

VBF VIETNAM BUSINESS FORUM

ANNUAL VIETNAM BUSINESS FORUM

Restoring & Developing supply chain in the new normal

HIGH-LEVEL SESSION



Hanoi, February 21, 2022

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ANNUAL VIETNAM BUSINESS FORUM

Date & Time: 7:30 – 11:45, Monday, 21 February 2022

Venue: Crystal Grand Ballroom, Lotte Hanoi Hotel, 54 Lieu Giai, Ba Dinh, Hanoi

RESTORING THE ECONOMY & DEVELOPING SUPPLY CHAIN IN THE NEW NORMAL

TENTATIVE AGENDA

HIGH LEVEL SESSION	
7:30 – 8:00	Registration
8:00 – 8:15	Opening Remarks <ul style="list-style-type: none"> • Ministry of Planning and Investment – <i>Mr. Nguyen Chi Dung, Minister (5')</i> • International Finance Corporation – <i>Mrs. Amy N. Luinstra, Acting Country Manager (5')</i> • Vietnam Business Forum Consortium – <i>Mr. Pham Tan Cong, Co-Chair (5')</i>
8:15 – 8:30	<i>Mr. Tetsu Funayama, VBF Co-Chair</i> – Summary of Technical Session on 18/02/2022
SESSION 1 – HOW BUSINESS COMMUNITY CONTRIBUTE TO THE SOUND RECOVERY OF THE ECONOMY	
8:30 – 9:05	Presentations by 07 Chambers <ul style="list-style-type: none"> • Vietnam Chamber of Commerce and Industry – <i>Mrs. Tran Thi Lan Anh, Secretary General (5')</i> • Japanese Chamber of Commerce and Industry in Vietnam – <i>Mr. Inoue Soichi, Chair (5')</i> • British Chamber of Commerce Vietnam – <i>Mr. Nitin Kapoor, Board Member (5')</i> • European Chamber of Commerce in Vietnam – <i>Mr. Alain Cany, Chair (5')</i> • American Chamber of Commerce in Vietnam – <i>Mr. John Rockhold, Chair (5')</i> • Korean Chamber of Commerce in Vietnam – <i>Mr. Kim Han Yong, Chair (5')</i> • Representative of Associate Chambers – <i>Mr. Seck Yee Chung, Vice President (5')</i>
SESSION 2 – ROLE OF RESPONSIBLE BUSINESS IN RESILIENT AND SUSTAINABLE GLOBAL VALUE CHAINS	

9:05 – 9:20	<p>Guest keynote speaker</p> <ul style="list-style-type: none"> • <i>Yoshiki Takeuchi, OECD Deputy Secretary-General (15')</i>
9:20 – 09:35	TEA BREAK
SESSION 3 – ROLES OF LOCAL AND FDI BUSINESSES IN GLOBAL SUPPLY CHAIN	
09:35 – 10:20	<ul style="list-style-type: none"> • Capacity building of domestic manufacturing and supporting industries • Developing industry clusters, value chains, increasing linkages between foreign-invested enterprises and domestic enterprises <p><i>Speakers: 3 speakers</i></p> <ul style="list-style-type: none"> • Unlocking the finances needed for industry clusters and supply chain growth <i>Mr. Dominic Scriven – Head of Capital Markets WG (15')</i> • Power and Energy and enhancing a sustainable environment for growth <i>Mr. Michael R. DiGregorio – Head of Environment WG (15')</i> • Digital technology as a key tool for growth <i>Mrs. Ha Nguyen – CoHead of Digital Economy WG (15')</i>
10:20 – 11:00	<p>RESPONSES FROM RELEVANT MINISTRIES, DEPARTMENTS</p> <ul style="list-style-type: none"> - Ministry of Industry and Trade - Ministry of Finance - Ministry of Transport - Ministry of Information and Communications - Ministry of Natural Resources and Environment - Ministry of Health - Ministry of Science and Technology - Ministry of Labor, Invalids and Social Affairs - Ministry of Culture, Sports and Tourism - Ministry of Foreign Affairs - State Bank of Vietnam
11:00 – 11:15	<p>KEYNOTE ADDRESS: H. E. MR. PHAM MINH CHINH – PRIME MINISTER</p>
CLOSING	
11:15 – 11:30	<ul style="list-style-type: none"> • World Bank – <i>Mrs. Carolyn Turk, Country Director (5')</i> • Vietnam Business Forum Consortium – <i>Mr. Tetsu Funayama, Co-Chair (5')</i> • Ministry of Planning and Investment – <i>Mr. Nguyen Chi Dung, Minister (5')</i>



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**HOW BUSINESS COMMUNITY
CONTRIBUTE TO
THE SOUND RECOVERY
OF THE ECONOMY**



**POSITION PAPER OF VIETNAM CHAMBER OF COMMERCE AND INDUSTRY
AT ANNUAL VIETNAM BUSINESS FORUM**

10 PROPOSALS FOR SUSTAINABLE ECONOMIC RECOVERY & DEVELOPMENT

The year 2021 witnessed a hard time for the Vietnamese business community due to the COVID-19 pandemic. According to a business survey conducted by the Vietnam Confederation of Trade and Industry (VCCI) in 2021, up to 93.9% of the businesses have been negatively impacted by the COVID-19 pandemic¹. Most businesses in all sectors and localities have to deal with problems caused by the pandemic such as difficulty customers approach, unbalanced cash flow, labor shortage, disrupted supply chains, etc. Data from the General Statistics Office (GSO) also shows that due to the negative impact of the COVID-19 pandemic along with strict lockdowns and prolonged social distancing, the total number of businesses entering and re-entering the market in 2021 only reached nearly 160 thousand, decreasing by 10.7%; and 119.8 thousand businesses withdrew from the market, rising by 17.8% compared to 2020.²

In that context, the Government has had timely and effective management directions to remove difficulties for the business community. On August 6, 2021, the Government issued Resolution No. 86/NQ-CP dated August 6, 2021 on urgent solutions to prevent and control the COVID-19 pandemic in order to implement Resolution No. 30/2021/QH15 dated July 28, 2021 of the 15th National Assembly. The Prime Minister also issued Decision 1447/QĐ-TTg dated August 30, 2021 on the establishment of the Prime Minister's Special Working Group on troubleshooting for Covid-affected businesses and citizens for support and resolution, and on September 9, 2021, the Government issued Resolution No. 105/NQ-CP on supporting businesses, cooperatives and business households in the context of the COVID-19 pandemic.

The pandemic prevention and control work has been actively implemented by the Government and has achieved certain success. On October 11, 2021, the Government issued Resolution 128/NQ-CP on the temporary regulation of "Safe and flexible adaptation and effective control of the COVID-19 pandemic", with the first and foremost priority put on the citizens' health and lives; therefore gradually reopening the economy, ensuring the harmony between reopening and effective disease control. The Ministry of Health has also issued Decision 4800 on October 12, 2021, providing temporary guidance on medical professionals to implement Resolution No. 128/NQ-CP of the Government. This is an important premise for localities to reopen and facilitate businesses to resume production and business activities. In particular, the Government has very successfully implemented the vaccine diplomacy strategy and the rapid vaccine coverage in Vietnam. In May 2021, Vietnam only had a few hundred thousand doses of Covid-19 vaccine, by now the number has exceeded 200 million doses. As of February 13, 2022, the whole country has injected more than 186.6 million doses of Covid-19 vaccine, making Vietnam one of the countries with the highest Covid-19 vaccine coverage in the world. This is a spectacular step that demonstrates the great efforts of the Government and is also an important basis for Vietnam to open up its economy.

¹Survey conducted by the VCCI from early July to mid-September 2021 on nearly 3,000 enterprises operating in 63 provinces and cities of Vietnam.

² General Statistics Office, Report on Socio-Economic Situation in Quarter 4 and in 2021, retrieved at <<https://www.gso.gov.vn/du-lieu-va-so-lieu-thong-ke/2021/12/bao-cao-tinh-hinh-kinh-te-xa-hoi-quy-iv-va-nam-2021/>>

Thanks to the timely policy adjustments of the Government, the implementation of the local authorities and especially the initiative of the business community, Vietnam's economy in 2021 will have positive signs in this challenging situation. According to data from the GSO, in 2021, the GDP growth of the whole year was estimated at 2.58%, the total import and export turnover reached a record of USD 668.5 billion, the money and credit market, exchange rate were stable.

2022 is expected to be another challenging year for the Vietnamese economy, as the rapidly widespread Omicron strain has appeared in Vietnam, along with various complicated developments and unpredictable fluctuations in the world. Therefore, although the world economy shows signs of recovery, it is not stable enough.

In that context, the Government has quickly taken policy measures to support the business community, recover and develop the economy. On January 5, 2022, at the Government's Conference with localities, the Government identified the governing theme for 2022 as: "Unity and discipline, proactive adaption, safety and effectiveness, development recovery". Accordingly, the Government has synchronously and effectively implemented the COVID-19 pandemic prevention and control program together with the socio-economic recovery and development program, with the aim to bring the GDP growth to 6 - 6.5%. Additionally, regulations on safe, flexible adaptation and effective control of the COVID-19 pandemic have been implemented consistently from central to local levels; creating the best conditions for the re-circulation of goods and labor after the pandemic.³

On January 30, 2022 in Resolution No. 11/NQ-CP, the Government issued the Socio-economic Recovery and Development Program and implemented Resolution No. 43/2022/QH15 of the National Assembly on monetary and fiscal policies to support this program. On February 8, 2022, the Prime Minister issued Decision 167/QĐ-TTg approving the Program supporting the private sector in sustainable business for the period 2022-2025. A series of important policy movements have taken into practice, such as reducing VAT for most items from 10% to 8%, reopening international flights from February 15, 2022⁴.

The domestic business community strongly supports and agrees on the Government's policy governance focuses in 2022. In order to concretize the goals and effectively implement the tasks and solutions set by the Government, the domestic business community has a number of recommendations as follows:

(1) Facilitate the access to policies and regulations to support businesses: State agencies need to improve the effectiveness of policy and regulation dissemination so that businesses (especially micro and small enterprises), cooperatives and business households are able to access these information at ease. The implementation guidelines need to be clearer with specific assessment criteria to help assess the completion of the set goals and performance. In this process, the competent authorities also need to effectively operate the hotline and email to receive the feedback and recommendations of the businesses and the citizens to promptly adjust the regulations and policies.

