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**THE LEGAL FRAMEWORK OF
ISSUING, TRADING, AND
PREVENTING VIRTUAL CURRENCY
CRIME IN VIETNAM**

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Abstract

The virtual currency became popular in Vietnam and grew strongly from 2013. With the development of digital technology, accepting virtual currencies is an inevitable trend. The critical issue still lies in the supervision and management of virtual currency. Vietnam has no legal regulations governing the issuance, trading, and exchange of virtual currencies, and there is no official unit to manage the issuance and grading of coins. The lack of a legal framework for the issuance and virtual currencies has caused difficulties for both users and regulators. At the same time, criminals take advantage of virtual

money to cover up crimes, launder money, evade taxes, and evade detection and handling by authorities. In order to contribute to promoting economic development in general, the interests of organizations and individuals participating in purchasing, selling, and exchanging virtual currencies in particular, the article aims to recognize virtual currencies, examine and review the current legal system on, crime situation, and handle crimes related to virtual currency in Vietnam in the latter year. The article will discover the difficulties, obstacles, and inadequacies of the legal framework on virtual currencies propose strategies and guidelines for perfecting the law on virtual currencies.

Keyword: Framework, Legal, Money. Currencies, Virtual. Guidelines.

INTRODUCTION

According to statistics of the Ministry of Information and Communications, as of January 2021 in Vietnam, there are nearly 67.720,000 million internet users (accounting for 70.3% of the country's population, much higher than the world average. gender). The number of social network users in Vietnam is 72 million. For virtual currency trading activities, complicated developments attracted many individuals to purchase, sell, invest, and virtual trading currencies around the end of 2017 and 2018. Virtual currency transactions are mainly buying and selling - reselling on virtual currency exchanges outside Vietnam from the amount of Bitcoin/other cryptocurrencies (Ethereum, LiteCoin) obtained by hand-trading, or from the activity of "mining" virtual currency based on imported high-configuration, specialized computer systems. According to cryptocurrency market research firm CryptoCompare, at the end of November 2017, up to 80% of Bitcoin transactions originated in Asia, of which the four largest markets are China, Japan, Korea, and Vietnam. The number of visitors from Vietnam to some

Bitcoin exchanges or virtual currency information sites such as Bittrex, Poloniex, Coinmarketcap is always in the Top 5, along with the U.S., Russia, and Japan.

Besides, the number of computers "mining" Bitcoin imported to Vietnam has also increased relatively high in recent years. According to the General Department of Customs, from 2017 to now, 15,600 virtual currency mining machines have been imported into Vietnam. In Official Letter No.5484/VPCP-KTTH dated June 9, 2018, The Government assigned the Ministry of Industry and Trade, the Ministry of Finance, and relevant agencies to study and consider suspending the import of automatic data processing machines for virtual currency mining according to their competence and current regulations.¹

Vietnam has also had virtual currency attacks. According to the latest statistics from security firm Kaspersky on small and medium-sized businesses (SMBs) in Southeast Asia, in the first quarter of 2020, more than 1 million cryptocurrency mining attacks were carried out, currently aimed at enterprise devices. The figure is up 12% from the 949,592 crypto-mining attacks prevented during the same period last year. In particular, Indonesia and Vietnam are among Southeast Asia and globally, with the highest number of cryptocurrency mining attacks targeting SMBs. Specifically, the total number of virtual currency mining attacks against Vietnamese businesses detected in the first quarter of this year was 289,118, ranking 2nd in Southeast Asia and fifth globally. These attacks are nearly double the number of attacks against Thailand (more than 152,000) and more than 24 times that of Singapore (just over 7,500).

¹ Ministry of Finance (2020), *Government, warns people to be careful when trading virtual currencies*,

https://mof.gov.vn/webcenter/portal/btcvn/pages_r/l/tin-bo-tai-chinh?dDocName=UCMTMP125696&dID=44280, last accessed on 21/02/2022.

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Meanwhile, according to statistics of the national cybersecurity situation in the first week of July 2020 by the National Cybersecurity Monitoring Center, the Ministry of Information and Communications, the Necurs botnet has more than 67,200 IP addresses in Vietnam connected to the remote control server, up from 51,120 the previous week. The Iotbotnet botnet has more than 172,500 IP addresses in Vietnam, more than three times higher than the last week. The Conficker botnet has 219,004 IP addresses, up more than five times from the previous week.²

The situation of virtual currency transactions and violations of laws related to virtual currencies is complicated, with different characteristics and sizes. Many criminals have taken advantage of virtual currencies to commit fraud, tax evasion, money laundering. Studies in recent years have shown that the current legal framework on virtual currencies has many loopholes, making it difficult to monitor and handle violations related to virtual currency. In addition, many unclear legal provisions make it difficult for law enforcement agencies to address violations and crimes. It is essential to assess the legal system's challenges, problems, and inadequacies for issuing and using virtual currencies and dealing with virtual currencies violations.

FIGURES AND TABLES

This study is based on:

² Dong Thap Online Magazine (2020), *Vietnam suffered the second virtual currency mining attack in Southeast Asia, the fifth globally*, <https://www.baodongthap.vn/so-hoa/viet-nam-bi-tan-cong-khai-thac-tien-ao-thu-hai-dong-nam-a-thu-5-toan-cau-92155.aspx>, last accessed on 21/02/2022.

- Analyze documents, reports, data, transactions, violations, and crimes on virtual currency provided by Vietnamese state agencies and research agencies such as the State Bank of Vietnam, Securities Commission, Government Office, Ministry of Information and Communications, Ministry of Justice, Ministry of Industry and Trade, General Department of Taxation.

- Legal reports, research papers in relevant journals, and the Internet.

- The author has reviewed documents and consulted personally with experts, prosecutors, and lawyers to learn about the contents related to the virtual currency crime situation the obstacles in solving the problem related to virtual currency.

VIRTUAL CURRENCY HAS BECOME POPULAR IN VIETNAM TODAY AND HAS ADVANTAGES AND DISADVANTAGES.

VIETNAMESE HAVE TRADED IN THE VIRTUAL CURRENCY MORE AND MORE IN RECENT YEARS.

