



# Special Alert

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## Measures Taken to Combat Illegal Acts Using Card Transactions Related to Betting, Forex Trading and Cryptocurrencies

The use of non-cash payments has been more common and increasingly favored in Vietnam. The Government of Vietnam encourages its development, especially the payment method of bank cards. Switching from traditional cash payment to payment via bank card helps simplify the transaction procedures but raises challenges for the management of payments by the Government, especially in monitoring and preventing transactions not in compliance with law.

Recently, the Governor of the State Bank of Vietnam (“**SBV**”) has issued Directive No. 02/CT-NHNN dated 7 January 2021 on enhancing the prevention of violations in bank card activities (the “**Directive**”). The Directive applies to the SBV agencies, card issuance organizations (“**CIOs**”), card payment organizations (“**CPOs**”), intermediary payment service providers (“**IPSPs**”), and representative offices (“**ROs**”) of international card organizations (“**ICOs**”).

### *For CIOs, CPOs and IPSPs*

Apart from being required to amend, supplement and complete internal regulations within their respective operational scope, CIOs, CPOs and IPSPs must also enhance the effectiveness of their administration, operation and internal systems for examination and control. They are required to act in cooperation to supervise, examine and review card transactions for the timely prevention of suspicious transactions as well as any wrongful acts, including transactions not in compliance with the law (the “**Non-Compliant Card Transactions**”). The Directive further specifies the Non-Compliant Card Transactions such as those in relation to prize-winning games, gambling, betting, forex trading, stock, virtual currency, cryptocurrency, etc. In addition to those acts which are expressly prohibited by the Criminal Code such as gambling and betting, it is important to note the acts such as forex, virtual currency and cryptocurrency trading on this list.

Pursuant to Foreign Exchange Control Ordinance No. 28/2005/PL-UBTVQH11 dated 13 December 2005, as amended on 18 March 2013 (the “**Forex Ordinance**”), an entity is only allowed to operate in foreign exchange under the following conditions: (i) being an organization (credit institution, foreign bank’s branch or other organization) and (ii) having duly obtained the written approval from the SBV. As such, forex trading activities on forex exchanges by ordinary citizens and unqualified entities are not in compliance with the law.

Trade in virtual money and cryptocurrencies are also popular in online financial market where transactions involving their purchase and sale are particularly enthusiastic notwithstanding their illegality. But as per Decree No. 101/2012/ND-CP dated 22 November 2012 on non-cash payments, Official Letter No. 5747/NHNN-PC of the SBV dated 21 July 2017, virtual money and cryptocurrencies are not counted as legal payment methods in Vietnam. In fact, Official Letter No. 5747/NHNN-PC explicitly bans the use of cryptocurrency as a payment method.

This renewed encouragement for CIOs, CPOs and IPSPs to enhance their examination of the Non-Compliant Card Transactions shows the Government’s intention to tighten its management in this sector for timely and more effective prevention and handling of relevant violations.

### *For ROs of ICOs*

The Directive also requires ROs of ICOs to boost their information communication and sharing, as well as to warn the CIOs, CPOs and IPSPs about their list of card-accepting units which demonstrate a high-risk of the Non-Compliant Card Transactions. This is the latest in a long stream of efforts to impose the country’s financial regulations on international companies with a presence or targeted customers in Vietnam.

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