(2) Effectively support enterprises to access to finance to recover production and business: There are tasks should be done which are allowing businesses and cooperatives to extend debt,

³Online Government newspaper, In 2022 the Government striving for GDP growth of 6 - 6.5%; accelerating children's vaccination and booster injection, January 5, 2022, retrieved at <<http://baochinhphu.vn/Tin-noi-bat/Nam-2022-Chinh-phu-phan-dau-tang-truong-GDP-6-65-day-nhanh-tiem-vaccine-cho-tre-em-tiem-mui-tang-cuong/457978.vgp>>

⁴Vietnam plan to reopen all international flights from February 15, retrieved at <https://vnexpress.net/viet-nam-du-kien-mo-lai-toan-bo-duong-bay-quoc-te-tu-15-2-4426992.html>

restructuring the debt repayment terms, exempting and reducing fees, not penalizing for late credit payment, and maintaining the same debt group for Covid-affected customers to have more time to recover debt repayment and overcome bad debt. It is necessary to quickly deploy the 2% credit interest rate for commercial debts in the recovery support program under Resolution 11 of the Government. Low-interest loan packages with a term of 3 to 6 months to support businesses in paying wages to workers during the economic recovery period should be drastically deployed.

(3) *Simplify immigration and travel procedures for workers and experts:* For foreign experts: It is recommended that ministries and agencies review the entry procedures for foreign experts in the following directions of: applying online procedure settlement, shortening the processing time, etc. Policies for foreign experts need to be synchronously implemented among localities across the country. The competent authorities shall develop toolkits to clearly guide the entry procedures for foreign experts and publicize it so that foreign experts and businesses can easily access and follow. Local authorities also need to have communication solutions to reassure the workers' concern about the pandemic, thereby helping them to return to work with peace of mind.

(4) *Improve the effectiveness of training support programs for workers who have been laid off or lost their jobs due to the impact of the Covid-19 pandemic.* Implement policies to support vocational training and job change for workers; effectively implement solutions to complete and develop the labor market; improve the quality of consulting, job matching and job exchange activities of employment service centers. Settle labor disputes in a timely manner to minimize the number of strikes and laborers; proactively coordinate with businesses to communicate and persuade employees in sharing difficulties of the Covid-19 pandemic. Develop and implement specialized training programs for technical workers in the current most essential supporting industries. Vietnam needs to have industry-specific Skills Training Programs that are relevant to the supporting industries as part of the key value chains, and part of a specific strategy to attract shifting FDI chain; It is necessary to improve the quality of human resources based on scientific assessments and forecast changes in the labor market and employment in the next 5-10 years.

(5) *Promote IT applications in administrative procedures, towards fully online public service delivery:* In fact, in the past 2 years, COVID-19 pandemic and associated social distancing orders made it difficult to approach customers and partners to conduct business transactions, especially services related to the issuance and certification of documents. There are still many shortcomings such as some procedures do not accept online submission or electronic signatures and digital signatures in the registration and approval process or some procedures still requires submission of original hard copies, among others. In fact, the recent pandemic has been a challenge but also an opportunity to accelerate the digitization of administrative procedures. Further develop and upgrade the national single-window portal, the national public service portal, etc. It is also necessary to accelerate the delivery of level 4 public services across most administrative procedures. Aim towards fully online delivery of administrative procedures for businesses and citizens.

(6) *Improve the enforcement efficiency of the government agencies:* Solutions should also be in place to check the implementation process, focusing on improving the enforcement efficiency of ministries, agencies and local authorities, thereby strengthening the confidence of the business community and citizens. The Government often updates and directs localities in policy implementation, avoiding the situation that each locality interprets and applies differently, hindering business activities. It is necessary to uphold the leaders' accountability; promptly reward innovative and radical initiatives in implementing the pandemic prevention and control measures while tackling bottlenecks to production and business activities of enterprises, cooperatives and household businesses. The Government also needs to direct ministries, agencies and local

authorities to regularly take feedbacks and recommendations from the business community, cooperatives and citizens on policies during the implementation process to promptly address pain points in policies and regulations. For policies that are delayed or inappropriate, the Government should soon consider practical amendments in a timely manner to support the economy, with a focus on revitalizing the business sector and cooperatives while ensuring effective pandemic prevention.

(7) Better leverage FTA tariff incentives and put into practice policies related to rules of origin. Vietnam currently has 15 FTAs in effect, including with many markets where Vietnam currently has competitive edge because our main competitors like ASEAN countries or China do not have FTAs yet (e.g. EU, Eurasian Economic Union, Chile, Canada, etc.). Therefore, the tariff advantages under FTAs present an important tool to attract customers back to order from Vietnamese enterprises in the near future. Therefore, it is recommended to have a specific action plan to better leverage FTA tariff incentives on export and import goods while addressing policy issues related to rules of origin in FTAs.

(8) Identify digital economy development as the growth engine of the economy, creating a mechanism to promote e-commerce (e-commerce exchange, technology transport, online wholesale market, etc.); supporting innovation activities; supporting businesses in digital transformation (training to improve their technological capabilities, consulting/directing technology application/digitizing business management processes, among others), promoting training programs on application of IT, digital technology, digital marketing, etc.

(9) Promote the development of the domestic market and intra-industry markets by further boosting the campaigns “Vietnamese people prioritize made-in-Vietnam goods” and “Made-in-Vietnam goods to win Vietnamese consumers” while strengthening industry engagement from business associations and category associations in coordinating cross-distribution among businesses, thereby diversifying input material sources and output markets, alleviating dependence on international markets. There is a need for national cross-distribution and business matching programs (e.g. potentially via online sales fairs by weekly product-specific themes or linking several e-commerce platforms to perform this activity). There is a need for linkages between ministries, localities and associations to build networking weeks, marketing products by industry or across industries in a hybrid format, combining both online and offline channels.

(10) Continue to promote the improvement of the business environment and national competitiveness, with a focus on reforming administrative procedures, market entry conditions, and cutting costs for businesses. Focus on reforming some cumbersome administrative procedures, based on businesses’ feedback, namely administrative procedures related to land, tax, social insurance, construction, market management, transport, fire prevention, environment, treasury and labor, etc. It is recommended that the Government direct ministries and agencies to focus on reviewing and optimizing the interdisciplinary administrative procedures, especially the group of procedures related to investment, construction, land, and environment. Aim towards establishing interconnection among different state management agencies on enterprise databases to ensure unified and concerted state management of businesses. Further promote regulatory reform on business conditions. Further mitigate the burden of business inspection, in the direction of applying the risk-based inspection principles. Promote reforms in specialized inspection for import and export goods.



POSITION PAPER OF JAPANESE CHAMBER OF COMMERCE & INDUSTRY IN VIETNAM AT ANNUAL VIETNAM BUSINESS FORUM

1. JCCI has witnessed a significant improvement on the following items which JCCI proposed to Prime Minister Chinh and his government on September 1, 2021.
 - (1) Measures to prevent COVID-19 and to maintain the stability of corporate production and business activities
 - (2) Overcoming the Disruption in Supply Chains
 - (3) Labor issues of "Experts"

2. PM Chinh's visit to Japan and the summit meeting with PM Kishida of Japan was quite successful with a clear result of "Cooperation for post COVID-19 economic revitalization" as well as "Cooperation on fighting against COVID-19"
 - (1) Improving investment environment by the Vietnamese Government for attracting Japanese companies
 - (2) Developing industries (DX cooperation, diversifying supply chain, and developing Vietnamese supporting industries)
 - (3) Improving environments surrounding Vietnamese technical intern trainees
 - (4) Cooperation on the carbon neutral target by 2050

3. Viet Nam and Japan has truly a well-shaped bilateral relationship toward 2023 with the 50th anniversary of the establishment of diplomacy between two countries. JCCI would like to propose the following points to further contribute to the theme of "Restoring & Developing Supply Chain in the New Normal".
 - (1) The government's financial support is still indispensable for improvement of finance and cash flow at the edge of economic recovery.
 - Flexible management of foreign currency loans by domestic financial institutions in Viet Nam
 - To provide low-interest loan, exemption of corporate tax, subsidy to service industries and start-up
 - To accelerate Digital transformation and less paper documents at the banking and financial sector as well as the tax and custom authority throughout the nation.

 - (2) Energy Infrastructure and De-carbonization
 - Early official announcement of Power Development Plan 8

 - (3) Flexible Implementation of PPP Law
 - It is desirable that both the public and private sectors share risks in the PPP scheme, finance is promptly established and investment is actually implemented.
 - It is required to clarify the following points for ensuring bankability in the PPP Law and related ordinances (No. 28 and No. 35) for smooth finance structure from ECA and commercial banks. We sincerely request the Vietnamese Government to take the appropriate action to further enhance the investment environment.
 - Government Guarantee

- Details of the Power Purchase Agreement (in the case of power projects)

4. Revamp of the high economic growth in 2022

- Lots of Japanese companies faced interruption of supply chain because of COVID-19 and the strict Zero-Corona policy.
- We strongly hope to witness the continued With-Corona policy and revamp of high economic growth in 2022 under the leadership of PM Shinzo Abe.



**SPEECH OF JAPANESE CHAMBER OF COMMERCE & INDUSTRY IN
VIETNAM AT ANNUAL VIETNAM BUSINESS FORUM**

*Presented by
Mr. Inoue Soichi
Chair*

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**SPEECH OF THE BRITISH CHAMBER OF COMMERCE VIETNAM
AT ANNUAL VIETNAM BUSINESS FORUM**

**HOW THE BUSINESS COMMUNITY CONTRIBUTES TO THE SOUND
RECOVERY OF THE ECONOMY**

*Presented by
Mr. Nitin Kapoor
Board Member*

BritCham would like to mark the occasion of the 1st Year anniversary of our Free Trade Agreement which has already led to an over 16% increase in trade between the two countries, even with the world suffering from the pandemic and also repeat our commitment made on your recent very successful visit to the UK and COP26 of our commitment to developing trade and political relationships between our two countries.

As Vietnam is emerging from the recent challenges of Covid, we find the outlook within the British business community in Vietnam quietly confident & optimistic. BritCham would like to congratulate the Government on the country's as well as its success. The consensus is that with the right monetary policies and support from central government, companies and the wider economy can quickly return to pre Covid levels of growth and development. It has also been expressed that it is vitally important that Vietnam learns from the experiences and actions of other countries to maximise the efficiency and speed of this recovery, as well as ensuring the country does not get left behind with resumption of regional and global business operations.

A key element of this recovery will be the reopening of borders alongside one set of national entry rules and regulations to allow safe resumption of visitors both business and tourist, again ensuring that competitive advantage is not given up to regional competitors. BritCham believe limiting and removal of quarantine requirements and resumption of prepandemic entry requirements that this will support not only international but local operators within the tourism and business sectors.

As the global economy rebounds inflation will be a key area to be addressed. Historically rates have been higher than other nations, BritCham believes emphasis on this aspect of national economic policy requires constant attention to ensure that Vietnam avoids another asset bubble + high inflation to make sure there is not a repeat of the situation in 2010-2012, and therefore helping stabilize the economy and facilitating continued growth.

BritCham also believes that liquidity and the ability for banks to support economic growth will be a key factor for 2022 and into the medium term future. It is felt that we will see a situation where companies will start a capex cycle into their businesses given that many have preserved cash for the past 2 years or based on the strength of future business are willing to borrow more. Several British banking institutions are already active in the FDI market and the ability for foreign banks to be able to effectively lend to multinationals operating in Vietnam is essential to Vietnam leveraging the maximum potential of all the Free Trade Agreements that have been and are being negotiated.