Vietnam ranks second in the world in terms of the popularity of virtual currencies.³ It is considered one of the countries with vibrant virtual currency trading and investment activities with a large volume. In 2018, the Ministry of Justice had an overview report on virtual property, virtual property, virtual currency in Vietnam and worldwide. This report states: "In Vietnam, ..., cryptocurrencies are still publicly traded, and many people participate in transactions, investment, and business. People purchase and sell digital assets,

³ N.B. Huyen, *Finance Online Magazine, Bitcoin and its problems* (2017) <https://tapchitaichinh.vn/ngghien-cuu--trao-doi/trao-doi-binh-luan/bitcoin-va-nhung-van-de-dat-ra-139844.html>, last accessed on 21/02/2022.

cryptocurrencies mainly for speculative purposes.”⁴ At the same time, the Vietnamese Dong (VND) is one of the eight most-used fiat currencies in virtual asset trading practically worldwide.⁵ Vietnam has more than 10 million virtual currency investment accounts, at least five times higher than the current securities accounts.⁶ This proves that 1 out of 5 survey respondents uses virtual currency.⁷ Cryptocurrency exchanges like Binance, MEXC, Huobi are used by many Vietnamese users thanks to their Vietnamese interface and many supporting features.⁸

Regarding transaction volume, statistics from the Department of Cybersecurity and High-Tech Crime Prevention and Control (under the Ministry of Public Security) show that about 1 million people own and participate in Vietnam transactions. Daily transactions amount up to several hundred billion dongs.⁹ According to estimated data, in Vietnam, about 1 million people own and

⁴ Ministry of Justice (2018), *Report No. 255/BC-BTP dated October 29, 2018, on a comprehensive review and assessment of the legal and practical status of virtual assets and virtual currencies in Vietnam and internationally; identify, propose improvement orientations*, Ha Noi, Viet Nam.

⁵ N. Ethen (2018), “*Security: The Next Step in the Crypto Industry’s Evolution*,” in “*Virtual assets, virtual currencies: International experience and some legal issues*” International conference chaired by the Ministry of Justice, Ha Noi, Viet Nam.

⁶ T. Mai (2021), *Vietnam ranks second globally in terms of the popularity of virtual currencies* (2021) <http://xanhx.vn/viet-nam-ewec/viet-nam-dung-thu-hai-the-gioi-ve-do-pho-bien-tien-ao-7412.html>, last accessed on 21/02/2022.

⁷ T. Mai (2021), *Vietnam ranks second globally in terms of the popularity of virtual currencies* (2021) <http://xanhx.vn/viet-nam-ewec/viet-nam-dung-thu-hai-the-gioi-ve-do-pho-bien-tien-ao-7412.html>, last accessed on 21/02/2022.

⁸ VnExpress (2021), *Four popular cryptocurrency exchanges in Vietnam*, <https://vnexpress.net/4-san-giao-dich-tien-so-pho-bien-tai-viet-nam-4339260.html>, last accessed on 21/02/2022.

⁹ People's Public Security Online Magazine (2021), *Crazy about virtual money*, <https://cand.com.vn/Phap-luat/dien-dau-vi-tien-ao-i625063/>, last accessed on 21/02/2022.

participate in crypto-asset transactions with a daily transaction amount of about 200-300 billion dong; Bank transactions are the primary method for these funds.¹⁰ Only on the Remitano virtual currency exchange, the daily trading volume between virtual currency and VND is about 70-100 billion VND; the peak period can be up to 300-400 billion VND/day. According to the website “www.coin.dance”, the weekly trading volume in Vietnam is about 1,615 billion VND/week; the peak period is about 4,600 billion VND (in January 2018). Vietnamese investors' major virtual currency exchanges traded, bought, sold, invested, and stored are Binance, Okex, Houbi, Bittrex, Remitano, Santienao, Kenniex. Besides, investors also trade through spontaneous groups on social networks (Telegram, Whatapp, Viber, Facebook).

According to Chainalysis's estimates, in 2020, Vietnamese traders have earned about \$0.4 billion by investing in Bitcoin in terms of revenue. Globally in terms of Bitcoin profitability, Vietnam ranks 13th.¹¹ In addition, Vietnam is also the fourth country in terms of profits from cryptocurrencies, just behind China, Japan, and South Korea. The above numbers show that investing in virtual money can increase revenue quickly.¹² In addition to buying, selling, and trading cryptocurrencies, many organizations and individuals have set up computer

¹⁰ High-tech Crime Prevention Department, Ministry of Public Security, in “*Virtual assets, virtual currencies: International experience and some legal issues*” International conference chaired by the Ministry of Justice, Ha Noi, Viet Nam (2018) (From August 10, 2018, High-tech Crime Prevention Department merged into the Department of Cybersecurity and High-tech Crime Prevention).

¹¹ Ministry of Industry and Trade, *The document sent to Electricity of Vietnam No. 1402/BCT-DTDL* (2018).

¹² VnExpress, *Four popular cryptocurrency exchanges in Vietnam* (2021) <https://vnexpress.net/4-san-giao-dich-tien-so-pho-bien-tai-viet-nam-4339260.html>, last accessed on 21/02/2022 .

systems and servers to "mine" cryptocurrencies in Vietnam. This "mining" of cryptocurrencies wastes much energy, generates profits but does not declare, and pays no corporate or personal income tax.

BENEFITS AND RISKS FROM USING VIRTUAL CURRENCY IN VIETNAM

Undeniably, cryptocurrency exchanges offer the following advantages:

First, virtual currency transactions use the Internet as the method of execution. One of the crucial principles of the Internet is neutrality. According to this principle, data packets on the Internet move "innocently," regardless of their content, destination or origin.¹³ Broadband providers do not discriminate against specific Internet content or applications. The principle of neutrality helps to conduct transactions regardless of the number and type of business. Virtual currency can work on any electronic device capable of accessing the Internet.

Second, there is no intermediary in the transaction. The banking system has long acted as an indispensable intermediary for payment methods. With the advent of virtual currencies, the role of credit institutions in financial payments came to an abrupt end. This issue will create the following advantages: (i) Minimize transaction fees as well as foreign exchange fees, (ii) freedom in transactions, (iii) Fast cross-border payments Fast, complete anywhere at any time

¹³ High-tech Crime Prevention Department, Ministry of Public Security, in *"Virtual assets, virtual currencies: International experience and some legal issues"* International conference chaired by the Ministry of Justice, Ha Noi, Viet Nam (2018) (From August 10, 2018, High-tech Crime Prevention Department merged into the Department of Cybersecurity and High-tech Crime Prevention).

with no limit on the maximum amount that each person can send or receive per transaction.

The third, a high degree of privacy, also known as anonymity. Although the digital currency, represented by Bitcoin, is not entirely anonymous, its users have a higher level of protection and privacy than other remittance services. Users feel more comfortable using virtual currency to pay for financial and commercial transactions. This problem will reduce the risk of information theft.

