigate ML/TF risks identified by the National Risk Assessment (NRA); (ii) no requirement for reporting entities (REs) to take enhanced measures to manage and mitigate higher risks areas identified by the NRA; (iii) the requirement for REs to establish internal regulations are targeted to manage and mitigate risk identified by REs and not by the jurisdiction; and (iv) there no requirement for the REs to enhance their controls if necessary. Vietnam has previously requested a re-rating of Recommendation 1 in its 2023 FUR but did not receive a re-rating at the time due to insufficient progress.

14. **Criterion 1.1** is *mostly met*. Since the 2022 MER, Vietnam has updated their NRA on ML and TF through the Resolution No.17/NQ-CP and Resolution No. 21/NQ-CP approving the results of the NRA for the period 2018-2022. The 2018-2022 NRA on ML covers the assessment of ML risks to legal entities, legal arrangements (legal agreements) and beneficial ownership, including the evaluation of risks related to foreign legal agreements including foreign trusts. In addition, deficiencies under c.1.1 as outlined in the 2022 MER have been addressed as the 2018-2022 NRA report included: (i) an analysis on illicit goods or currency transportation across the border as part of the analysis on national vulnerability, where the NRA rated the quality of border controls in Vietnam as medium; and (ii) a wider use of resources for supporting the analysis such as statistical information compiled by law enforcement agencies,

² 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.

data gathered from the survey conducted by the FIU to the FIs, open sources including UNODC and Transparency International reports, and several AMLD strategic analysis reports covering the trend analysis of organised gambling and online betting offences, STRs analysis related to inbound/outbound transfers, and topics of tax evasion, tax fraud, and fraudulent card payment transactions.

15. The summarised version of the 2018-2022 NRA on TF covers the assessment of TF risks originating from within Vietnam and external sources. The NRA also assesses the level of national vulnerability to TF, the risk of abuse of NPOs for TF, and potential use of VA/VASPs in TF. While the NRA has considered the TF risk of abusing NPOs to finance terrorism, NPOs are considered as non-commercial legal entities in Vietnam, and the TF risk of commercial entities has not been assessed in the NRA. This is considered a minor deficiency for R.1 and is analysed further under c.24.2.

16. **Criterion 1.2** is *met*. No specific deficiencies were identified in the 2022 MER and the 2023 FUR. There has been no change in this area since the 2023 FUR and available material supports the criterion rating as met.

17. **Criterion 1.3** is *met*. According to the 2023 FUR, the deficiencies outlined in 2022 MER have been addressed. The 2018-2022 NRA report on ML presented the assessment of the ML threat of predicate offense and the ML risk of specific sectors including FIs, DNFBPs, VASPs, etc. The State Bank of Vietnam was required to lead the NRA on ML and cooperate with relevant Ministries and central authorities every five years. In regard to the NRA on TF, Clause 2 Article 64 of the AML Law 2022 amends and supplements Article 34 Law on Anti-Terrorism No. 28/2013/QH13 which requires the Ministry of Public Security to lead and/or cooperate with relevant Ministries and central authorities in conducting the national assessment of TF risks every five years. Deficiencies identified in the 2022 MER have been fully addressed.

18. **Criterion 1.4** is *met*. No specific deficiencies were identified in the 2022 MER and the 2023 FUR. New developments and available material support the criterion rating as met.

19. **Criterion 1.5** is *met*. The findings from the 2018-2022 NRA reports on ML and TF have been applied as the foundation for Vietnam undertaking several strategies for allocating resources and implementing measures to prevent or mitigate ML/TF. As part of the post-NRA Action Plan, on 22 August 2023, the Government approved the Action Plan to address national risks of terrorist financing (No. 21/NQ-CP), which includes short-term and medium-term solutions (2023-2025) and long-term solutions from 2023 to 2030. The State Bank of Vietnam (SBV) has also developed NRA-implementation plans on addressing ML risks (Decision No. 1485/QD-NHNN) and TF risks (Decision 1133/QD-NHNN). The strategies have been developed using the findings of the 2018-2022 NRA to address the identified risks aligned with the risk-based application on allocating resources and implementing measures to prevent or mitigate ML/TF risks.

20. On 22 August 2024, the Minister of Justice (MOJ) of Vietnam issued Decision No. 1582/QD-BTP regarding the MOJ's action plan for AML/CFT/CPF to implement the post-NRA on ML and TF for the period 2018-2022. The Decision provides the Minister of Justice to allocate resources by assigning relevant units under the Minister to be responsible in leading the implementation of the results of the 2018-2022 NRA. The implementation strategies cover measures to: enhance awareness and capacity for competent state authorities and reporting entities on ML/TF/PF risks; improve the legal framework of AML/CFT/CPF; enhance the effectiveness of inspection and supervision of compliance obligations by reporting entities,

including notary services and lawyers; and, strengthen cooperation, coordination, and information exchange in investigation, prosecution, adjudication, judgment enforcement, and mutual legal assistance.