Associated with this is the strategic importance of exporters to continued growth in GDP, the chamber believe in a more flexible regulation from the State Bank of Vietnam allowing banks to be able to support companies with a larger lending cap than they have given in the past. The potential rate of growth will only be truly realized if businesses are able to execute their plans and not stifled by limited liquidity caused by inflexible lending amounts and terms Sustainability and the Governments recent commitments to reach a position of carbon neutrality are welcomed, BritCham believes that this is the beginning of the journey and is very keen to work with the government on the policies and regulations to be put in place to help achieve these. With the required investment requirement we believe these should also be considered to be outside the current loan growth cap, allowing the private sector and investment to help reach this bold and commendable commitment. Having a clear and transparent roadmap along with the role the private sector will play and the parameters that need to be adhered to is also vital.

The sustainable 4IR economy ambitions of Vietnam and its people also highlights the importance of skills and language developments and the pandemic has shown there is a great demand for International levels of education at all age groups to ensure that the talent of Vietnam can contribute and achieve the goals and British Business as well as government are keen to expand links within this sector and help achieve the Vietnamese ambition.

To conclude, the outlook and contribution of British businesses to the continued regeneration and growth of Vietnams economy is very positive. The key to maximizing this success is robust and consistent policy allowing businesses to grow and develop. Vietnam must also maintain its focus on policy reform and the streamlining of administrative processes. It is noted that we must also expect and accept that the recovery will not necessarily be totally smooth, making policy and regulations even more important. Please be assured that we are happy and willing to support the next steps from new normal back to normal.

Thank you.



SPEECH OF EUROPEAN CHAMBER OF COMMERCE IN VIETNAM AT ANNUAL VIETNAM BUSINESS FORUM

*Presented by
Mr. Alain Cany
Chair*

Your excellency, Mr Pham Minh Chinh - Prime Minister of Vietnam,

Distinguished Guests,

I am delighted to be here this morning representing EuroCham and our more than 1,200 members at the Vietnam Business Forum.

This year, the VBF is being held in a special context. We have lived through the 4th wave of the pandemic, which has had a deep and far-reaching impact on trade and investment, both here in Vietnam and internationally.

The government's ambitious and accelerated vaccine roll out, combined with the tireless and heroic work of our frontline healthcare professionals, have enabled a gradual re-opening of the country. Business leaders have signaled a vote of confidence in Vietnam's "new normal" trade and investment environment, with EuroCham's Business Climate Index (BCI), our regular barometer of European Business Leaders, increasing by 42 points to 61 in January 2022.

In this context, 2021 also marked the one-year anniversary of the EVFTA implementation. This new-generation FTA will eventually phase out almost 99 percent of tariff lines. Even during an unpredictable global pandemic, the EVFTA has delivered on its promises. 2021 saw a 14.8 percent increase in trade between the EU and Vietnam, reaching about US\$63.6 billion.

Now that COVID-19 has been brought back under control, with the EVFTA in force, and with the EVIPA soon to follow, Vietnam has the chance to attract a new wave of FDI from European investors looking for a prosperous, safe, and competitive investment destination. Therefore, we applaud the government's efforts in issuing, revising, and simplifying several regulations to align with EVFTA provisions.

In this important business forum, we would like to emphasize the following five main challenges that need to be addressed for the purpose of "**Restoring & Developing Supply Chains in the New Normal**".

1. Power and Energy for Vietnam's future after COP 26

We wish to express our admiration for the leadership shown by the Vietnamese government at COP26, with commitments to be carbon-neutral by 2050 and to eliminate coal power usage. I was lucky to be in Glasgow as part of the Vietnamese delegation. I truly felt proud to be Vietnamese. These comments were praised last week by both COP26 President Alok Sharma as well as by the

First Vice President of the European Commission Frans Timmermans, as expressed during his discussion with Prime Minister Pham Minh Chinh. Despite this, the PDP VIII calls for high levels of fossil fuel imports alongside a modest amount of offshore wind power capacity. This relative lack of ambition could result in unnecessarily high-power production costs. Therefore, we strongly recommend that the government:

- Implements a halt to new coal-power plant approvals in the Draft PDP VIII.
- Allows power consumers access to clean energy by implementing DPPAs in pilot schemes and by reducing front-end regulatory barriers to behind-the-meter clean energy production. Offshore wind is also highly recommended.

In line with previous years, we would also like to emphasize the Circular Economic Model, which has already been applied in the EU for several years, as a new reference point for future production and consumption. We are therefore delighted that the new Decree 08/2022/ND-CP implementing the Law on Environmental Protection issued on the 8th of January mentions a Circular Economy. This is a forward-looking step towards making Vietnam a trusted sustainable and progressive partner.

To continue to work towards and meet these goals set by the Vietnamese government, the cooperation of Vietnamese, European and other international business partners is a must. To this end, EuroCham will host an event in the fourth quarter of the year called GEFE 2022. This event will act as a channel for dialogue both within the business community as well as between businesses and the government, for us to think together to achieve clean, smart, and sustainable solutions that benefit the Vietnamese people now and in the future.

2. Healthcare

We sincerely appreciate the ongoing support of the government for facilitating the operations of pharmaceutical companies and ensuring a steady supply of medicines to Vietnam. On top of that, EuroCham and the European business community highly values the issuance of Resolution No. 12/2021/UBTVQH15 on 30 December 2021, which enables the continued use of Marketing Authorizations scheduled to expire before the end of 2022. This measure should be implemented without the need for companies to wait for guiding regulations and without the need to carry out burdensome administrative procedures, which would go against the urgent spirit of this resolution. We seek the National Assembly and the government's support in directing a shared understanding among relevant agencies for this measure to be implemented urgently and to be applicable to all medicines, not only those for COVID-19 treatment.

Looking at sustainable solutions, we appreciate the recent introduction of Decision 1661/QĐ-TTg, which abolishes the MA renewal procedure. We look forward to the revision of relevant regulations, including the Pharma Law, with the aim of implementing the removal of the MA renewal procedure entirely in 2022.

Finally, we applaud the Ministry of Health's ongoing efforts to revise Circular 32/2018/TT-BYT on drug registration, including the revision to the Certificate of Pharmaceutical Product (CPP) requirements as reflected in the November 24th draft. We look forward to seeing the continued simplification and harmonization of administrative procedures in line with international practices. While waiting for the revision of Circular 32, we would appreciate if the Ministry of Health would continue accepting CPPs as issued by competent foreign authorities from the 1st of January 2022 to ensure that access to medicine is not impacted.

3. Digital

Modern governments work on the front lines of service delivery with no room for administrative waste and thus need rapid access to technologies that simplify processes, reduce costs, and enable innovation. Cloud computing can play a role in creating better citizen services and facilitating inter-agency collaboration. We recommend public-private cooperation to build cloud computing for government agencies, to adopt smart cloud-first policies, and to reduce costs by adopting internationally recognized cloud accreditation, compliance, and security mechanisms. In addition, we encourage Vietnam to foster efficient digital processes to exchange goods and services internationally. To this end, Vietnam should facilitate the growth of European and global digital businesses and their integration with Vietnam's digital economy. This can be achieved through legislation, regulations, and industry standards that allow for the free-flow and exchange of data. These regulations should be compliant with international digital business practices, including the removal of data localization requirements. We applaud the government for consulting with the international business community on the Personal Data Protection Decree and we welcome further consultation opportunities to ensure alignment with the GDPR and other international privacy laws.

4. Entry Regulations for Foreign Expats

We were delighted with the decision to reduce the mandatory quarantine period to 3 days as well as with the removal of approval procedures for foreigners with residence cards, visas, and valid visa exemption certificates. This is appreciated by Vietnam's foreign business community.

A return to pre-pandemic visa regulations is essential to bringing FDI to Vietnam and for guaranteeing that the thousands of international enterprises already in the country can continue to contribute to Vietnam's economic growth in the years to come.

5. Tourism

We share the view of the government in their tourism development strategy: when tourism activities resume, they must resume safely. EuroCham's members were delighted to learn that the Prime Minister issued Directive 01/CT-TTg on the 8th of February, directing the Ministry of Culture, Sports and Tourism to announce a roadmap for re-opening tourism. We encourage the government to go further and faster in re-opening so that Vietnam can achieve its full potential as a leader in tourism.

I would like to conclude on a note of optimism. Vietnam is in a stronger position than most to prosper in this post-pandemic period. The fundamentals that have underpinned its three decades of almost uninterrupted economic growth remain strong. I strongly believe that the VBF has always been and will continue to be a perfect channel to share the views of the foreign business community with the government, guaranteeing Vietnam's continued progress in partnership with European businesses.



POSITION PAPER OF EUROPEAN CHAMBER OF COMMERCE IN VIETNAM AT ANNUAL VIETNAM BUSINESS FORUM

H.E. Prime Minister Pham Minh Chinh,

Respected Ministers and Government Officials, Acting Country Manager of International Finance Corporation, Chairman of VCCI, colleagues of the Vietnam Business Forum and Chambers of Commerce,

This year, the VBF is being held in a special context. We have lived through the 4th wave of the pandemic, which has had a deep and far-reaching impact on trade and investment, both here in Vietnam and internationally.

The government's ambitious and accelerated vaccine roll out, combined with the tireless and heroic work of our frontline healthcare professionals, have enabled a gradual re-opening of the country. Business leaders have signalled a vote of confidence in Vietnam's "new normal" trade and investment environment, with EuroCham's Business Climate Index (BCI), our regular barometer of European Business Leaders, increasing by 42 points to 61 in January 2022.

In this context, the year of 2021 has also marked one year of implementation of EVFTA – the new generation FTA which will phase out almost 99% of tariff lines, remove barriers to trade, and support Vietnam to meet international standards in its legal framework, environmental standards, and investment landscape. Even during a global pandemic, the EVFTA has delivered on its promise. On the Vietnamese side, exports rose 11.3 per cent in the first 12 months of implementation to reach US\$38.5 billion, according to government figures. Some of the biggest winners have been products such as electronic goods, footwear and clothing, furniture, seafood, and coffee.

Meanwhile, European exports to Vietnam increased 12.4 per cent over the same period to reach US\$ 16.2 billion. And, as of September 2021, 27 EU member states had invested over US\$22 billion in more than 160 projects across Vietnam - representing over 5.5 per cent of the total registered foreign investment capital. And now that COVID-19 has been brought back under control, with the EVFTA in force, and the EVIPA soon to follow, Vietnam has the chance to attract a new wave of FDI from European investors looking for a prosperous, safe, and competitive place in which to invest and do business.

Therefore, we strongly applaud all the Government's effort in 2021 in issuing and revising a number of regulations to comply with EVFTA, and to simplify administrative measures for Vietnam to become an attractive investment destination.