However, in Vietnam, virtual currency creates many consequences, precisely:

One, the risk of money laundering and terrorist financing from crypto-asset transactions is due to the anonymous nature of these transactions. The Ministry of Justice acknowledges this risk in the Overview Report on virtual property legislation and virtual property practices in Vietnam and worldwide in 2018. The report states: that several foreign organizations have changed, transformed traditional funding, legalization into investments, philanthropy by transferring cryptocurrency to offending groups. The legal framework is unclear and synchronous to manage and handle crypto-related activities.

In addition, other illegal acts often use cryptocurrencies as a means of transaction, such as renting a server that does not require object authentication; hiring DDoS attacks; computer hijacking for blackmail, trafficking in drugs and weapons.¹⁴

¹⁴ Ministry of Justice (2018), *Report No. 255/BC-BTP dated October 29, 2018, on a comprehensive review and assessment of the legal and practical status of virtual assets and virtual currencies in Vietnam and internationally; identify, propose improvement orientations*, Ha Noi, Viet Nam.

Second, difficult for management. Taking advantage of the anonymity of virtual currencies, most organizations and individuals operating in this field often do not register to establish businesses in Vietnam. In cyberspace, multi-level business activities are mainly financial investments or ICOs of "virtual currencies." Objects and investors exchange and contact each other through closed groups on social networks (Facebook, Telegram, Zalo) and mobilize profits in virtual currency instead of VND. Some business models under the multi-level method using virtual money on the network are popular today, such as Foreign exchange investment, financial investment trust, offer for sale of shares, corporate shares; ICO of virtual currencies; Binary trading model.

The Department of Cybersecurity and High-Tech Crime Prevention and Control said that violating business regulations by multi-level methods in cyberspace is complicated nationwide with many techniques and tricks. Non-traditional operating methods make it difficult to detect and investigate violations. The offender does not need direct communication with the victim in committing a crime. Victims cannot determine if their computer or information system has been compromised or copied. Therefore, criminals often hide their whereabouts.

The third is the risk of fraud. The Department of Competition and Consumer Protection - Ministry of Industry and Trade has specified the names of some "virtual currencies" or internal e-wallets of applications that are at risk of fraud, such as Gem, CBP, Selling, ONE, VNDC. These are virtual currencies and e-

wallets that Vietnam does not recognize as payment intermediaries.¹⁵ Fraudulent acts can be listed as follows:

- Performing ICO but without cryptocurrencies, as advertised, without blockchain wallet, unable to convert to "virtual currency." After selling a large number of so-called "virtual currencies," the subjects shut down the website, taking all the customer's money.

- The scam raises capital by investing in cryptocurrency exchanges and pays interest to depositors with very high returns. When the system mobilizes a certain amount of money, the subjects will flee or use excuses to delay paying customers to appropriate illegal assets.

Technological virtual currency applications have legitimized virtual money as a means of payment. However, virtual currencies have many risks, such as having no intrinsic value that entirely depends on supply and demand. Cryptocurrency trading history has had several price bubble bursts in late 2011 and early 2014. Therefore, without the management of state agencies, the virtual currency business has many potential risks for investors.

¹⁵ People's Public Security Online Magazine, *Crazy about virtual money* (2021), <https://cand.com.vn/Phap-luat/dien-dau-vi-tien-ao-i625063/>, last accessed on 21/02/2022.

VIETNAM'S LEGAL FRAMEWORK RELATED TO THE ISSUANCE AND USE OF VIRTUAL CURRENCY AND HANDLING OF VIOLATIONS OF THE LAW ON VIRTUAL CURRENCY

THE LEGAL FRAMEWORK IN VIETNAM RELATED TO THE ISSUANCE AND USE OF VIRTUAL CURRENCY

In Vietnam, there are only a few documents that have the nature of announcements and recommendations of state agencies, specifically:

- Documents of the State Bank of Vietnam:

On February 27, 2014, the State Bank of Vietnam issued a press release on virtual currency for the first time. The content of the Notice focuses on several fundamental issues as follows:

Firstly, the State Bank of Vietnam confirmed that Bitcoin is a form of digital currency (virtual money), not issued by the Government or a financial institution, but created and operated based on a system of computers connected to the Internet.

Secondly, the State Bank of Vietnam confirmed that the appearance of Bitcoin has caused many harms and risks for users. Crimes such as money laundering, drug trafficking, tax evasion, illegal payments can use Bitcoin as a tool. Bitcoin users face the risk of being hacked, stolen, changed data, financial bubble. No government agency regulates Bitcoin transactions, so Bitcoin holders are at their own risk.

Thirdly, the use of Bitcoin (and other similar virtual currencies) as a means of payment is not recognized and protected by law. Credit institutions cannot use

Bitcoin (and other similar virtual currencies) as a currency or means of payment when providing services to customers.

Fourthly, owning, buying, selling, and using bitcoin (and other similar virtual currencies) as an asset carries many risks for people and is not protected by law.

On October 28, 2017, the State Bank of Vietnam sent Official Letter No. 5747/NHNN-PC of the State Bank of Vietnam to the government office to reply on the issue of virtual currency: "Virtual currency in general and Bitcoin, Litecoin, in particular, is not a currency and is not a legal means of payment according to the provisions of Vietnamese law. Issuing, supplying and using virtual currency in general and Bitcoin, Litecoin in particular (unlawful means of payment) as currency or means of payment is prohibited. Decree 96/2014/ND-CP of the Government on sanctioning administrative violations in currency and banking and the 2015 Penal Code (amended and supplemented) stipulates sanctions for handling administrative violations. In addition, about investing in virtual currency, the State Bank of Vietnam has warned many times that this investment has enormous risks for investors."

- Decisions and Directives of the Prime Minister:

On April 11, 2018, the Prime Minister issued Directive No. 10/CT-TTG on strengthening the management of activities related to Bitcoin and other similar virtual currencies. The Directive mentioned the risks and consequences of activities related to virtual currencies, such as risks to participants, the risk of using virtual currency for criminal activities, investing, virtual trade-in currency, raising capital through the issuance of virtual currency (ICO). In particular, the operation of using virtual money to raise capital is increasingly complicated, affecting the stability of the financial market, social order, and safety.

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Used on warnings about the risk of adverse impacts of virtual currency-related activities, the Directive has requested relevant ministries and sectors to manage virtual currency-related activities to limit the risks and consequences for society; promptly detect, prevent and handle illegal acts.