21. On 23 August 2024, the Minister of Public Security issued Plan No. 418/KH-BCA-A04 to implement post-NRA measures on ML for the 2018-2022 period within the People's Police in accordance with Resolution No. 71/NQ-CP dated May 15, 2024, by the Government. The action plan provides various strategies to develop an effective AML mechanism aligned with the international standards and Vietnam's national ML risks. The strategies are aimed at strengthening risk-based supervision on AML for reporting entities in sectors under state management by ministries and agencies and improving the compliance, particularly high and medium-high ML risk sectors, and improving investigation, prosecution, adjudication, asset confiscation, and recovery in cases involving ML and predicate offenses with high and medium-high ML risks. Deficiencies identified in the 2022 MER have been fully addressed.

22. **Criterion 1.6** is *not applicable*.

23. **Criterion 1.7** is *met*. This deficiency has been addressed in the 2023 FUR. Vietnam has new provisions under the AML Law 2022 relating to the incorporation of national assessment of ML risk in reporting entities' risk assessments (Article 15 of the AML Law 2022). The criteria and method for assessing ML risks of reporting entities issued by the State Bank of Vietnam requires reporting entities to include ML probability considering the results of NRA on ML (Articles 3 and 4 of the Circular No.09/2023/TT-NHNN). Further, enhanced due diligence measures are required to be implemented based on customer's ML risk profile in terms of the Article 16 of the AML Law 2022, which also applies to TF risks.

24. **Criterion 1.8** is *met*. This deficiency has been addressed in the 2023 FUR. In addressing the gaps related to identifying or assessing a low risk customer aligned with the NRA, Vietnam issued the Circular No. 09/2023/TT-NHNN which specifies "Process of money laundering risk management and customer classification based on money laundering risk level," which considers a range of factors to be used when assessing risk level of the customer (e.g., customers; products, services which customers are using or intend to use; geographical location where customers reside etc.) (Article 4). The Circular also considers factors used when assessing ML risks of reporting entities including the results of the NRA on ML/TF. Microfinance Institutions and People's Credit Fund being identified as "Low" risk sectors in the NRA, may implement simplified CDD measures accordingly.

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 *met*. The deficiency outlined in 2022 MER has been addressed according to the provisions of the AML Law 2022 where State Bank of Vietnam has duties and powers to examine and supervise AML activities of money and banking entities in relation to their obligations under this Recommendation. The Ministry of Finance and Ministry of Construction have powers to examine and supervise AML activities of respective reporting entities, including obligations regarding ML/TF risk management in terms of Art. 24 of the AML Law 2022.

27. In relation to the regulatory gaps identified in the FUR for DNFBP supervision coverage under c.26.1, payment intermediary services have been identified under Article 4(dd) of the AML Law 2022. The SBV issued Circular No. 06/2023/TT-NHNN on 28 June 2023, amending Circular No. 39/2016/TT-NHNN, which regulates lending activities of credit

institutions and foreign bank branches to customers, including digital lending activities. This Circular has been effective since 1 September 2023. Accordingly, Section 3, Chapter II of Circular No. 39/2016/TT-NHNN (supplemented by Clause 11, Article 1 of Circular No. 06/2023/TT-NHNN) specifically regulates lending activities via electronic means. These entities fall under the management and supervision authority of the SBV (Clause 11, Article 4 and Clause 1, Article 6 of the Law on the State Bank of Vietnam). The Ministry of Public Security is responsible for CFT supervision under Law on Anti-terrorism.

28. **Criterion 1.10** is *met*. No specific deficiencies were identified in the 2022 MER. New developments and available material supports the criterion rating as met.

29. **Criterion 1.11** is *mostly met*. The deficiencies identified in the 2022 MER remain not fully addressed.