The business community should be more associated or consulted in assisting the Committee on Trade in Goods in carrying out reviewing and monitoring the implementation and operation of EVFTA according to Article 2.23 of this Treaty. The input of businesses on both sides is essential for regulators to identify the obstacles impeding the full implementation of the EVFTA for better trade and investment integration. EuroCham and its Sector Committees are willing to engage both with the EU Delegation as well as with Vietnamese regulatory authorities in providing specific

input, to follow and to comment and improve the implementation of the EVFTA. Eurocham, either as such or through the EVBC (the cooperation mechanism between EuroCham and VCCI created for this target) should be allowed to be associated or consulted by this Committee on Trade in Goods.

Besides the EVFTA, below are the key issues and challenges as well as recommendations from our 18 Sector Committees to the Government. These recommendations are grouped in 5 main topics: (i) Business Environment/Trade and the Economy, (ii) Sustainable Development, (iii) Consumer Choice, (iv) Health and Beauty and (v) Dispute Resolution. We do hope that these comments and recommendations will make Vietnam to become an even more open and more attractive environment for international investment and will accelerate the country's Restoring & Developing Supply Chain in the New Normal.

I. Business Environment / Trade and the Economy

A. EuroCham Digital Sector Committee

EuroCham Digital Sector Committee's members are digital businesses, and we contribute to Vietnam's digital transformation in many ways: providing digital transformation advisory services, digital solutions in financial services, education and smart city projects. We are pleased to see the Government's strong commitment to pursue digital transformation and its vision to leverage the IT sector as an investment and economic accelerator.

We recommend the Government of Vietnam to grow a vibrant and innovative domestic digital economy and allow Vietnamese companies to engage with the global digital economy, to modernize the public services by leveraging most advanced digital technologies. To this end, it is important the Government takes into account following considerations:

- Harmonisation of the Vietnamese personal data protection regulations with EU GDPR and other international personal data protection laws;
- Facilitation of free flows and exchange of data between Vietnamese and multinational/European businesses and organizations in a safe and secure manner, such as recognizing internationally reputable third-party data security, privacy, and information management certifications;
- Recognition of international certificates for electronic signatures to provide electronic alternatives for wet signatures and personal identification; and
- Adoption of smart cloud first policies with internationally recognized cloud accreditation, compliance and security mechanisms. With fast application and global collaboration, existing digital policies such as Cybersecurity Law, draft decrees on Cybersecurity, Personal Data protection, amendments to Decree 72 on management, provision and use of internet services should be recast to ensure Vietnam sets along a new path of growth with critical policy settings that are open, transparent, regionally focused and globally consistent.

B. IPR Sector Committee

1. Online enforcement and the surge of counterfeit goods

Strict blockade measures due to the Covid 19, causing the problem of counterfeit goods, especially drugs such as antibiotics, anti-inflammatory drugs, pain relievers to circulate widely on e-commerce platforms. Content piracy and illegal streaming/ uploading/ downloading of movies, TV series and books are getting more serious and causes significant damages to IP owners.

We recommend the competent authority needs to be more proactive in handling violations, especially online infringement. It is recommended that various enforcement ministries and agencies conduct regular exchanges, information updates and professional knowledge sharing to quickly address these concerns without any delay.

2. Delay in establishment of IP rights and appeals settlement before the Intellectual Property Office of Vietnam

The delay leads to problems for IP owners in protecting and enforcing their rights in Vietnam. With the increasing heavy backlog before IP Vietnam Office, it takes too long for issuing registration certificates for trademarks and patents compared to other countries. The same as the settlement of appeals by Appeal and Enforcement Board of IP Vietnam Office. During COVID-19, examiners and officials of the IP Vietnam Office had to work from home without proper system support, making the inherently delay problem worse.

C. Legal Sector Committee

1. M&A

Concerning the access of foreign entities to the Vietnamese market, we would like to recommend:

- Continue reducing the number of conditional sectors.
- Reduce the degree of discretion wielded by the local licensing authorities in relation to the review and revisiting of the commercial terms of M&A transactions.
- Instruct local licensing authorities in clear and unequivocal terms that foreign investors are legally entitled to invest in the form of up to 100 percent equity ownership in any sectors that are not subject to any specifically legislated foreign ownership caps.

2. PPP

We recommend the authorities to publish a list of key national and regional projects, particularly in sectors that have a good track record in other jurisdictions with well-trodden models and which are highly sought after by foreign investors with the aim to prioritise economically viable projects as those slated to be implemented as PPPs.

3. Real Estate

We would like to recommend the authority to issue clear guidance to provincial departments so that there is no arbitrary interpretation and application of law in transaction of acquiring a local real estate development by share transfer which is usually treated by local authorities as a project transfer transaction and therefore the approval for a real estate project transfer is required.

4. EVFTA

The ratification of the EVFTA has been a long-awaited milestone in the diplomatic and economic relationship of European investors and traders with Vietnam. From a political perspective, the EVFTA forms a remarkable piece of work that has caused a tangible shift in cross-border relations and commercial prospects between Vietnam and all member States of the EU. Despite the catastrophic repercussion of the COVID-19 pandemic on international supply chains and the global economy, Vietnam is an esteemed partner across many industries and has become one of Europe's most important ally in Southeast Asia. While the diplomatic achievements of the EVFTA speak for themselves on a high level, the low-level mechanisms of daily implementation of the EVFTA are still fraught with uncertainty and confusion. It is essential for the continuing success

of the agreement and growing trade volumes between Europe and Vietnam that persisting practical issues (i.e., customs and logistics) are addressed quickly and resolved clearly and transparently.

The Legal Sector Committee would like to recommend:

- To increase inter-authority collaboration on the European and Vietnamese sides to unclog existing trade bottlenecks and formal hurdles and create a favourable environment for the exchange of services and goods between the signatories.
- To devise a transparent process for implementation on all levels of administration to maximise the mutual benefits of traders and businesses.

D. Tax & Transfer Pricing Sector Committee

1. Implementation of Global Minimum Tax

In October 2021, the G7, G20 and 136 countries and territories participating in the OECD Inclusive Framework agreed to the reform of the Global Minimum Tax Rate of 15%.

In this context, the businesses, especially multinational corporations that have invested in Vietnam as well as large Vietnamese corporations that have invested abroad are very interested in the impact of this global tax reform, specifically:

- (i) Whether the adoption of a global minimum tax rate would result in the reduction or nullification of the tax incentives these businesses are or will be entitled to under the current applicable laws. This can also affect the investment decisions of multinational corporations and FDI enterprises in Vietnam because tax incentives are one of the important factors to attract investment.
- (ii) Will Vietnamese Government have any solutions to compensate businesses in the case of reduced or nullified incentives?

It is recommended to the Government of Vietnam to carefully study the impact of the Global Minimum Tax Rate on the interests of businesses that are in scope of this tax reform, have practical and effective solutions to guarantee investment, compensate the benefits for businesses in case tax incentives are reduced or nullified due to the impact of the Global Minimum Tax without negatively affecting the investment and business environment in Vietnam.

2. Further guidance on transfer pricing in addressing Covid-19 related-impacts

Due to COVID-19, many enterprises have incurred operating losses, even leading to bankruptcy or insolvency from 2020. Even though Decree 132 was released after the outbreak of COVID-19, there is no guidance about the comparability analysis, adjustment, and quantification for operating expenses.

Government to issue additional guidance to address the following practical matters, including not limited to:

- What information the taxpayer has to provide in the TP Local File to substantiate the arm's length nature of the related party transactions
- Whether it is possible for the local limited risk distributor/manufacturer to share the losses of the MNE Group
- Whether it is possible to include loss-making comparable in the benchmarking study when the industry analysis is able to demonstrate the market downturn
- How to quantify the impacts of Covid-19 to the operation of the enterprise.
- Regarding the officially submitted APA applications, whether the material assumptions should be revised.

3. E-invoicing implementation

- **Business interruption if using e-invoices with verification code:**

With huge number of enterprises in Vietnam, whether tax authority system is sufficient to ensure the issuance of verification code without interruption to required enterprises is a big concern.

Further, the success of using e-invoices with verification code is heavily depended on not only technology infrastructure of tax authority, enterprises, e-invoices services providers but also the smooth operation among those systems. In case congestion/issues occur, enterprises will need immediate support from not only e-invoices services providers but also the tax authorities. However, with the huge numbers of enterprises in Vietnam, enterprises have concerns that the resources of the tax authorities are not enough to support the enterprises on time, especially if the issues happen after working hours or in peak hours.

- **Not enough time for developing necessary infrastructure to apply e-invoices in 2021**

In December 2021, several enterprises located in 6 cities and provinces (Hanoi City, HCMC, Hai Phong City, Quang Ninh, Phu Tho and Binh Dinh Provinces) received a notification from their tax managing authorities requesting them to apply e-invoices as per Decree 123/2020/ND-CP and Circular 78/2021/TT-BTC by no later than 31 December 2021.

Generally, enterprises require at least 2 – 6 months to develop the necessary infrastructure as well as preparation of internal procedures to successfully apply e-invoices systems. Therefore, it is extremely difficult for them to apply e-invoices within 2021. We recommend:

- In case the enterprises are not classified as high tax risk enterprises, please allow them to use e-invoice with no verification code upon their requirement.
- Please give the enterprises additional time for them to develop the necessary infrastructure to apply e-invoices.

4. Qualifying criteria for high-tech enterprises under the current regulations (Decision 10/2021/QĐ-TTg and Circular 04/2020/TT-BKHCN, supplemented to 32/2011/TT-BKHCN)

The current regulations have divided the scale of enterprises into 03 levels: (1) Small and medium enterprises, (2) large enterprises, and (3) ultra-large enterprises for application of the ratio of R&D expenses and R&D labors as follows:

Level	Capital scale	Headcount scale	R&D expenses	R&D labors
Ultra large	VND6,000 billion and above	3,000 employees and above	0.5%	1%
Large	VND100 billion and above	200 employees and above	1%	2.5%
Medium and Small	Not being the 2 above cases		2%	5%

In fact, most of enterprises applying the high-tech in production are increasingly automation-intensive (more advanced machineries, less employees), thus the number of employees is not significant (less than 3,000 persons).

Therefore, there are certain cases that the capital scale may meet the criterion of the ultra-large enterprise but fail to meet criterion of 3,000 persons and hence subject to minimum ratio of R&D at 1%. Please note that, those ultra-large enterprises have scale of revenue possibly up to VND100 thousand billion and growth rate of 10%-20%. On that basis, achieving 1% on added value (revenue-material-component) is relatively difficult in practice.

In reference to tax incentive applicable to the ultra-large enterprises under the current corporate income tax law, in addition to the criterion on capital scale of VND6,000 billion, there are other criteria, including:

- Using 3,000 employees; or
- Having revenue from VND10,000 billion (at least from 4th year generating revenue)

Therefore, to support ultra-large enterprises (especially cases satisfying investing more than VND6,000 billion) but applying high-automation and using less than 3,000 persons to fairly enjoy the stipulated tax incentives. This support would enable those enterprises to have better production and make much more added value in Vietnam.