Faced with unpredictable developments and adverse effects of virtual currency-related activities in Vietnam, on August 21, 2017, the Prime Minister issued Decision No. 1255/QĐ-TTĐ on approval of the project to complete the legal framework for the management and handling of virtual assets, cryptocurrencies, and virtual currencies. According to this Decision, the bases used to complete the legal framework include:

(i) Institutionalize the lines and policies of the Party and State on the protection of property rights to solve the inevitable realities that exist and will take place;

(ii) Contributing to protecting the legitimate rights and interests of domestic and foreign investors in Vietnam; effectively limit, prevent and control related risks and abuses; concretize regulations on property rights in the 2015 Civil Code in the field of virtual property and virtual currency;

(iii) Research and selectively acquire international experience in virtual assets, cryptocurrencies, and virtual currencies to identify, build and complete the relevant legal framework on the principle of ensuring uniformity, consistency, and transparency, stable and predictable legal system, in line with international practices.

At the same time, the completion of this legal framework aims at three goals:

(i) Research, thoroughly and accurately identify the nature of virtual currency according to foreign experience and Vietnamese practice; relationship with real money; the role of virtual currency and its impact on the law;

(ii) Review and assess the current status of the legal framework on virtual currency in Vietnam; foreign regulatory experience and impact on the relevant legal system of Vietnam; propose specific tasks and orientations to develop and improve the law on virtual currency to ensure corresponding risks. Control virtual currency to minimize risks but not affect creativity, flexibility to adapt to changes in the continuous development of information technology and e-commerce;

(iii) Assign responsibilities and implementation roadmap to relevant ministries and branches to handle the issues raised.

Thus, this Decision is an essential legal basis, laying the foundation for the research and promulgation of legal regulations related to virtual currencies in Vietnam. that shows the necessity and urgency of building a legal framework to regulate issues related to virtual currency in Vietnam.

- Directive of the Governor of the State Bank of Vietnam:

To implement Directive No. 10/CT-TTG dated April 11, 2018, of the Prime Minister, on April 13, 2018, the Governor of the State Bank of Vietnam issued Directive No. 02/CT-NHNN on measures to strengthen control of transactions and activities related to virtual currencies. Directive 02/CT-NHNN requires intermediary service providers (credit institutions payment) not to provide payment services, conduct card transactions, grant credit via card, assist handling, payment, money transfer, clearing and settlement, currency conversion, payment transaction execution, cross-border money transfer related to virtual currency

transactions for customers. The State Bank has also warned many times about multi-level capital mobilization of virtual currencies. The regulator also emphasized that virtual currencies such as Bitcoin or iFan are not legal payment currencies in Vietnam. The issuance and use of Bitcoin and other similar virtual currencies as a means of payment are prohibited. From January 1, 2018, the act of issuing, providing, and using illegal means of payment, including Bitcoin and other similar virtual currencies, may be subject to criminal prosecution according to regulations at Point h, Clause 1, Article 206 of the Penal Code 2015 (amended and supplemented in 2017).

- Notice of the State Securities Commission:

On its website, on January 29, 2018, the State Securities Commission advised investors to be careful when investing in virtual currencies to limit possible financial risks. On July 20, 2018, the State Securities Commission continued to issue Official Letter No. 4486/UBCK-GSDC requesting public companies, securities companies, fund management companies, and Securities Investment Funds to comply with regulations on prevention anti-money laundering, not to conduct illegal virtual currency issuance, trading and brokerage activities.

- Notice of the Ministry of Finance:

The Ministry of Finance also warned about the risks, dangers, and consequences of participating in illegal buying, selling, trading, investing, and trading virtual assets and virtual currencies. According to the Ministry of Finance, only the Ho Chi Minh City Stock Exchange and the Hanoi Stock Exchange can organize a stock trading market in Vietnam. According to securities law, virtual currency is not a type of security.

- Notice from the Ministry of Industry and Trade:

In the view of the Ministry of Industry and Trade (Department of E-Commerce and Information Technology), "Bitcoin does not meet the basic characteristics of goods or services. Therefore, Bitcoin is not a good or service." At the same time, electricity used for activities of decoding and mining virtual currencies is subject to the application of retail electricity prices for business purposes according to the official Notice of the Ministry of Industry and Trade to the Electricity of Vietnam, according to document No. 1402/BCT-DTDL, dated 22/2/2018 [10]. In the document, the Ministry of Industry and Trade proposed that the Vietnam Electricity Group direct the Electricity Corporations to apply electricity selling prices for business purposes for decryption and mining virtual currencies. According to the Ministry of Industry and Trade, decryption and mining virtual currencies such as Bitcoin, Litecoin, Ethereum, and other similar currencies through pre-programmed software. Therefore, the electricity used for these activities is subject to selling prices for business purposes.

ADMINISTRATIVE HANDLING AND CRIMINAL HANDLING OF VIOLATIONS RELATED TO VIRTUAL CURRENCY FOLLOWING VIETNAMESE LAW

Virtual currency is not a means of payment in Vietnam, so entities using virtual currency as a payment instrument will be considered a violation of the Law in Vietnam.

According to Clause 6, Article 26 of Decree 88/2019/ND-CP on administrative sanctions in currency and banking activities, issuing, supplying, and using payment means are not illegal. (including Bitcoin and other similar

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virtual currencies) will be administratively fined from VND 50 million to VND 100 million.

In addition, from January 1, 2018, Article 174 of the Penal Code ("Cheat to appropriate property") or Article 206 ("Violation of regulations on banking and other related activities") banking activities) can be applied to criminally handle those who perform the act of issuing, providing, using a payment means causing damage to other people. Specifically, those who perform the act of "issuing, providing, using illegal payment instruments; forging payment documents or payment means; using payment documents or fake payment instruments; "causing damage to others from 100 million VND to less than 300 million VND, shall be subject to a fine of between VND 50 million and VND 300 million or a prison term of between six months and three years. A person can be imprisoned for up to 20 years if causing 3 billion VND or more damage.

On the other hand, users of transactions related to virtual money for money laundering may also be held criminally responsible for "money laundering" specified in Article 324 of the 2015 Penal Code, as amended and supplemented in 2017. The Law on Prevention and Combat of Money Laundering in 2012 stipulates measures to prevent, detect, stop and handle organizations and individuals that commit money laundering; responsibilities of agencies, organizations, and individuals in the prevention and combat of money laundering; international cooperation on prevention and fighting of money laundering. Accordingly, money laundering is understood as an act of an organization or individual to legalize the origin of the property resulting from a crime, which includes: (i) Acts specified in the Penal Code; (ii) Assist organizations and individuals involved in crimes to evade legal responsibility by legalizing the

origin of property obtained from crime; (iii) Therefore, individuals and organizations that conduct transactions related to virtual currencies for money laundering are regulated by this law, even if Vietnam has not yet recognized and protected virtual currencies.