30. **Criterion 1.11(a)** is *mostly met*: The 2022 MER identified that there was no requirement on REs to enhance controls in keeping with their risks. Post 2022 MER, Vietnam has addressed elements of this deficiency through provisions on risk management, internal rules and regulations outlined in the AML Law 2022, Articles of internal procedures on anti-money laundering Circular and Law on Anti-Terrorism. Clause 2, Article 20 of the 2022 AML Law stipulates regulations on monitoring certain special transactions as prescribed in point c of Clause 2 of Article 16 of the 2022 AML Law regarding the application of enhanced CDD measures on customers with high level of ML risks. The regulation in Point c of Clause 2, Article 16 of the 2022 AML Law is specifically guided in Point e, Clause 1, Article 4 (Article 4.1(e)) of Circular No. 09 which provides measures taken corresponding to customer risk ratings. Further, Clause 5, Article 4 of Circular No. 09 stipulates enhanced measures to be applied to customers with high ML risk through enhanced monitoring for customers' transactions made via reporting entities and business relationships (point dd). Accordingly, the reporting entities are required to develop internal rules and regulations based on organisations structure size of the business and level of ML risk of the entity. These internal rules are required to be updated on a yearly basis (Clause 4, Article 24 of the AML Law 2022). Reporting entities are also required to take measures to mitigate risks based on customer risk profiles, including enhanced due diligence (Article 4(e) of the Circular No.09/2023/TT-NHNN). However, there is no requirement for these risk management policies, controls and procedures to be approved by senior management.

31. **Criterion 1.11(b)** is *mostly met*: Provisions under the AML Law 2022 provide that the audit of compliance with policies, regulations, regulatory process need to be conducted in relation to monitor the implementation of ML/TF controls (the sub paragraph (k) of the Article 24(1) of the AML Law 2022). Further, Article 24(4) requires reporting entities to conduct an annual review on their internal AML rules and regulations and modify and amend as appropriate. Accordingly, reporting entities may enhance controls and procedures if necessary. However, a minor gap remains as internal controls and audit obligations do not apply to 'extra-small enterprise' or natural persons (Art. 24.2).

32. **Criterion 1.11(c)** is *met*: Articles 15, 16, and 34 of the AML Law 2022 obliges reporting entities to develop the procedures for ML/TF risks as identified. Accordingly, reporting entities may enhance their mitigative measures through procedures. 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)).

33. 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.

34. **Criterion 1.12** is *mostly met*. The simplified due diligence measures have been introduced in Article 16 AML Law 2022 regarding “Categorizing Customers by Levels of Money Laundering Risk provisions of the AML Law” and Articles 2 and 4 of internal circular with respect to “Process of money laundering risk management and customer classification based on money laundering risk level.” Further, criteria 1.9-1.10 are now met, and only minor gaps in criteria 1.12 remain.

Weighting and Conclusion

35. The deficiencies highlighted in the 2022 MER have been largely addressed through the completion of the NRA on TF for the period 2018-2022, NRA on ML for the period 2018-2022 and Post NRA Action Plans. Provisions under the Anti-Money Laundering Law 2022 and Circulars issued by the SBV have also established obligations on authorities and reporting entities in relation to risk assessment and mitigation including most gaps outlined in the MER and 2023 FUR for TF reporting for some DNFBPs. However minor deficiencies remain as TF risks of commercial entities have not been assessed, there is no requirement for FIs and DNFBPs to have their risk management processes approved by senior management.

36. **Recommendation 1 – the rating is re-rated to largely compliant.**

Recommendation 3 [R.3] (Originally rated partially compliant)

37. Vietnam was rated PC for R.3 in its 2022 MER. Moderate shortcomings were identified, particularly in regard to the criminalisation of ML, as the ML offence does not cover all forms of transfer and conversion. Other gaps highlighted in the report including shortcomings on the criminal liability of the legal persons as Article 76 of the Penal Code includes some, but not all, of the designated categories of offences and does not apply to all legal entities besides the corporate legal entities. This implies that where acts such as corruption, drug or arms trafficking, and most forms of fraud are committed by corporate legal entities or any acts committed by non-commercial legal persons, there was no criminal liability and therefore there is no predicate offence for the purposes of ML. In addition, it was not clear that the offences extend to property that indirectly represents the proceeds of crime.

38. **Criterion 3.1** is *mostly met*. The deficiency outlined in 2022 MER remains as the ML offence still does not cover all forms of transfer and conversion of proceeds of crime. Even though the Civil Code 2015 defines transfer and conversion of money and other assets, it is limited to establishing civil transactions and cannot be considered as an integral component of the ML offence in the Penal Code 2015.

39. **Criterion 3.2** is *partly met*. The 2022 MER found gaps in the coverage of predicate offences. Where certain acts (such as corruption, drug or arms trafficking, most forms of fraud etc.) are committed by corporate legal entities, or any criminal acts are committed by non-commercial legal persons, there was no criminal liability and therefore no predicate offence for the purposes of ML. These deficiencies remain, including gaps in applicable predicate offence for the purposes of ML. Vietnam indicates that there is ongoing research that proposes amendments to address the legal persons liability issue, but this has not yet been addressed.