E. Tourism & Hospitality Sector Committee

1. Entry visa policy

We would like to make the following recommendations:

- Expand the list of visa-exempt countries to all EU countries and extend the visa exemption period from 15 to 30 days and the period of the announced visa exemptions and new exemptions to five years.
- Create a three-month tourist visa for Europeans who wish to make long-stay holidays.
- Provide short-stay visa exemption in certain situations (for example hassle-free visa regulations for short-stay visas and dedicated fast-track immigration lanes for MICE travellers).

2. Natural and heritage

We would like to make the following recommendations:

- Prioritise sustainable, diverse developments.
- Ensure a more systematic approach to sustainable development in tourism by promoting incentives for responsible commitments and actions taken by stakeholders.
- Reduce demand for endangered wildlife species and limit uncontrolled interactions with wildlife.
- Develop information in national parks or natural areas to encourage tourists to respect and protect these locations.

3. Tourism Recovery Plan

It is strongly recommended that the National Steering Committee on COVID Prevention and Control, the Government, MOH, local tourism administrations to coordinate more efficiently to introduce consistent regulations regarding green pass for travellers, opening of the borders, opening regular flights for Vietnamese citizens coming back. On top of that, to help the tourism industry to quickly recover, it is recommended to create a Tourism Board with a set annual budget under the guidance of VNAT and MCST. In addition, overseas offices in important outbound destinations should be opened to facilitate the promotion of Vietnam in these countries.

F. Transport and Logistics Sector Committee

We acknowledge that the proposed focus areas in infrastructure and logistics industries are linked to infrastructure access to the main ports as well as the development of quality distribution and logistics centers.

Together, the improvement in these areas will lead to reduced logistics costs and enable further growth in Vietnam, especially in the competitive export market to Europe and the US. A major barrier to the logistics sector's development is the lack of availability of warehousing/logistics land to allow the development of quality distribution/logistics centres, especially surrounding Ho Chi Minh City and Hanoi. Vietnamese consumers are demanding higher quality, more variety, and quicker delivery. This brings the significant challenge of finding available space and locations for warehousing and distribution center locations.

Therefore, we strongly recommend the Government to

- strengthen the supervision and facilitation role of the Government to ensure the effective allocation of resources, as well as the safety and the environmental sustainability of these constructions while creating transparency and fair competition in the logistics sector.
- Further development of multi modal infrastructure. Given the geography where all rivers are transversal onto the land, the development of inland water ways has very big opportunity. In addition, the development of railroads for cargo between the main industrial hubs both domestically as via the neighbouring countries, all the way up to Europe, will provide a good alternative to the current methods.

Lastly, we are very happy to see the increasing road infrastructure connecting the region being China and ASEAN, nevertheless, we would like to highlight that currently carriers are struggling with transports into and from China as is it in case delivery at the border whereas a result its potential is not fully utilized. Also transit via Vietnam as a result is not being utilized at its fullest leading to increased rates for partial load.

In short, we believe a clear guidance on the future of cross-border traffic would be key.

In 2020, following the Prime Minister's Directive 11 (Directive 11/2020/CT-TTg dated 4 March 2020 of the Prime Minister on urgent objectives and solutions for assisting businesses facing difficulties and assurance of social welfare amid COVID-19 pandemic), most Post-Clearance Audits (PCA) conducted at taxpayers' offices were postponed. At the same time, we observed an increase in the number of desktop checks being performed at the border points and a more aggressive stance in the performance of those checks. Of particular note was the increased frequency of price consultations – initiated by Customs to determine the appropriateness of values declared for goods imported into Vietnam. During those price consultations, Customs will typically refer to their own databases of values, which are used to challenge the veracity of the values declared by the importer.

We would like to raise following recommendations:

- Let Customs officers, who conduct price consultations, hold the supporting rationale behind the values on the database, and authorise them to disclose that information to importers enabling a more transparent and effective price consultation process.
- Conduct more promotion activities to encourage companies to apply for the 'one-time price consultation for multiple uses' scheme. including detailed guidance of execution.
- Ensure that the price consultation process will be valid for a 12-month period provided declared values in the 12-month period do not move outside an acceptable threshold (e.g. +/- 5 per cent), then no further price consultation should be required.

Many multi-national businesses have made commitments to sustainability goals covering all aspects of their business including upstream sourcing and downstream supply, end of product life, etc. In the context of logistics, the main goals are CO2 reduction as the primary measure. Meanwhile, the long-term goal is to achieve carbon neutrality which is net-zero carbon dioxide emissions (by the year 2050).

Initial improvements can be renovative (involving maintenance or improvement). But, longer-term, this requires a shift to innovative solutions and more radical adaptations at both business and governmental levels.

We would like to make the following recommendations:

- Prepare longer-term plans which need to be more radical to move to much lower/or zero emission vehicles and greater fuel economy.
- Design a detailed roadmap for the development and transition of these vehicles in Vietnam by 2030.

II. Sustainable Development

A. Green Growth Sector Committee

1. Power & Energy

Vietnam's electricity system is still over-reliant on power production from hydroelectric power plants. These will be increasingly affected by variations in rainfall complicated by the impacts of climate change. In addition, PDP VIII indicates a rapid and exceptionally high importation of fossil fuels, such as coal and liquefied natural gas (LNG). Importing fuel creates potentially price inflationary risks that are unwelcome to consumers and which can no longer be insured against by government measures to mitigate cost inflation. This undermines EVN's efforts to continue supplying low-cost, reliable electricity in increasing volumes. The Draft PDP VIII indicates only 5 GW for new offshore wind before 2030 and, 40 GW before 2045. This lack of ambition may result in unnecessarily high-power production costs. Therefore, MOIT should consider facilitating the development of offshore wind power by creating an internationally bankable power purchase agreement (PPA).

Therefore, we strongly recommend the Government to:

- Implement the intention to halt approvals for any new coal-powered plants in the Draft PDP VIII.
- Allow power consumers access to clean energy by implementing DPPAs in pilot schemes and by reducing the front-end regulatory barriers to behind-the-meter clean energy plants.

2. Energy efficiency in building

In our view, policies to encourage the development of energy-efficient buildings and green buildings should be developed and include construction with public investment; and promote the application of planning, architectural, material, technical and project management solutions to use energy economically and efficiently. A comprehensive life-cycle approach should be applied, while green labels and environmental product declarations (EPD) should be further promoted. We recommend that the Government provides effective encouragement for building owners to certify their buildings as Green Building and the Government should adopt building certification regulations.

3. Circular Economy

In line with previous years, GGSC emphasizes the “Circular Economy” as the new reference model of production and consumption, which involves sharing, leasing, redesigning, recovering, reusing, repairing, refurbishing, and recycling existing materials and products for as long as possible. This is a more sustainable model of growth than the previously dominant linear economy of “produce – use – discard” as it implies reducing waste to a minimum and using discarded materials productively again and again in a different form, reducing the need for new or virgin raw materials and taking most waste and pollution out of production methods.

We recommend that Vietnam formulates a sound basis to enable the adoption of this growth model in the future, which has already been applied in the EU for several years. Moving further towards the Circular Economy will deliver benefits such as reducing pressure on the environment, improving the supply security and price of raw materials, increasing competitiveness, stimulating innovation, boosting economic growth, and creating green and sustainable jobs.

It is highly appreciated that the Decree 08/2022/ND-CP issued on 10 January 2022 implementing the Law on Environment Protection has addressed Circular Economy. To ensure the Circular Economy can be widely applied, the Government should take charge of coordination and encourage the private sector to support change.

B. HR & Training Sector Committee

1. Guidance on employee representatives (traditional and independent unions)

There should be a guidance on employee representatives following the issuance of the new Labour Code. This guidance should clarify the role and relation in the event an “*independent union*” and a “*traditional union*” both exist in the same enterprise to explicitly provide that the unions will have equal rights and obligations in representing the employees and provide mechanisms for cooperation between these two unions.

2. To loosen work permit requirements for foreign employees

While the issuance of Decree 152 is highly appreciated, to avoid different interpretation of various provisions in the decree such as work permit renewal, worker’s qualification, we recommend the MOLISA to (i) accept both university degrees or work/vocational qualifications as evidence of proficiency of foreign workers; (ii) recognize that work experience gained in Vietnam has the same value as work experience gained overseas; (iii) continue exempting work permit requirements for those individuals who have contributed capital to their organizations without any cap on the investment amount; and (iv) issue an official guidance on which countries are considered as native English speaking as this has a significant impact on the education and training sector.

Finally, we suggest encouraging the upskilling of Vietnam’s future labour force by partnership between public education institution and private international education institutions.

C. Woman in Business

1. Gender pay equality

We urge Vietnam to adopt measures to assist in the implementation of provisions in the Labour Code regarding gender pay equality, and to adopt concrete incentives for companies to promote women to leadership positions. We recommend the Government to provide further guidance for

these regulations and set out several objective factors by which an employee's salary level would be assessed in the context of determining whether a business has equal pay for men and women.

2. Gendered recruitment

We also encourage the Government to condemn and prohibit gendered recruitment, and to instruct the Department of Labor, Invalids and Social Affairs to actively enforce existing prohibitions in the Labor Code 2019 against this practice.

3. Income tax incentives for female-friendly employers

We also request the Government to change its corporate income tax incentives for female-friendly employers and this policy should apply to all industries in Vietnam. Emphasis should be placed on rewarding companies which implement training and policies in promoting and placing women in top management positions.

III. Consumer Choice

A. EuroCham's Food, Agri and Aqua Business Sector Committee (FAABS)

1. Developing the organic market and improving food safety policy in terms of pesticide residues in the fruit and vegetable sector

Issues:

On 23 June 2020, the Prime Minister issued Decision 885/QĐ-TTg approving the scheme on the development of organic agriculture in the period of 2020-2030. Meanwhile, Vietnam must face some important challenges: (i) **The control of pesticides:** the key issues remain the residues of pesticides which affect the export market to Europe (and many other countries); (ii) **The development of the organic sector**, which result from of several things, such as the orientation of agricultural development which emphasises quantity rather than quality, a lack of legal framework, and complicated and higher investment costs for developing organic produce.

Recommendation:

To avoid prohibited molecules being sold to farmers and clear information on labels, we propose:

- (i) Government controls of distributors of pesticides
- (ii) Instruction to suppliers of pesticides

Regarding the development of the organic sector, we propose:

- (i) Legislation from the EU, Japan, and the USA should be borne in mind throughout Vietnam
- (ii) The time is coming to clarify and select the right organic labels and logos
- (iii) Other accreditations should be given to selected international ones for better control and follow-up of organic farmers
- (iv) Some financial tools must be studied and provided to businesses with the development and support of agriculture banks.