VIOLATIONS RELATED TO VIRTUAL CURRENCY IN VIETNAM IN RECENT YEARS

Firstly, the act of taking advantage of virtual money to fraudulently appropriate property.

According to a report of the Ministry of Public Security, in 5 years, from 2015 to 2019, the whole country prosecuted 10,360 cases of fraud to the appropriate property with 11,410 defendants, appropriating thousands of billions of dong. This number is equivalent to more than 2,000 cases per year.¹⁶ From May 25, 2020, to May 24, 2021, Vietnam has detected more than 5,400 cases of fraud to the appropriate property with the number of trillions of dong. These numbers show the complicated situation of fraud and property appropriation crimes. In addition to traditional fraudulent tricks, in the context of the epidemic, subjects have taken advantage of cyberspace to conduct fraudulent activities to appropriate property, with sophisticated and diverse methods of approaching victims; Many

¹⁶ Inspector Magazine (2021), *Traditional scam tricks reduce and appropriate property in complex cyberspace* (2021) <https://thanhtra.com.vn/chinh-tri/doi-noi/bo-cong-an-thu-doan-lua-dao-truyen-thong-giam-chiem-doat-tai-san-tren-khong-gian-mang-phuc-tap-188377.html>, last accessed on 21/02/2022.

cases have a large number of victims involved in many localities across the country.¹⁷

Typically, in Quang Ninh province, from 2020 to 2021, the police agency received 114 cases related to the fraud of virtual currency exchanges with a total amount of assets appropriated over VND 83 billion [14]. Similarly, on November 27, 2017, the Bac Giang Provincial Police Department arrested three subjects for "fraudulent appropriation of property" by raising capital to invest in "virtual" Bitcoin. On January 21, 2018, Thanh Hoa Provincial Police confirmed that they had arrested a subject for investigating the act of fraudulently appropriating property in the form of investing in virtual currency (Bitcoin). The investigation results show that the violator conspired with Hanoi and Thanh Hoa subjects to set up a website with Aigbtboss.net and then called on investors to contribute capital to enjoy a high interest.

In Hai Phong, the Economic Security Division, the Criminal Police Department, in collaboration with the Department of Cybersecurity and High-Tech Crime Prevention - the Ministry of Public Security, discovered 16 electronic trading floors with more than 115,726 accounts. The total number of transactions is more than 7,505 billion VND, and the total amount of investors withdraw 611 billion VND [14]. On May 14, 2021, Hanoi City Police Ho Chi Minh City Police, in collaboration with professional units, successfully dismantled a group of subjects operating four gold and virtual currency exchanges, illegal foreign

¹⁷ X. Tung (2021), *Fraud crimes in cyberspace are complicated when there is an epidemic* (2021) <https://www.vietnamplus.vn/toi-pham-lua-dao-tren-khong-gian-mang-dien-bien-phuc-tap-khi-co-dich/744715.vnp>, last accessed on 21/02/2022.

currency. These four exchanges connect the MT5 application (Meta trader 5) to attract nearly 12,000 participants from 27 different countries with a total transaction amount of hundreds of billions of dong [15]. Recently, the People's Committee of Ho Chi Minh City has sent an official letter requesting the Ho Chi Minh City Police coordinate with relevant units to check the incident related to the multi-level virtual currency line associated with the multi-level virtual currency related to the Morden Tech Joint Stock Company, with the amount of money raised, is said to be more than 15 trillion VND [15]. The figure up to VND 15,000 billion shows the seriousness of this case.

Fraudulent tricks to appropriate virtual currency-related assets can be listed as follows:

Hire famous people to advertise, increase trust for users. In Vietnam, the personal pages of favorite artists have bloomed with announcements with identical content, promoting "junk coins," "multi-level coins." The act of valuing the "junk coins" by many tricks from hiring famous people to advertise to "organizing purchasing," exchanging in kind and cash to stimulate demand has made a part of people gullible. Since when did the news fall into the trap?

The cryptocurrency exchanges' commitment to legally licensed branches in Vietnam insured the investment, guaranteed not to lose the investment [16]. The truth is, up to now, there have not been any sites, exchanges, and virtual currency investments licensed to operate in Vietnam. Therefore, the propaganda that the websites and cryptocurrency exchanges have approved branches in Vietnam is just criminals' scams [16]. Their trick is to advertise the exchange originating from abroad, linked to the world's leading electronic trading platform, especially players will enjoy high-interest rates from 15 - 30% a month.

**EXISTENCE AND LIMITATIONS OF THE LEGAL FRAMEWORK IN
THE ISSUANCE AND USE OF VIRTUAL CURRENCY AND
PREVENTION OF CRIME RELATED TO VIRTUAL CURRENCY**

VIETNAMESE LAW HAS NOT DEFINED VIRTUAL CURRENCY.

As a new social phenomenon, there are many definitions and interpretations of virtual currency. Each illustration shows the essential characteristics of virtual currency from different angles. Recently, the term commonly used virtual currency is "virtual currency," along with other words with the same meaning, such as "digital money," "internet money. Virtual money can exist in many forms. Virtual money functions as securities, a virtual currency that serves as a means of payment; Virtual currency has the process of being a utility to access and use a particular service. The use of many different terms leads to confusion in practice when it must be managed or resolved by the relevant competent authority. Not only that, but the concept of virtual currency is also straightforward to confuse with the idea of electronic money (which is an electronic form of fiat money). The lack of an official understanding of virtual currency in legal documents in Vietnam is a barrier and difficulty when determining legal issues related to virtual currency and resolving disputes.

- Virtual currency from the perspective of property according to the Civil Code 2015.

Clause 1, Article 105 of the 2015 Civil Code stipulates: "Property is the thing, money, valuable papers, and property rights."

+ The Civil Code 2015 does not define what a "thing" is. According to the provisions of Articles 112 to 114 of the Civil Code 2015, "things" are divided into

Main objects and auxiliary objects, divisible and indivisible objects, consumable and non-consumable objects, and objects of the same type. Moreover, specific objects, synchronized objects. Even so, this division is still not enough to determine whether a virtual currency is a "thing." Clause 2, Article 105 of the 2015 Civil Code also classifies assets: Property includes immovable property and movable property, which can also be existing property or property formed in the future. Clause 1, Article 107 of the 2015 Civil Code deals with real estate, and Article 108 of the 2015 Civil Code deals with properties formed in the future. According to the way specified in the laws mentioned above, virtual currency is neither immovable property nor assets formed in the future. Meanwhile, it is still not clear whether "virtual currency" is an object in the form of movable property.