40. **Criterion 3.3** is *not applicable*.

41. **Criterion 3.4** is *mostly met*. The deficiency outlined in 2022 MER remains as it is not clear that the ML offence extends to property that indirectly represents the proceeds of crime. Article 3 of the Anti-Money Laundering Law 2022 defines property derived from any offence as, assets obtained through illegal activities are those that are acquired either directly or indirectly by criminal activity, there is no explicit relationship on how that interpretation is linked to the ML offence as set out in the Penal Code 2015.
42. **Criterion 3.5** is *met*. No specific deficiencies were identified in the 2022 MER. There has been no change in this area since the 2022 MER and rating remain as met.
43. **Criterion 3.6** is *met*. No specific deficiencies were identified in the 2022 MER. There has been no change in this area since the 2022 MER and rating remain as met.
44. **Criterion 3.7** is *met*. No specific deficiencies were identified in the 2022 MER. There has been no change in this area since the 2022 MER and rating remain as met.
45. **Criterion 3.8** is *met*. No specific deficiencies were identified in the 2022 MER. There has been no change in this area since the 2022 MER and rating remain as met.
46. **Criterion 3.9** is *mostly met*. The deficiency outlined in 2022 MER remains as the available fines for natural persons convicted of ML are not proportionate nor dissuasive. Article 324 of the Penal Code has not been changed since the 2022 MER.
47. **Criterion 3.10** is *partly met*. The deficiency outlined in 2022 MER has been remains as Vietnam has not taken action to address this deficiency.
48. **Criterion 3.11** is *met*. No specific deficiencies were identified in the 2022 MER. There has been no change in this area since the 2022 MER and rating remain as met.

Weighting and Conclusion

49. The improvements made by the Vietnam is considered. However, deficiencies identified in the MER 2022 as to moderate shortcomings with the criminalisation of ML, shortcomings on the criminal liability for corruption, drug or arms trafficking, and most forms of fraud for legal persons, indirect representation of proceeds of crime through property and not having proportionate and dissuasive fines remain as gaps. Accordingly, it is observed that no change in the ratings from 2022 MER for the Recommendation 3.

50. **Recommendation 3 – the rating remains partially compliant.**

Recommendation 6 [R.6] (Originally rated partially compliant)

51. Vietnam was rated PC for R.6 in its 2022 MER. The 2022 MER identified that although Vietnam implements TFS under the UNSCR 1267/1989, 1988 and 1373 regimes, it does not require freezing without delay and without prior notice by all natural and legal persons, and only some freezing obligations are enforceable and only against banks. Another deficiency was on Vietnam's domestic designation mechanism and prohibitions which did not include entities owned or controlled, directly or indirectly, by designated persons or entities; or persons and entities acting on behalf of, or at the direction of, designated persons and entities. The prohibitions were not enforceable and only some reporting obligations were enforceable and only against banks. Finally, Vietnam did not have effective mechanism for providing notice of new listings and de-listings.

52. **Criterion 6.1** is *mostly met*. The 2022 MER identified that there was no specification of an evidentiary standard of proof when deciding whether to make a proposal for designation. Post the 2022 MER, there is still lack of clarity how the Clause 12 of Decree 93 (cited above) addresses the deficiency related to the lack of evidentiary standard of proof when deciding whether or not to make a proposal for designation as the relevant clause 12 refers to "reliable information and documents to prove that organizations and individuals meet the criteria" and not on the threshold of the evidentiary standard. Therefore, this deficiency has not been addressed.

53. **Criterion 6.2** is *mostly met*. After 2022 MER, Vietnam has Clause 5 of Decree 93 (which amends Article 5 of Decree 122), which covers entities owned or controlled, or persons acting on behalf of or at the direction of designated persons and entities can be domestically designated (c.6.2(a)). However, Vietnam has not demonstrated that relevant authorities provide as much identifying and other specific information as possible to support a designation request to another country (c6.2(e)). Vietnam has not made any such requests and did not provide formal domestic procedures regarding the provision of such information. The deficiencies under c.6.2 (e) remains.

54. **Criterion 6.3** is *met*. No specific deficiencies were identified in the 2022 MER. There has been no change in this area since the 2022 MER and rating remain as met.

55. **Criterion 6.4** is *met*. No specific deficiencies were identified in the 2022 MER. There has been no change in this area since the 2022 MER and rating remain as met.

56. **Criterion 6.5** is *mostly met*. After the 2022 MER, Vietnam has undertaken actions to comply with the criterion 6.5.