2. Meat value chain in line with EVFTA opportunities

Issues:

The EVFTA is a major opportunity for the agriculture and meat sectors to benefit from high-value European markets. The benefits are twofold: Expanding accessible markets to reduce the risk of over-exposure, and higher prices for some cuts - specific to terrestrial animal meat.

Recommendation:

- (i) Modernisation of the farming system
- (ii) Improvements of the “links” in the value chain
- (iii) Modernisation of the meat processing industry

3. Taking 2021 as an important transitional year for the recovery and future development of Vietnam’s agriculture sector

Issues:

Besides the devastating impact of COVID-19 in 2020, Vietnam’s agriculture industry is also embracing the implementation of the EVFTA. There are two key drivers to the Vietnam agriculture export industry that FAABS would like to note for future consideration. The exports from Vietnam to the EU need to comply with EVFTA commitments on quality, standards, and food safety. Besides, Vietnam’s agriculture following the EVFTA will not only help to increase exports to the EU, but also enhance the quality of Vietnamese products. This, in turn, will create more opportunities to tap into other foreign export markets.

Recommendation:

Firstly, FAABS proposes a three-phase approach for 2030 agriculture planning linked to demand and achieving multiple strategic purposes:

- Phase 1: Define all strategic objectives for Vietnamese agriculture to achieve in 2050.
- Phase 2: Research and forecast Vietnam’s demand for food and all export potential in the future, with factors from import incremental is essential.
- Phase 3: Build the 2030 agriculture planning considering all integrated sub-sectors into a national agro-food policy with the vision to 2040 and 2050.

We recommend that strategic long-term targets should include traceability; food security; food safety standards; improve the living standards of farmers; agro-tourism development; and industrialised, modernised agriculture. In the short term, we urge MARD to form an independent agency specialising in helping local businesses with exports for effectively implementing FTAs.

Secondly, businesses need to contact multiple respective ministries in import, export, distribution, and retail. A coordination mechanism or task force would help businesses to do business more smoothly in Vietnam.

B. CropLife Sector Committee

The CropLife Sector Committee believes that a sustainable agro-ecosystem must always be associated with the responsible employment of a range of advanced agricultural solutions. The key issue is to maximize the potential benefits of the above solutions and modern technologies and promote the central role of farmers.

As such, we recommend:

- Complete and implement a policy system to encourage the application of scientific solutions in agriculture to accelerate the process by which Vietnamese farmers can timely access the modern farming toolkits available in the world towards efficient and sustainable agricultural production. The toolkit should include input agricultural solutions such as pesticides, plant varieties, nutritional solutions for plants focusing on the consulting role of technology developers and international organizations.,

- Promote training activities for farmers, improve farmers’ access to information and knowledge of new technologies knowledge of actively and effectively using such technologies while ensuring no additional pressure on the environment from technological application.
- To conclude, we would like to emphasize that CropLife Vietnam and our member companies are always ready to take part in the dialogues and become active participants in multilateral cooperation activities to build sustainable production and value chains. We will share new technology solutions; connect with the network of international organizations and experts; organize visits to high-tech agricultural application models and participate in and organize large-scale farmer training activities along with commodity chains to serve the goal of strengthening high-value agricultural exports.

C. Mobility

1. Law on Environment Protection (LEP) 2020

Background:

Aiming at environmental protection, the Law imposes the obligation on businesses that make or import the products or packaging with “recycle value” to recycle them in accordance with the “required proportion and methods”. They can either recycle the discarded product or to make finance contribution (*) for that instead.

Decree 08/2022/ND-CP dated 10 January 2022 gave details implementation guidance of the Law. According to the Decree, recycling regulation for automobile is as follows:

Products	Effectiveness	Mandatory rate (%)	Recycling method
Battery (electrical systems)	01.01.2024	12%	For parts/oil and lubricant: Reuse ingredients after intermediate treatment such as dismantling, compressing, breaking/Recycle after grading each material For automobile: To collect discarded products, re-use parts qualified producers’ standard, other parts are recycled after grading each materials as above mentioned.
Battery (lithium, chargeable battery)	01.01.2024	8%	
Oil and lubricant	01.01.2024	15%	
Tires	01.01.2024	5%	
Air conditioner	01.01.2025	5%	
TV, screen	01.01.2025	9%	
Lamp	01.01.2025	8%	
Automobile	01.01.2027	0.5%	

We strongly support the Government with the direction to protect the environment and **are willing to recycle all the related discarded products** that we can receive from the end-users. However, **the challenge stems from the fact that there is currently no legal enforcement (**)** for car

owners to discard their vehicles to official/defined point of discarded products collection while the Decree regulates a mandatory collection/recycle rate of 0.5% of the sales volume of the previous year as of 01.01.2027.

We recommend the government to study and soon issue strong legal framework for vehicle discarding as automobile recycling obligation will be hardly fulfilled without it.

(*) Financial contribution: $F = R \times V \times F_s$

F: Amount to be paid (VND)

R: Mandatory recycling rate based on sales volume of the year before (%)

V: Sales volume (kg)

F_s: Recycling cost per kg (VND/kg)

(**) Disposal regulation to be issued before 01.01.2025.

2. Registration tax reduction on environmentally friendly vehicles

Eco-friendly vehicles include **low-CO2 internal combustion engine (ICE) vehicles** and **electrified vehicles**. Basically, electrified vehicles are divided into four types based on the energy supplied to the vehicle:

- HEV (Hybrid Electric Vehicle): fuel used is gasoline or diesel. Excess vehicle kinetic energy during deceleration, braking and downhill is recaptured and converted to electricity for the vehicle to use (*)
- PHEV (Plug-in Hybrid Electric Vehicle): using energy charged from an external electric power source while an ICE is integrated and works in case of low level of electric power.
- BEV (Battery Electric Vehicle): powered by batteries charged from an external electric power source.
- FCEV (Fuel Cell Electric Vehicle): hydrogen from compressed tanks and oxygen from the air are used to generate electricity to power the vehicle.

Those vehicles contribute to protect the environment, however, in fact xEV cost more to produce and buy than Internal Combustions Engine vehicles, plus the charging infrastructure network needs to be developed.

Electric vehicles are a strategic solution to resolving air pollution in the cities. Therefore, to quickly contribute to reducing air pollution and greenhouse gas emissions according to Vietnam's commitments at COP21 and COP26, we believe that besides the special excise tax incentives for battery electric cars as in the excise tax law just passed by the National Assembly at the first extraordinary meeting, as well as the registration fee level in Decree 10/ 2022/ND-CP has just been issued by the Government, the Government also needs to have preferential policies for other electrified vehicles.

To speed up the adoption by customers, there should be supportive policies as soon as possible, in order to encourage customers to switch to using environment-friendly vehicles, then there is also a need for policies to establish a network of charging stations and to encourage investment in the production of electrified vehicles. In addition to the approved policies for BEV, we also urgently request the Government for reduction by 50% of the SCT tax rate and registration fee for PHEV.

3. Supply Chain

UNECE documents for products from the European Union are valid and accepted under the EVFTA. MOT to enforce UNECE documents acceptance to solve supply chain bottleneck for automotive spare parts import. For CBU imports, when the parts reference number on the vehicle declaration differ from the previous document, Vietnam Register (VR) should limit the presentation of certificates for those incriminated parts qualifying as “compulsory-Component Approval” parts.

4. Supply chain - automotive safety parts certification

Circular 41/2018/TT-BGTVT stipulates that vehicles and safety parts are to be certified after customs clearance, but before being sold to the market. Safety-related CBU parts and CKD components - tires, lamps, mirrors, glass, wheels, and fuel tanks - are to be tested in Vietnam according to Articles 6.1.b and 6.1.c. of Decree 116. Decree 154/2018/ND-CP makes testing compulsory by VR for Circular 41 safety parts. Taking the case of road vehicles headlamps, MOT issued a new draft National Technical Regulation over 86 pages on the testing, inspection, and certification, was to be adopted in September 2021, and effective six months later. Thus, the national Technical Regulation QCVN 35 2017/BGTVT – already equivalent to UNECE ECE R112 - shall be replaced by QCVN 35:2021/BGTVT.

MOT to sign the 1958 UNECE Agreement to facilitate the importation of automobile products and auto parts from Europe, earlier than the schedule specified in the EVFTA Agreement, including Annex 2-B, so that certification documents under UNECE be accepted without testing nor COP assessment.

5. Ban of motorcycles in big cities by 2030

Motorcycles are essential to the daily lives and livelihoods of millions of people and now, and soon, public transportation infrastructure in large cities might not be sufficient to meet public demand. Therefore, banning motorcycles could create significant difficulties and inconvenience for people in large urban areas.

Government may consider a more effective and comprehensive solution to address the issues of traffic congestion, pollution, and traffic accidents in big cities by focus on the quality of the circulating vehicles rather than indiscriminately on the quantity.

6. Intellectual Property Enforcement

The Vietnam Intellectual Property Research Institution (VIPRI) under MOST is the only organisation evaluating industrial property rights to define whether copied products significantly differ from the original. Sometimes, the evaluation results of VIPRI are found to not be perusable since currently, the infringement becomes more complicated. Under this circumstance, it is hard for IPR owners to give an opinion or appeal this evaluation due to the lack of an appeal mechanism or any other expertise that is able to support the IPR owner in an appeal.

We propose some specific method to strengthen the efficiency of protection and enforcement of industrial and product designs such as

- Create a different and independent evaluating organisation of IPR protection-infringing cases,
- Strengthen the voice of IP-related authorities (such as NOIP) on IP Issues, and
- Implement a mechanism for IPR owners to appeal VIPRI’s evaluation.

7. Registration fees for motorcycles

There are some obstacles on electronic payment of registration fees for motorcycles. Specifically, in the determination of the taxable price, in case of multiple versions of the same model, tax authorities apply the highest registration fee rate to all the range.

The selling price of the mass-production version - which is the one with highest volumes - should be used as the basis to calculate the price in registration fees. Besides that, government should add in the current provisions to amend, guide and instruct the specific timeframe for internal flow of communication amongst the unit of competent authorities so as to ensure the completion of registration fee payment of taxpayer.

A. Nutrition and Milk Formula Products Sector Committee

The purpose of our Sector Committee members is to ensure the accessibility to nutritional foods that improve the nutritional status, physical development, and the health of Vietnamese people. As such, we would like to recommend to the government authorities as follows:

1. Related to Ministry of Health:

a. For Food Administration:

- To update once a year Appendix 2B of Food Additive Circular 24/2019/TT-BYT
- To abolish the preapproval of food advertisement (in Circular 09/2015/TT-BYT), similarly to abolishment of medicines and cosmetic advertisement preapproval as stipulated in the Prime Minister's Decision 1661/QĐ-TTg.

b. For Preventive Medicine Administration:

Healthy Nutrition criteria for certain processed food categories should not be set forth due to its insufficient scientific background support and practical basis. Instead of this, the Ministry of Health should give recommendations on nutritional comparison, based on Codex's recommendations, for practical benefits to the community and international integration.