+ In terms of money, virtual currency is not a legal currency in Vietnam, according to the analysis in Section 6.2 below.

+ Virtual currency is also not a valuable paper. According to Clause 1, Article 3, Circular 04/2016/TT-NHNN, "Valuable papers are proof of debt repayment obligation between the issuer and the holder o in a given period, certain term, interest payment, and other conditions." Therefore, virtual currencies cannot be considered valuable papers.

+ The 2015 Civil Code defines property rights as follows: "Property rights are rights valued in money, including property rights to objects of intellectual property rights, land use rights, and other rights. Other assets." One can use fiat currency to value virtual currency; therefore, the virtual currency can also be an object of property rights.

However, it is not appropriate to conclude that virtual currency is a property right because the request is always the lawful conduct of the right holder,

recognized and protected by the law. Property rights are intangible assets, so in theory, if there is an act of infringing on property rights, the method of “claiming property” or “suing physical rights” cannot be applied as in the case of property rights. Only other methods can be used, such as suing for conduct termination or lawsuits for damages. However, virtual currency is an algorithm (a sequence of numbers) based on Blockchain technology. Therefore, the author believes that, according to the provisions of the Civil Code 2015, virtual currency is not currently a type of property. In the coming time, competent state agencies need to have regulations or guidelines about this content.

The absence of any provisions of the civil law affirming that virtual currency is a type of property leads to the subsequent consequences of civil relations such as ownership, inheritance, contract, or compensation for damage related to virtual currency. The virtual currency also almost falls into the “gap,” without a mechanism to correctly solve it. For example, can the owner get it back when an object hacks an e-wallet and steals the owner's virtual currency? What civil liability applies when the parties buying and selling virtual currency do not fulfill the obligation to deliver the property? When someone asks for the division of an inheritance that is virtual money, will it be divided? How will the virtual money in a person's e-wallet be split if the relevant people do not have or do not provide a password or “key” to log into this person's account? Or, when a person breaks someone else's e-wallet making login impossible, how will compensation be determined? The above difficulties require a precise legal mechanism to resolve the social relations arising in civil transactions related to virtual currency.

In addition, according to the requirements specified in Articles 186, Article 189, and Article 192 of the Civil Code 2015, Contents of ownership rights are:

Right to possess, Right to use, Right of disposal. “Where an owner possesses property, such owner may do all things to keep and manage the property by his or her wishes provided that it is not contrary to law or social morals to do so.” [20] “Right to use means the right to exploit the usage of, and to enjoy the yield and income derived from, property,” [20] “Right of disposal means the right to transfer ownership rights, renounce ownership rights, right to use, or destruct the property.”[20] According to these requirements, the virtual currency can still be a kind of “asset” because Bitcoin owners, through technical solutions, can actively carry out activities of possession, use, and disposition.

As can be seen, Vietnam still has no official regulations on virtual currency. There are only notices and official dispatches from relevant agencies such as the State Bank to respond to virtual currencies, but these documents are not legal documents. The general spirit of these documents shows that Vietnam has not yet accepted virtual currency in transactions.

- Virtual currency from the perspective of goods and services according to the Commercial Law 2005.

From the perspective of goods, according to the provisions of the Commercial Law 2005, the virtual currency will be a commodity if the virtual currency is subject to civil rights and can be bought and sold. Goods put into circulation should first be recognized as an asset (movable or immovable property). The identification of cryptocurrency as an asset is the basis for its recognition as a commodity in Commercial Law. The recognition of cryptocurrencies as a commodity is the basis for considering the application of taxes and determining the appropriate tax rate.

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The 2005 Commercial Law does not define “services” but stipulates in Clause 9 of Article 3 as follows: service provision is a commercial activity whereby one party is obliged to perform a service for another party and receive payments; the service user (customer) is obliged to pay the service provider and use the service according to the agreement. Article 513 and Article 514 of the 2015 Civil Code stipulate: “A service contract is an agreement between parties whereby the service provider performs work for the service user or service user. must pay for the service to the service provider”, and the object of the service contract is "the work that can do, does not violate the prohibition of the law, does not violate social ethics." Therefore, service is a type of "work" that one party provides to the other. Compared to these regulations, virtual currency is not a service.

- Virtual currency in the field of business law:

Article 33 of the 2013 Constitution stipulates: “Everyone has the right to conduct business in professions not prohibited by law freely.” In addition, Clause 1, Article 7 of the Law on Enterprises 2014, stipulates that enterprises have the right to freely conduct business in industries and trades that are not violation the law. In case enterprises conduct business activities, buying, selling, transferring, capital raising, or capital contributing with virtual currency, it is not prohibited because that is the right that the Enterprise Law 2014 recognizes for businesses to enjoy.

According to the provisions of the Investment Law 2014, subjects are allowed to conduct investment and business activities in industries and trades that the Investment Law does not prohibit. The industries banned from investment and business specified in Article 6 and the conditional business lines specified in Article 7 of the Law on Investment 2014 do not list business activities related to

virtual currency. Thus, according to the provisions of the Investment Law 2014, business activities related to virtual currency are not considered as prohibited business lines.

Fundraising activities with virtual money (ICO) or virtual currency exchanges are still taking place; the subjects still conduct business activities, transfer, contribute capital, mobilize investment capital ... with virtual currencies. However, the process of registration of establishment, issuance of tax identification numbers, responsibilities, and sanctions related to virtual currency is still unclear at present, and the resolution of disputes related to these activities is still vague. This is a fertile ground for fraudulent ICO activities and multi-level business in Vietnam, typically iFan virtual currency cases.

VIETNAMESE LAW HAS NOT YET REGULATED THE ISSUANCE AND PAYMENT OF VIRTUAL CURRENCY.

- Law on issuing a virtual currency.

Clause 3, Article 55 of the 2013 Constitution stipulates: “The national monetary unit is Vietnam Dong. The State ensures the stability of the value of the national currency.” Article 17, Law on the State Bank of Vietnam 2010 stipulates: “The State Bank is the only agency that issues banknotes and coins of the Socialist Republic of Vietnam.” In addition, Clause 1, Article 11 of Decree No. 40/2012/ND-CP dated May 2, 2012, stipulates: “The State Bank shall issue money into circulation and collect money from circulation through its operations, cash receipts, and payments and other professional activities of the State Bank.”