57. In addressing deficiencies under c.6.5(a), Vietnam provides following legal frameworks: (i) Clause 2 of Decree 93 applies freezing obligations to all natural and legal persons; (ii) Clause 4 of Decree 93 which outlines the "principles of temporary suspension of circulation, blockade, sealing, temporary seizing, and handling of money and assets related to terrorism and terrorist financing; establish the list of organizations and individuals related to terrorism and terrorist financing" requires freezing to be done "on the principle of without delay and without prior notice;" and (iii) Article 45 of AML Law 2022 and Clause 14 of Decree 93 detail the enforceability of prohibitions by applying sanctions for failure to meet freezing obligations.

58. The deficiencies outlined in the MER under c.6.5(c) stated that Vietnam did not include entities owned or controlled, directly or indirectly, by designated persons or entities; or persons and entities acting on behalf of, or at the direction of, designated persons and entities, there were also no penalties for breaching the original prohibition and it was therefore non-enforceable. Vietnam now provides Clause 5 of Decree 93 which extends prohibitions to those "*acting on behalf of, under the influence, ownership, control, authorization or direction of organizations and individuals involved in terrorism or terrorism financing,*" and Clause 14 of Decree 93 which extends enforceable obligations to FIs/DNFBPs (natural or legal persons) who are now compelled to report upon freezing an asset.

59. However, the requirement of a guidance issued on freezing or unfreezing has not been addressed (c.6.5(d)). It is unclear how the announcement of any updates can be considered as guidance, Vietnam did not demonstrate that there is clear guidance to FIs and other persons or entities, including DNFBPs, on their obligations under freezing mechanism.

60. **Criterion 6.6** is *partly met*. The deficiencies noted in the 2022 MER are related to c.6.6(e) – c.6.6(g). The gap identified under c.6.6(g) has been addressed by Clause 12 of Decree 93 which requires de-listings and unfreezing to be communicated within 24 hours of action being taken. Other shortcomings remain: (i) no persons or entities on the Al-Qaida Sanctions List have been or are present in Vietnam which in and of itself does not constitute a deficiency however given that this means Vietnam has not generated any notifications of this kind for the assessment team to verify (c.6.6(e)); (ii) no publicly known procedure dealing with false positives (c.6.6(f)); and (iii) no clear guidance issued on freezing and unfreezing (c.6.6(g)).

61. **Criterion 6.7** is *met*. No updates since the 2022 MER.

Weighting and Conclusion

62. Vietnam has made progress since its 2022 MER. Vietnam has issued Decree No.93/2024/ND-CP to address deficiencies in R.6. However, the minor technical deficiencies including c.6.2 and c.6.6 remain. Considering Vietnam's risk and context, the recommendation is rated as largely compliant.

63. **Recommendation 6 – the rating is re-rated to largely compliant.**

Recommendation 7 [R.7] (Originally rated not compliant)

64. Vietnam was rated NC for R.7 in its 2022 MER. The report noted that Vietnam has introduced a legal framework to implement TFS related to proliferation, but major shortcomings were identified regarding: the implementation of TFS without delay; the lack of sanctions to ensure enforceability of freezing obligations or prohibitions on providing funds; the lack of a communication mechanism for designations and delistings; and the lack of guidance on TFS obligations. The fact that freezing obligations and prohibitions were not enforceable was given the greatest weight.

65. **Criterion 7.1** is *met*. Post the 2022 MER, Vietnam has now addressed the minor deficiency identified in the MER with respect to publication of PF TFS obligations and a direct link to the UNSC portal (as required under item (b), clause 5, Article 11 of Decree No. 81/2019) is on the Ministry of National Defense (MOD) website. This is available on the MOD website in both Vietnamese and English. The MOD sends automatic emails to organisations and individuals registered on the website of Standing Agency 81, which includes organisations and individuals are advised to regularly update the list according to the Resolutions of the United Nations Security Council on the homepage of the MOD.

66. **Criterion 7.2** is *partly met*. According to paragraph (b), clause 5 of Article 11 of the Decree and the guidance on PF TFS obligations, designations are communicated on the MOD website. Updates on the designation list are also required to be provided to relevant Ministries within 24 hours of designation for communications to entities/persons under their management. The guidance and the UNSC portal are now published on the MOD website, therefore, deficiencies under c.7.2(d) has been addressed. However, other gaps are still identified: (i) there are no penalties specified for non-compliance with Decree No. 81/2019 and the deficiency identified in paragraph 144 of the TC Annex remains; (ii) there remains no enforceable prohibition applied directly to persons or entities preventing funds or other assets from being made available by their nationals or persons or entities within their territories; and (iii) lack of penalties for non-compliance and consequent lack of enforceability on the freezing obligation under clause 2, Article 22 of the Decree and the Vietnam's new AML Law (2022) regarding

the obligation on reporting entities to postpone transactions on the Blacklist or involving parties on the Blacklist. The scope of the Blacklist with respect to PF TFS designates is not defined, so it is unclear whether this obligation applies in the context of R.7.