2. Related to Ministry of Culture, Sport & Tourism:

To correct the word “functional food” to “health supplements” in Article 52 of Decree 38/2021/NĐ-CP stipulating administrative penalties in cultural and advertisement fields, to align with Decree 15/2018/NĐ-CP.

B. Wine and Spirit Sector Committee

1. Challenges to the W&S industry due to the Covid-19 pandemic

- Over the past 2 years, the COVID-19 pandemic has wreaked havoc on the global economy, including that of Vietnam. The alcoholic industry is significantly affected by the prolonged social distancing as part of pandemic control measures, with beverage manufacturing in Q3/2021 reducing by nearly one third compared to the same period last year. While we are strictly complying with Government’s measure on Covid-19 prevention, those prolonged social distancing measures introduced as part of pandemic control have also posed severe challenges for our business operations.
- At the same time, our most important business partners, hospitality, and tourism industries are among the most severely affected sectors. In the first 10 months of 2021, revenues from

travelling services reduced by 63.8% while the figure of international tourists was merely 3.3% compared to the 2020 data.

- Though the worst period of the pandemic has passed and with Vietnam's impressive vaccination campaign allowing a return to a new normal, inconsistent restrictions on on-trade consumption of alcoholic beverages introduced across various localities since then have exacerbated existing challenges for W&S industry. Such restrictions discriminate against W&S industry compared to other sectors and risks slowing the recovery of tourism and hospitality sectors without any discernible positive impact on pandemic control. We particularly welcome the Ho Chi Minh City's recent decision to lift the restriction on on-trade consumption of alcoholic beverages and are committed to working with our business partners to ensure that pandemic control measures are observed at facilities which serve alcoholic beverages.
- We suggest the Government continue to develop support packages and favourable policies to facilitate the recovery of all business sectors. We respectfully suggest that these policies be consistent, reasonable, use a risk-based approach to pandemic-control and be consistent across localities to resumption of the new normal as fast as is safe and practical.

2. Interaction of Free Trade Agreements and domestic tax policies

- In recent years, Vietnam has sought to drive economic development and growth by entering multiple Free Trade Agreements (FTAs) with important global trade partners. The most notable of these is the EU-Vietnam FTA (EVFTA) among others. To date, Vietnam is the only country after Singapore to enter into a bilateral FTA with the EU, which has signified the critical role that Vietnam plays in trade facilitation to the EU.
- The implementation of the EVFTA has started to bring significant benefits to the business communities of Vietnam and the EU, especially in terms of import/export tariff reduction. Thus, any possible increase of taxation on items imported from the EU could potentially cause concerns for international and EU enterprises about Vietnam's position in trade promotion and the level of support for business from the partner countries to realise the benefits of those agreements. According to the Most-Favoured-Nation rule and the National Treatment principles, every member country should apply fair tax policies without discrimination between countries or between domestically produced and imported products. Therefore, tax policies need to ensure an equal compliance level and avoid discrimination between imported and domestically produced goods. For W&S itself, the problem of unrecorded, non-taxed alcohol in Vietnam (75 per cent of the total consumption) is the biggest challenge (to the revenue), therefore enforcement of management of unrecorded alcohol must be improved
- We encourage the Vietnamese government continue to introduce policies that further support this momentum, ensuring hard-fought achievements of the FTAs are realized through the economic growth, increased trade, and consumer access to goods—while at the same time ensuring business recovery from the pandemic.
- We suggest that such policies not only include further support packages but also ensuring Vietnam Government Ministries continue to take a cautious approach to new tax policies or increase of current taxation rates. Tax policies need to ensure an equal compliance level and avoid discrimination between imported and domestically produced goods. Such policies risks impact the gains realized from the FTAs and undercutting the achievements realized through two-way trade promotion.

IV. Health and Beauty

C. Cosmetics Sector Committee

The EuroCham's Cosmetics Sector Committee always supports the Government, particularly the MOH, to simplify administrative procedures, cut down unnecessary business conditions, soon upgrade all public services to online level 4 and have better management over e-commerce trading. We would like to highlight the following 3 main recommendations:

1. Cut down as soon as possible 2 business requirements: advertising pre-approval and CFS requirement

First, we recommend MOH and Ministry of Culture, Sports and Tourism to urgently implement the Decision 1661 of the Prime, amend relevant regulations to abolish pre-approval requirement for cosmetic and antiseptic advertising content.

Secondly, we strongly request the Government to abolish CFS requirement for imported cosmetics from the EU and work towards completely abolishing this requirement for all imported cosmetics.

2. Digital Portal

We also would like to request local DOH to apply digital portal to implement complete administrative procedures online for locally produced cosmetics, same as the process applied for imported cosmetic at DAV. In addition, there should be a clear plan and budget to build up an online database for DAV and local DOH to well manage information of both imported and local cosmetics.

3. Control over fake and smuggled cosmetics on e-commerce

Thirdly, we request the Government and management authorities to strengthen control over fake and smuggled cosmetics on e-commerce. In particular, the management of e-commerce platforms of private online store operated freely to avoid unfair competition for foreign investors and owners of registered trademarks in distributing their products.

D. IQMED Sector Committee

It's crucial and justified to take this chance of VBF to emphasize that the healthcare investment is now more critical than ever. It has a direct impact on health security of the country, but also on other industries. With Vietnam Government calling for more FIE investment, the pharma industry needs the stable and predictable landscape. The high appetite to invest in Vietnam is here but the current environment, both in terms of legal framework and economic stability while operating in pandemic environment, undermines the predictability and sustainability of this investment. Specifically, the industry is calling for:

1. Fast implementation of the regulatory changes proposed by PM in his Decision 1661 – it is highly anticipated by the industry, but it must happen now, so the key concerns are how to build an effective road map and we need here the involvement of the highest rank authorities (like National Assembly) because the required legal changes call for extraordinary procedures,
2. Business stability, both regulatory (no unexpected legal changes) and economic (business operations in pandemic environment).

The best way to address the above issues would be a dialogue of representatives of the industry (IQMED, Pharma Group, probably also MDD) and different Ministries and OOG and National Assembly.

Whatever exact form it may take (panel, mini-panel), we need an open cross-ministerial dialogue to ensure its effectiveness.

E. Medical Devices and Diagnostics Sector Committee

1. Placement instrument model in public health facilities

Along with the increase in investment from the Government and socialization policy thanks to the model of placement medical instruments in public hospitals, many modern equipment has been invested, creating conditions for the deployment of high technology in medical examination and treatment, helping to better diagnose, detect diseases, treatment... Many high-tech medical technologies in Vietnam have reached the world level, not only serving the Vietnamese people but also the healthcare of our country is also the destination for many Vietnamese overseas patients and neighboring countries affirming the Vietnamese medical brand on the world medical map. Placement instrument model has been implemented many years, but it has not been legally regulated although there were documents aligned between Ministry of Health and Social Insurance for this kind of model. Learning that the draft of decree regarding socialization including placement model has been developed and in the final stage.

With the common goal of ensuring transparency, publicity and harmonization of benefits between medical examination and treatment facilities, patients and the health insurance fund; improving the quality of health care for the people and modernizing testing and diagnosis, we respectfully suggest: *(1) Approve and issue a new Decree covering the model of placement medical instrument; (2) Circulate the placement policy and provide training for relevant stakeholder to allow better understanding of the policy as well as full compliance with the law.*

2. New requirement for declaration of cost of imported goods (CIF) / Cost of production of medical devices, estimated profit of enterprises

New Decree 98/2021/ND-CP dated 8 November 2021 is a major reform in the medical device management such as change from pre-inspection to post-inspection for product registration, reducing administrative procedures, and supplementing measures to manage the prices of medical devices. However, the requirement to declare the cost of imported goods or the cost of production, the expected profit ... is a big concern of enterprises about the reasonableness and enforceability, specifically

- According to WTO: CIF price/ cost of goods are confidential, and the World Trade Organization (WTO) Customs Valuation Agreement in which Vietnam currently has obligations as a WTO member prohibits their publication without the permission of the entity that provides those prices.
- For competition perspective: importation cost, production cost, expected profit, business expenses (in general) are secrets of enterprises in competing with competitors in the market. Requiring enterprises to declare on a public platform that create risks that disclosing these contents will create conditions for other businesses to grasp, which can lead to competitive disadvantages for businesses in particular and the business environment in general;
- Create burden of administrative procedures: the import cost / CIF has been declared in the information publication of the Customs - Ministry of Finance, the additional requirement to declare CIF price with the Ministry of Health increases the workload for enterprises.

Recommendation:

Declaration of importation cost, production cost, expected profit as not been applied in any countries in region. Therefore, we suggest studying and survey this term further and not to apply

this term temporarily. Further to reduce middle layers, we recommend that healthcare facilities can consider a direct tender approach with suppliers in procurement process.

3. Digital transformation

The COVID-19 pandemic provides a strong incentive to accelerate digitalisation in healthcare. Post-pandemic investments in digital technologies for use in customer engagement, care coordination, enabling a remote workforce or telemedicine will be higher once the threat of COVID-19 has waned. Telemedicine, already undergoing rapid growth, has quickly become a key tool for both preliminary COVID-19 screening and for non-urgent care and consultations

Moving ahead we recommend:

- Develop a comprehensive information technology infrastructure that serves as the platform for operations management, data collection, reporting system management, and cross-stakeholder communication
- Digital capacity building for the healthcare workforce from the grassroots to central levels in order to address the limited digital compatibilities of healthcare professionals as a barrier to digital adoption
- A legal framework for data protection and management policy. Currently, there is no legislation specifically governing Big Data and AI health applications, apart from those detailed in the 2019 adoption of Decision 4888/QĐ-BYT. Issues of security and confidentiality are of increasing concern to all consumers, and especially for medical data which is particularly sensitive. These issues must be addressed in an effective and comprehensive way, not only at the level of individual providers but also at a broader regulatory or legislative level.

F. Pharmaceuticals

1. Summary

- The Pharma Industry has a high appetite to invest in R&D, Tech Transfer (local manufacturing) and Digital Healthcare Infrastructure; in line with the Central Committee's Resolution 20, and the Government's strategic roadmap in Decision 376.
- However, current policies and practices (especially relating to Drug Registration - Reimbursement - Procurement) are significant deterrents; undermining the predictability and sustainability required to support such investment.
- We seek the Government and relevant Ministries' support to:
 - Timely resolve the immediate term policy issues today, in particular to reduce administrative burden for businesses via the implementation of Decision 1661
 - Develop incentives to attract further investment into the pharmaceutical sector, via the upcoming National Strategy development.

2. Recommendation from Pharma Group

a. A predictable and sustainable investment environment is needed to achieve Vietnam's vision

- i. Address immediate hurdles in policy and implementation, by focusing on the three key pillars: Drug registration, procurement and reimbursement.
- ii. Implement quantitative measures in the development and assessment of policy by further improving APCI towards OECD best practices based on EuroCham Pharma Group's global experience and information resources.