Thus, virtual currency is not a legal currency in Vietnam. Virtual currency does not meet the essential criteria issued by the State Bank of Vietnam.

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Confirming this issue, on July 21, 2017, the State Bank of Vietnam (SBV) issued an official letter No. 5747/NHNN-PC to the Government Office as follows: "Issuing, supplying and using virtual currency in general and Bitcoin, Litecoin in particular as a currency or means of payment is prohibited."

- Legal issues when using virtual currency as a means of payment, foreign exchange.

Clause 2, Article 17 of the Law on Credit Institutions 2010 stipulates that "Banknotes and coins issued by the State Bank are lawful means of payment in the territory of the Socialist Republic of Vietnam." The requirement of this regulation stands out not in the issue of paper money metal money, but the point that only money issued by the State Bank of Vietnam is a legal means of payment in the territory of Vietnam.

In addition, Article 14 of Decree 101/2012/ND-CP (amended and supplemented by Decree 80/2016/ND-CP) stipulates two types of non-cash payment services, including payment services via account and non-account payment service. The State Bank and a system of credit institutions shall provide payment services through accounts and non-account payment services, including Money transfer, collection, and payment services. No regulation covers the use of virtual currency as a means of payment.

Clause 6, Article 1, Decree 80/2016/ND-CP defines non-cash payment means used in payment transactions, including checks, payment orders, collection requests, collection orders, bank cards, and other means of payment by the State Bank's regulations. In this category, there is no presence of virtual currency. In addition, Clause 7 Article 1 stipulates that "Illegal payment instruments are

payment instruments not included in Clause 6 of this Article.” Thus, virtual money is an illegal means of payment in Vietnam. The State Bank of Vietnam has released a press release on bitcoin and other similar virtual currencies as follows: “According to the provisions of current laws on currency and banking, bitcoin (and similar virtual currencies) other characters) is not a currency and is not a legal means of payment in Vietnam. Therefore, bitcoin (and other similar virtual currencies) as a means of payment is not recognized and protected by law. Credit institutions cannot use bitcoin (and other similar virtual currencies) as a currency or means of payment when providing services to customers” [17].

From the perspective of foreign exchange, based on Point a, Clause 2, Article 6 of the Law on the State Bank of Vietnam in 2010, and Point a, Clause 1, Article 4 of the 2005 Ordinance on Foreign Exchange (amended and supplemented in 2013), foreign exchange includes: "a) Currencies of another country or a common European currency and other common currency used in international and regional payments (hereinafter referred to as foreign currency); b) Means of payment in foreign currencies include checks, payment cards, bill of exchange, bill of exchange and other means of payment; c) Valuable papers in foreign currencies, including Government bonds, corporate bonds, promissory notes, stocks and other valuable papers; d) Gold belongs to the State Foreign Exchange Reserve, on the resident's overseas account; gold in the form of blocks, bars, beads, pieces in case of bringing in and out of the territory of Vietnam; and dd) Currency of the Socialist Republic of Vietnam in case of being transferred into and out of the Vietnamese territory or used in international payments”. As such, cryptocurrencies are not foreign currencies. However, if another country issues and determines that a cryptocurrency is the legal currency of that country, it is a foreign currency in Vietnam. Moreover, transactions related to such

cryptocurrency in the territory of Vietnam as the legal currency of another country will be subject to foreign exchange regulations in Vietnam.

THERE IS NO LEGAL BASIS FOR COLLECTING TAXES ON CRYPTOCURRENCY TRANSACTIONS.

- Regulations on value-added tax:

According to Article 2, Law on Value-Added Tax in 2008 (amended and supplemented through 2013, 2014, 2016), value-added tax will be calculated on the added value of goods and services incurred from production, circulation to consumption. Goods and services used for production, business, and consumption in Vietnam are subject to value-added tax, except for 25 groups of goods and services specified in Article 5. Value-added taxpayers increase means organizations and individuals that produce and trade in value-added taxable goods and services and organizations and individuals that import value-added taxable goods (Article 4). Financial services, banking, and securities trading are among the 25 entities not subject to value-added tax (Article 5)

- Regulations on personal income tax and corporate income tax:

According to the Law on Personal Income Tax 2007 (amended and supplemented in 2012, 2014), personal income taxpayers are resident individuals with taxable income arising inside and outside the territory of Vietnam and individuals non-resident individuals with taxable income arising in the region of Vietnam (Article 2). Income subject to personal income tax includes income from business; income from salary and wages; income from capital investment; income from capital transfer; income from real estate transfer; income from winning prizes; income from royalties; income from franchising; income from inheritance

as securities, capital in economic organizations, business establishments, real estate and other properties subject to registration of ownership or registration of use; income from receiving gifts of securities, capital in economic organizations, business establishments, real estate and other properties subject to registration of ownership or registration of use (Article 3). Several personal incomes are exempt from tax as prescribed in Article 4 of this Law.

According to the Law on Corporate Income Tax in 2008 (amended and supplemented in 2013, 2014), corporate income taxpayers are organizations engaged in the production and business activities of goods and services with taxable income (Article 12). Taxable income includes income from production and trading of goods and services and other revenues, such as income from the capital transfer, transfer of the right to contribute capital; income from transfer of the real estate, transfer of investment projects, transfer of the right to participate in investment projects, transfer of the right to explore, exploit and process minerals; income from property use rights, property ownership; gains from the transfer, lease or liquidation of assets, including valuable papers; income from interest on deposits, loans and foreign currency sales; receivables from bad debts that have been written off and are now recoverable; income from the business of previous years excluding tax and other revenues (Article 3). Some gains of enterprises are exempt from tax as prescribed in Article 4.

According to the enumeration, the Law on Corporate Income Tax and the Law on Personal Income Tax regulates taxable and non-taxable income. Such listings lead to an underestimation of all taxable income. On the other hand, as mentioned above, the view on whether to consider virtual currencies as goods or services is

still unclear. Therefore, it is tough to tax the earned income related to virtual currency.