67. **Criterion 7.3** is *not met*. Since the 2022 MER, a new AML Law (2022) has been issued. Article 65 of the new AML Law extends its application to prevention of PF. Penalties for non-compliance with this law have been articulated in Decree No. 143/2021. While the Decree was issued in respect of the 2022 AML Law's predecessor and does extend its application to PF, it does not contain the relevant freezing and other obligations required for PF TFS under Recommendation 7—these remain in Decree No. 81/2019. However, the penalties for non-compliance with both Decrees are neither dissuasive nor proportionate.

68. **Criterion 7.4** is *mostly met*.

69. *c.7.4(a)*: Post the 2022 MER, Vietnam has procedures to request removal from the designated list, as stipulated in Clauses 6, 7, 8, and 9 of Article 11 of Decree No. 81/2019. The MOD website now contains a public portal by which a request for delisting may be made and the Decree No. 81/2019 is publicly accessible. Vietnam also has an internal procedural document stipulating the process by which the MOD may request that the UNSC delist a person (The MOD Regulation No. 262/QĐ (2022)).

70. *c.7.4(b)*: The Decree No. 81/2019, which is publicly accessible on the MOD website, satisfactorily enables MOD, in conjunction with other agencies to unfreeze assets and return property to persons falsely identified as being designated.

71. *7.4(d)*: The communication regarding delistings are conducted through the UNSC portal on the MOD website. FIs and DNFBPs are responsible for monitoring changes to this list under paragraph k of clause 2, Article 27 and paragraph b of clause 5, Article 11 of Decree No. 81/2019. While this addresses one of the deficiencies identified in the 2022 MER, the guidance on PF obligations is yet to be published on the MOD website. The website does now contain a summary of some of the obligations for FIs and DNFBPs with respect to PF TFS, however, it does not include information on obligations where an FI or DNFBP is holding funds or other assets of a person who is delisted or funds or other assets that are unfrozen.

72. **Criterion 7.5** is *met*. The MER did not identify any deficiencies for this criterion. As the framework relevant to this criterion has not been amended since the MER, the analysis in the MER stands.

Weighting and Conclusion

73. While Vietnam has a legal framework to implement TFS related to PF, moderate shortcomings remain. In particular, the lack of sanctions to ensure enforceability of freezing obligations or prohibitions on providing funds. While the implementation of a communication mechanism for designations and delistings, as well as the provisions of some (albeit not extensive) guidance on PF TFS obligation has addressed, a number of the deficiencies identified in the MER, the lack of enforceable freezing obligations and prohibitions is given the greatest weight.

74. **Recommendation 7** – *the rating is re-rated to partially compliant*.

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

75. 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. The 2023 FUR concluded that Vietnam remained rated PC, because while there is 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.

76. **Criterion 20.1** is *partly met*. Regarding the scope of the suspicious transaction reporting obligation, the 2022 AML Law provides responsibility of reporting entities (as defined in Article 4) to report any suspicious transaction in two broad circumstances. This scope of obligation is narrower than required by criterion 20.1, which requires FIIs to promptly report suspicions to the FIU where it has reasonable grounds to suspect that the funds are the proceeds of criminal activity (Article 26(1)).

77. Article 26(1)(a) of the 2022 AML Law demonstrates that the reporting obligations only cover a situation where the reporting entity: (i) knows that the transaction is conducted at the request of a suspect, defendant or convictee; and (ii) there are grounds to suspect that the property is owned or controlled by the suspect, defendant or convictee. Further, the Article 26(1)(b) is enlivened where a customer or transaction shows one or more signs of suspicious activity specified in Articles 27 – 33. Article 27 sets out common signs of suspicious activity, that if observed give rise to an obligation to report the transaction under Article 26(1)(b). Articles 28 – 33 set out signs of suspicious activity for customers and/or transactions in specific sectors. While a reporting obligation would arguably arise where a person makes a transaction that, because it meets a common sign of suspicious activity (for example, in the banking sector – Article 28), generates a suspicion that the property involved in the transaction is related to ML, the circumstances set out in Articles 27 – 33 are narrower than the required scope of criterion 20.1 and would not necessarily capture all suspicious transactions.

