

## DRAFT LAW ON ANTI-MONEY LAUNDERING

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The State Bank of Vietnam is drafting and collecting public comments on the Draft of Law on Anti-Money Laundering (from now on, referred to as the “**Draft Law**”) to replace the Law on Anti- Money Laundering 2012 (“**AML 2012**”). The Draft Law includes 05 chapters and 61 articles.

We highlight the Draft Law’s critical features below.

### Subjects of application

The Draft Law expands its governing scope by adding to Articles 4.3 and 4.4 of AML2012 which contain a list of commercial sectors subject to scrutiny for money laundering risks. These sectors include *providing intermediary services connecting borrowers and lenders based on technology platforms; providing virtual asset services; providing intermediary payment services; providing fiduciary services (trust); providing services of establishment, management, and administration of enterprises; and providing services to provide directors and secretaries of enterprises to third parties*. Accordingly, those individuals or organizations carrying out the business activities outlined above must submit to specific reporting requirements (“**Reporting Subjects**”).

### Subjects of client

### identification information and beneficial owner information

The Draft Law has client identification information reporting requirements that the various Reporting Subjects must update and verify. Accordingly, the Draft Law sets out different conditions for the following subjects: *Vietnamese, foreigners residing in Vietnam, foreigners not residing in Vietnam, individuals with two or more (02) nationalities, individuals without nationality, and organizations* to comply with current laws.

For beneficial owner information, the Reporting Subjects are no longer required to collect ownership and control structure information to assess individuals with interests that control or govern the operation of a legal entity.

### Classification of clients by the level of risk

For money laundering risk levels, the Draft has a *medium level* of money laundering risk in addition to the existing *low and high levels* prescribed in AML 2012. The required measures for identifying and updating client information will vary according to the client’s risk level.

### Measures to establish a

### banking agent relationship with a foreign banking partner

Per AML 2012, the Reporting Subjects must apply mandatory standards when establishing banking agent relations with the foreign banking partner. The Draft Law explicitly includes *financial institutions* as Reporting Subjects to this requirement.

The Draft Law has rules for establishing a banking agent relationship with a foreign banking partner. For example, it lists the types of information that the Reporting Subjects need to collect, such as *whether the banking partner is being investigated for money laundering or other violations of the law and understanding the anti-money laundering responsibilities of each organization in the agency relationship*.

### Assessing the risk with products and services using new technology

The Draft Law states that the Reporting Subjects must carry out the money laundering risk assessments for all products and services using novel technology before implementing them into the existing business. The Reporting Subjects must also have an internal process to minimize risks for the

products and services with potential money laundering risks.

## Identifying clients through the third party

The Draft Law added new regulations on identifying clients through third parties. Accordingly,

the Reporting Subjects may identify the client through a third party and follow specific requirements prescribed in the Draft Law<sup>1</sup>. However, recognizing clients through a third party will not diminish the legal responsibility of the Reporting Subjects in identifying and updating client information. AML 2012 does not

have a provision for identifying clients through third parties.

The above is a summary of the fundamental changes in the Draft Law. Please get in touch with Hoang Diep using the information below if you have any comments or want a copy of the Draft Law.



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<sup>1</sup> Article 19 of the Draft Law