On September 21, 2017, the People's Court of Ben Tre province issued a ruling, canceling Decision 714 of the Tax Department of Ben Tre city. Decision 714 of Ben Tre City Tax Department requires arrears of more than VND 981 million in value-added tax and more than VND 1.6 billion in personal income tax for Mr. Nguyen Viet Cuong, related to behavior Mr. Cuong's virtual currency exchange. According to the Trial Panel, the law has not recognized virtual currency as a commodity. If the tax authority has a decision on tax arrears, it means that it agrees to recognize virtual currency as a commodity. Such inappropriate tax arrears will affect the monetary management of the State Bank of Vietnam, facilitating illegal money transfers remittance payments for unlawful transactions. On the other hand, in the Decision on tax arrears, the tax authority noted no administrative penalty for Mr. Cuong because buying and selling digital currency on the Internet was a new type of business. The documents guiding the application of tax collection are still slow.

**VIETNAMESE LAW MAKES IT CHALLENGING TO HANDLE
CRIMINAL ACTS RELATED TO VIRTUAL CURRENCY.**

According to provisions of Clause 1, Article 4 of the Law on Prevention and Combat of Money Laundering 2012, money laundering is understood as an act of an organization or individual to legalize the origin of the proceeds of crime, including actions specified in the Penal Code. Point a Clause 1, Article 324 of the 2015 Penal Code (amended and supplemented in 2017) stipulates that an offense of money laundering can be: “Directly or indirectly participating in finance transactions, banking transactions, or other transactions to conceal the illegal

origin of the money or property obtained through their commission of a crime, or obtained through another person's commission of a crime to their knowledge.” However, the motive of this crime must be to conceal the illegal origin of money and property that he commits. Meanwhile, Vietnam has not recognized virtual currency as money or property in Vietnam; it is still difficult to determine whether it is a money-laundering crime. For example, a person who accepts a bribe in virtual currency and then performs activities to legitimize this money is not guilty of a crime. Still, a person who takes bribes in real money and then converts them to virtual currency and performs other money laundering activities could be guilty of money laundering. This shows the unreasonableness of the legal regulations.

Regarding the crime of sponsoring terrorism, according to the provisions of Clause 1, Article 300 of the Penal Code 2015 (amended and supplemented in 2017), any person who raises or provides money or property in any shape or form to a terrorist or terrorist organization shall face a penalty of 05 - 10 years' imprisonment. Terrorist financing can take many different forms. The Penal Code only cares about the purpose of acts to mobilize and support money and properties for terrorist organizations and individuals, not limited to terrorist financing form. Funding subject to this act must also be money or property. The above regulation again shows that virtual currency's birth and existence has confused in determining many legal consequences of acts related to virtual currency, including the identification of financial crimes.

RECOMMENDATIONS TO IMPROVE THE LEGAL FRAMEWORK ON VIRTUAL CURRENCY IN VIETNAM

First, the law needs to provide a specific definition of virtual currency.

When building a legal framework on virtual currency, the first thing is to give a clear and specific definition of virtual currency to determine the scope and object of virtual currency to be governed by Vietnamese law. From there, as a basis for developing other relevant legal provisions.

Second, the law needs to recognize virtual currency as a new type of asset.

Vietnam needs to recognize virtual currency as a new type of property in the Civil Code as a digital asset in the coming time. Article 105 of the 2015 Civil Code needs to amend the concept of property in the direction of adding "other types of property prescribed by law." The fact that the law recognizes virtual currency as an asset is a suitable direction for the actual situation of Vietnam. In addition, determining the legal status of virtual currencies will also be a solid basis, laying the foundation for developing regulations on other related issues, such as the management of ICO activities, exchanges, taxes on virtual currencies... These are all fields that significantly influence the domestic economy and civil life.

Third, the law should not recognize virtual currency as a means of payment.

If the law accepts virtual currency as a means of payment, it will significantly influence monetary policy in Vietnam. The strong growth in the number and value of cryptocurrencies is posing many challenges to the financial and banking system. At the same time, virtual currency also affects the management of monetary policy of the State Bank in matters of controlling objectives, macroeconomic variables, inflation, money supply, interest rates, and exchange rates. Therefore, in the current period, Vietnamese law should not recognize

virtual currency as a means of payment to ensure monetary security and prevent risks from activities related to virtual currency.

Fourth, the law should stipulate that virtual currency is a particular property type and has conditional circulation.

Virtual currency is very anonymous. Controlling the identity of owners of virtual currency wallets is difficult. Therefore, it is challenging to control activities related to virtual currency. Thus, the legal mechanism for virtual money cannot be similar to that of ordinary assets. Still, it is necessary to consider virtual money as a particular type of asset, with conditional circulation. Specifically, organizations operating in the field of virtual currency exchange and business need to register their operations with the relevant authorities, such as (i) registration of establishment of a brokerage and trading virtual currency business; (ii) store information about transaction history; (iii) comply with accounting principles for assets in the enterprise; (iv) comply with regulations on tax obligations related to virtual currency ownership and trading; (v) comply with the provisions of the law on prevention and combat of money laundering. Vietnam should only recognize virtual currency transactions for registered and identifiable trading wallets.

Fifth, the law should have provisions on tax collection for transactions related to virtual currency.

As analyzed, due to not being recognized as an asset, Vietnam does not collect taxes on business activities and transactions of virtual currency. This causes a massive loss of revenue for the state budget. When the law recognizes virtual currency as an asset, it becomes a commodity according to the provisions of the

Commercial Law. It then becomes subject to tax according to the requirements of tax law.

Sixth, the law needs to allow and control the issuing of virtual currency to the public (ICO). According to the provisions of Clause 1, Article 4 of the Law on Securities in 2019, then: “1. “securities” include the following assets:

- a) Shares, bonds, fund certificates;
- b) Warrants, secured warrants, pull options, depository receipts;
- c) Derivatives;
- d) Other kinds of securities defined by the Government.”

Thus, if the law recognizes virtual currency as an asset, the virtual currency can also be a security under the Securities Law. The Securities Law will regulate ICO activities. However, this is a particular type of security because it only exists in the digital environment. Therefore, the law on securities also needs to supplement regulations related to the conditions of an offer, forms of an offer, registration of an offer, procedures for a recommendation, documents for a proposal, information disclosure for virtual currency.

When the law regulates ICO activities for virtual currencies, businesses that issue virtual currency to the public will ensure eligibility for a license. This will limit multi-level ICO activities, which are deceptive.

Seventh, the law should allow the establishment and control of virtual currency exchanges. Once recognized as security, the virtual currency can be traded through legitimate stock exchanges. However, Vietnam should establish virtual currency exchanges that are independent and separate from regular stock

exchanges. When setting up these exchanges, the law stipulates procedures for personal account registration and business registration for virtual currency transactions, thereby controlling the number of virtual currency transactions.

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