78. In the scope of reporting suspicious TF transactions, the obligations are explained under Articles 9 – 40 of the 2022 AML Law. This includes the STR obligations under Article 26 where: a transaction was conducted for the purposes of TF and at the request of a suspect, defendant or convictee; and, there are reasonable grounds to suspect that the property involved in the transaction is owned or controlled by that suspect, defendant or convictee (Article 26(1)(a)). However, ultimately this quite a narrow circumstance. Furthermore, it is also challenging to consider how an obligation to report transactions suspected of being for TF under Article 26(1)(b) would arise, particularly given the signs of suspicious activity which give rise to the reporting obligation set out in Articles 27-33 are ML, not TF typologies and cannot be clearly adapted. In such circumstances, it is difficult to see how a TF-related STR could be made under Article 26(1)(b).

79. Post the 2023 FUR, Vietnam have issued Decree No. 93/2024, Article 8(1) of which provides that within 24 hours from suspecting or detecting money or assets related to terrorism or TF, reporting entities must immediately report any delayed transactions to the MPS, or the Provincial Police, or to the agency performing the AML function of SBV (the AMLD). In addition, the reporting entity must send a STR on TF to the AMLD. While this obligation remains somewhat unclear—and does not specifically relate to transactions—it may go some way to addressing the deficiency identified with respect to TF-related STRs. Questions remain

around the interplay with the broad reporting requirements in Article 26 of the AML Law—it appears as though this Decree establishes a completely separate reporting mechanism. It is also unclear what form the required report must be made in, as this would seemingly not be covered under Article 7 of Circular No. 09/2023, which prescribes the relevant form for the report.

80. The Law on Anti-Terrorism (as amended) sets out the reporting obligation on suspicious TF transactions and imposes a second reporting obligation that does not appear to fully align with the requirements of this criterion. Article 34(2) of the Law on Anti-Terrorism requires a reporting entity to make a report where it suspects that a customer or a customer's transaction is related to TF, the report is made directly to the MPS (in addition to the SBV). The MPS' role in receiving these reports is unclear, and these reports appear to have a different purpose or nature to an STR. This aligns with advice from Vietnam in the 2023 FUR that reports made under this provision 'are not STRs.'

81. Article 7(1) of Circular No. 09/2023 issued by the SBV clarifies that reports made under Article 26 are to be made to the agency performing the functions and tasks of AML and in the paper-based form annexed to the circular. This provision would seemingly be referring to the FIU. However, there are outstanding questions on this issue. As set out in the analysis for R.29 in the 2023 FUR, Vietnam advised that Decree No. 74/2005 (which established the FIU within the SBV as the sole body to receive and process information concerning transactions and other information) is no longer in effect. Given this, there remains uncertainty as to whether AMLD within SBV is established as the FIU with responsibility for receipt and analysis of STRs. While in practice, AMLD continues to act in this capacity, there was no legal basis establishing this during the follow-up review period (the review is taking into account any of legal or regulatory framework changes up to 1 October 2024).

82. In conclusion, the deficiencies as set out in the 2023 FUR broadly remain. While article 8(1) of Decree 93/2024 appears to somewhat address the deficiencies in the TF STR reporting framework, its impact cannot be considered in this Report as its entry into effect was after the cut-off period of 1 October 2024. Further, a number of deficiencies remain as set out in the 2023 FUR.

83. **Criterion 20.2** is *partly met*. Article 7(2) of Circular No. 09/2023 confirms that for the purpose of reports made under Article 26 of the 2022 AML Law, it does not matter whether the transaction has been completed or not. This provision has the effect of ensuring attempted transactions are also subject to reporting under Article 26. Article 7(2) also prescribes that there is no value threshold for reporting, as required by this criterion. However, the scope deficiencies of the Article 26 reporting requirement, as set out in the analysis for criterion 20.1 also impact this criterion. In addition, it is not clear that reporting under Article 8(1) of Decree No. 93/2024 is also required in the case of attempted transactions or transactions that are not completed. Article 7(2) of Circular No. 09/2023 only appears to apply in relation to Article 26 reports.

Weighting and Conclusion

84. Post the 2023 FUR, reporting entities are required to submit STRs to the SBV where the reporting entity 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. Reporting entities 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 remain narrower than scope of Recommendation 20 and do not capture situations where the funds are the proceeds of criminal

activity generally, beyond the suspicious indicators in the AML Law. This deficiency is afforded substantial weight.

85. Vietnam has somewhat addressed the deficiency identified in the 2023 FUR with respect to TF-related STRs through the implementation of a new Decree, though questions do remain. [While the AMLD has now been established within SBV as the FIU, and its responsibility for receiving and analysing STRs has been confirmed, the Decree did not come into effect within the time period under consideration.]

86. ***Recommendation 20 – the rating remains partially compliant.***

IV. CONCLUSION

87. Overall, Vietnam has made progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated to PC on R.7 and LC on R.1 and R.6.

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

89. 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 1 October 2024:

R.	Rating	R.	Rating
1	PC (2022 MER; 2023 FUR), ↑ LC (2024 FUR)	21	PC (2022 MER; 2023 FUR)
2	LC (2022 MER)	22	PC (2022 MER; 2023 FUR)
3	PC (2022 MER; 2024 FUR)	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), ↑ LC (2024 FUR)	26	PC (2022 MER; 2023 FUR)
7	NC (2022 MER, ↑ PC (2024 FUR)	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)
12	NC (2022 MER)	32	LC (2022 MER)
13	PC (2022 MER), LC (2023 FUR)	33	C (2022 MER)

R.	Rating
14	PC (2022 MER; 2023 FUR)
15	NC (2022 MER; 2023 FUR)
16	PC (2022 MER; 2023 FUR)
17	PC (2022 MER; 2023 FUR)
18	PC (2022 MER; 2023 FUR)
19	PC (2022 MER; 2023 FUR)
20	PC (2022 MER; 2023 FUR ; 2024 FUR)

R.	Rating
34	PC (2022 MER)
35	NC (2022 MER)
36	LC (2022 MER)
37	LC (2022 MER)
38	PC (2022 MER)
39	LC (2022 MER)
40	LC (2022 MER)

90. Vietnam has 16 Recommendations rated C/LC.

Summary of Technical Compliance –Deficiencies underlying the ratings ³

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating ⁴
1. Assessing risks & applying a risk-based approach	PC (2022 MER; 2023 FUR), ↑ LC (2024 FUR)	<ul style="list-style-type: none"> TF risks of commercial entities have not been assessed Policies, controls, and procedures do not have to be approved by a senior management, monitoring of implementation of controls do not apply to extra-small enterprises and natural persons (c.1.11(c)). Gaps identified under c.1.11 apply (c.1.12).
3. Money laundering offence	PC (2022 MER; 2024 FUR)	<ul style="list-style-type: none"> The ML offence does not cover all forms of transfer and conversion of proceeds of crime (c.3.1). Gaps with aspects of the coverage of predicate offences (c.3.2). No clarity on whether the ML offence extends to property that indirectly represents the proceeds of crime (c.3.4). Available fines are not proportionate and dissuasive (c.3.9). Criminal liability of legal persons does not apply on all designated categories of predicate offences and to all forms of legal persons (c.3.10).
6. Targeted financial sanctions related to terrorism & TF	PC (2022 MER), ↑ LC (2024 FUR)	<ul style="list-style-type: none"> No specification of an evidentiary standard of proof when deciding whether or not to make a proposal for designation, nor did Vietnam provide any other documentation referring to evidentiary standards for this process (c.6.1). Vietnam has not demonstrated that relevant authorities provide as much identifying and other specific information as possible to support a designation request to another country. Vietnam has not made any such

³ Ratings and factors underlying the ratings are only included for those recommendations under review in this FUR.

⁴ Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating ⁴
		<p>requests and did not provide formal domestic procedures regarding the provision of such information. (c.6.2).</p> <ul style="list-style-type: none"> • No clear guidance to FIs and other persons or entities, including DNFBPs, on their obligations under freezing mechanism (c.6.5). • No persons or entities on the Al-Qaida Sanctions List have been or are present in Vietnam, and so Vietnam has not generated any notifications of this kind for the assessment team to verify (c.6.6). • No publicly known procedure dealing with for false positives (c.6.6). • No clear guidance issued on freezing and unfreezing (c.6.6)
7. Targeted financial sanctions related to proliferation	NC (2022 MER, ↑ PC (2024 FUR)	<ul style="list-style-type: none"> • Freezing obligations are not enforceable (c.7.2). • No enforceable prohibition applied directly to persons or entities (c.7.2). • Reporting obligations not enforceable (c.7.2). • Penalties for failure to comply with TFS-PF TF obligations are not dissuasive and proportionate (c.7.3). • The guidance on PF obligations is yet to be published on the MOD website. (c.7.4) • The MOD website does not include information on obligations where an FI or DNFBP is holding funds or other assets of a person who is delisted or funds or other assets that are unfrozen (c.7.4).
20. Reporting on Suspicious Transactions	PC (2022 MER; 2023 FUR; 2024 FUR)	<ul style="list-style-type: none"> • 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).

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) underlying the rating ⁴
		<ul style="list-style-type: none"> There is no clarity on the requirement for FIs to report attempted transactions related to TF (c.20.2)