- iii. Provide an enabling business environment for innovative companies through effective enforcement of Intellectual Property Rights (in line with the EVFTA and other free trade agreements) and support for companies to establish FIE importers, effectively operationalise their legal entities and import medicines to Vietnam.
- iv. Develop attractive and sustainable incentives in policy to attract further investments from the innovative industry, with a focus on three key pillars: (i) Clinical trials to develop R&D capabilities, (ii) manufacturing of innovative medicines through technology transfer, and (iii) digital health.

b. Immediate challenges limiting sustainable patient access and further investment

i. Drug registration

Regulations solutions

- Establish a mechanism for Marketing Authorisation (MA) to remain valid throughout the product lifecycle, similar to the practice in other countries, instead of being subject to renewal every 5 years.
- Harmonise administrative requirements with international guidelines and practices (most notably for the Certificate of Pharmaceutical Product).
- Remove administrative requirements that are challenging to implement while not adding to the assurance of product safety, quality and efficacy
- Enable automatic synchronisation of approved updates/variations across different lists to ensure drug information is always up to date while reducing workload for the authorities.
- Apply more appropriate drug registration fees to be on a par with other countries in the region, especially since the review of clinical dossiers requires expertise and additional resources.

Implementation solutions

Optimise the dossier review and appraisal process with clear accountability and commitment to regulated timelines including:

- Organising fixed, preferably monthly, Drug Committee meetings to ensure shared understanding and consistent feedback from dossier review experts.
- Ensure an effective and efficient online registration system that is implementable for both regulator and industry, and can truly speed-up the dossier review timeline.

ii. Procurement

- Assure that the implementation of Price Negotiation adheres to the principles set out (i) sustainability in price reduction magnitude and frequency, (ii) predictability of the criteria applied and clarity in the implementation schedule for all parties, and (iii) a transparent and meaningful process, to increase access instead of eliminating products from the market.
- Improve the predictability in the development of regulations to avoid sudden changes in procurement mechanism for originators, as transparency, consistency and predictability are critical to ensure sustainable patient access.
- Amend relevant legislation to enable patient/doctors' access to originators outside the current public hospital procurement system.

iii. National Reimbursement Drug List

- Revise and update the NRDL regularly, either on a rolling basis, or with an increased cycle frequency (at least on an annual basis), with appropriate measures to ensure implementation.
- Allow for simultaneous review of the registration for Marketing Authorisation and NRDL submission and innovative medicines approved by reference/stringent regulatory authorities should be eligible for inclusion in the NRDL upon MA approval, to enable fast patient access.
- Allow for fast-track review and/or NRDL updates supplemented through a decision issued by the MOH.
- Allow experts from patient associations and the pharmaceutical industry to be part of the consultation sessions with MOH and VSS to ensure that decisions to update and supplement the NRDL are made based on complete data and references from global experience.

Special Note: Both PG and IQMEDS Sector committees of EuroCham sincerely appreciate the ongoing support of the Government for facilitating the operations of pharmaceutical companies and ensuring the supply of medicines to Vietnam. On top of that, EuroCham and the European business community highly value the issuance of Resolution No. 12/2021/UBTVQH15 on 30 December 2021 which enables the continued use of Marketing Authorizations until 31 December 2022 for MAs that expire from the effective date of this Resolution until before 31 December 2022. It is clear that this measure should be implemented without the need for companies to wait for guiding regulations or carry out additional admin procedures, which would go against the urgent spirit of the Resolution. We seek the National Assembly and the Government's support in directing and ensuring shared understanding among relevant agencies, for this measure to be implemented urgently and applicable for all medicines (not only those for COVID-19 treatment) to ensure health security in this critical time. This is a significant step toward socio-economic resilience lifting several burdens and difficulties for business which have been created by the prolonged and complex pandemic and surely have strengthened the confidence as well as commitment by foreign enterprises and investors to economic growth in Vietnam.

V. Dispute Resolution

A. Legal Sector Committee

1. Judicial Recourse and Arbitration

When litigating in Vietnam, current practice produces (too many) instances in which final awards passed by foreign or even local (i.e., VIAC) arbitral tribunals get factually overturned. In our experience, formal grounds bear the brunt of these procedural hindrances for enforcement, such as local courts' decision on an arbitral tribunals' lack of jurisdiction. In this environment, a competitive and balanced system of judicial recourse is not always provided and acts as a significant deterrent to the initiation of arbitration proceedings in Vietnam.

- The Supreme People's Court and the Chief Justice could provide more and stricter instructions to lower-level courts to consistently limit court interventions during arbitration proceedings.
- Introduce a right of appeal against first-instance court decisions on jurisdiction or on the validity of an arbitral award.

2. Commercial Mediation

Commercial mediation, a means of commercial dispute settlement, besides commercial arbitration

and court proceedings, has been developing in Vietnam in recent years. It helps to resolve disputes quickly and effectively, save legal costs and maintain cooperative relations. Therefore, it is suggested to continue implementing measures to increase awareness of commercial mediation, develop it and gradually make it preferred mode of alternative dispute resolution.

Mediation mechanism is provided in the EU-Vietnam Free Trade Agreement (EVFTA), as well as the EU-Vietnam Investment Protection Agreement (EVIPA) which will enter into force after ratification by all EU Member States. To comply with EVFTA commitments to mediation, it is suggested to raise awareness and guidance on the implementation and impact of the EVFTA regarding the mediation mechanism so Vietnamese enterprises can apply such agreements properly and effectively.

Development of commercial mediation will be a testament to the development of the judiciary to integrate with the world, make a signal to investors that it is comfortable to do business (time length to resolve negotiations), thereby improve and expand business relations between Vietnamese enterprises and foreign partners.



SPEECH OF AMERICAN CHAMBER OF COMMERCE AT THE ANNUAL VIETNAM BUSINESS FORUM

Thank you for the opportunity to present the American Chamber of Commerce's views on restoring and developing supply chains in the new normal and promoting a sound recovery in Vietnam as we adjust to living safely with the virus. This VBF comes at a time important for both foreign and domestic companies and provides an opportunity to partner to develop an enabling environment that drives innovation and sustainable growth.

AmCham represents more than 650 corporate and 2500 individual business representatives throughout Vietnam, accounting for billions of dollars in foreign investment, tens of thousands of direct employees, hundreds of thousands of indirect employees, and a significant share of Vietnam's exports and tax revenues. AmCham and our member companies are optimistic about prospects for reopening, recovery, and rebound.

Ensure Mobility

We commend recent decisions to facilitate cross-border travel and we encourage additional actions to reduce the burdens on both inbound and outbound international travel by both foreigners and Vietnamese citizens. Permission to enter Vietnam remains challenging for short-term business visitors. Safety is the top priority, but our hope is to see more progress in streamlined procedures for our executives, incoming investors, and technical support teams to maintain operations and facilitate expansion and new investment. In addition, we support the Prime Minister's call to reopen the borders for foreign tourists by the end of March or as soon as possible thereafter, and to announce a roadmap for full reopening of tourism.

Enhance the Investment Climate

The most important factor for a favorable investment climate and maintenance and growth of manufacturing supply chains is a fair, transparent, predictable, and streamlined regulatory environment that values innovation - not only to attract new investment, but also to maintain and grow the investment already here. We will continue to advocate for strengthening of the U.S.-Vietnam trade and investment partnership, including through the Indo Pacific Economic Framework.

Greater transparency and predictability in Vietnam's tax system would strengthen Vietnam's investment climate, particularly avoidance of retroactive rulings and assessments. The need for Advance Price Agreements (APAs) is important as supply chain inputs can cross multiple borders and tax assessment must work overall. The ability to obtain APAs will reduce the time and uncertainty that characterize many tax audits and will help facilitate greater integration of Vietnam-based enterprises into global supply chains. We also encourage Vietnam to seek mutual ratification and implementation of a bilateral tax treaty with the United States and to respect the commitment to avoid double taxation in the interim.

We are thankful that Vietnamese government has taken timely and appropriate actions to support the business community. We particularly appreciate Resolution 43/2022/QH15 of the National Assembly on financial and monetary policies to support socio-economic recovery. Although Vietnam maintained positive economic growth during the pandemic, many small- and medium-sized businesses in hard-hit industries such as tourism, hospitality, food and beverage services, transportation, etc. have either downsized or suspended operations. To support economic recovery, we ask the government to continue the reduction and deferred payment of Corporate Income Tax in 2022 and 2023.

Tax provisions in Vietnam's new rules on e-commerce tax under Circular 80/2021/TT-BTC are problematic. The new rules, introduced earlier this month after more than two years of drafting, address the taxation of e-commerce business of foreign suppliers. There are, however, significant areas that need further clarification to avoid this Circular inadvertently constraining growth in this important sector of the economy. Major issues include: tax registration by foreign suppliers; tax treaty protection for foreign suppliers; tax withholding obligation by banks; and potential double taxation.

AmCham welcomes the implementation of Vietnam's e-invoice requirements as a positive step towards Vietnam's digitalization. Our members are taking steps to implement the new rules established under Decree 123/2020/ND-CP and Circular 78/2021/TTBTC by July 1. There appears, however, to be a difference in implementation between jurisdictions with regards to timing of implementation in authentication vs unauthentication models. Several AmCham members have received communications from local tax authorities requesting they implement before the July 1 deadline, or other additional requirements that cause confusion and concern for businesses. We welcome the government's enthusiasm to implement e-invoicing, but ask for patience to allow companies to integrate the new systems into their processes to meet the July 1 implementation date.

Stability and consistency of the local master plans and guidelines are important for businesses. Changes to the local master plans and guidelines should not cause changes, delays, or any negative impacts on the locations and developments of investment projects.

As Environment, Social, and Governance (ESG) criteria increasingly become global standards, Vietnam needs to have a regulatory environment that facilitates investors meeting such criteria. Increased use of Generally Accepted Accounting Principles will make it easier both for foreign companies to find local partners, as well as for Vietnamese companies to invest or list overseas.

Unlock the Full Potential of the Digital Economy

In today's world, you cannot separate the digital economy from the real economy. Digital transformation significantly reduces costs, provides products and services to a broader range of consumers and businesses, and increases access to newer and bigger markets. Vietnam has already experienced strong growth in e-commerce, fintech, edtech, and the creative economy - and changes in behavior during the pandemic have accelerated that growth. To reach its full potential, Vietnam needs to ensure an enabling regulatory environment. We encourage an open and interoperable regulatory environment that enables access to information, data privacy, protection of intellectual property, cybersecurity, and free, fair, reciprocal trade in digital services, and that conforms with global norms. Our member companies are eager to partner with Vietnamese companies to assist their digital transformations and foster a new generation of tech startups to support Vietnam's goal of the Digital Economy accounting for 25 percent of GDP by 2025.

AmCham is a leading business voice on digital economy policy, including on issues of e-commerce, cybersecurity, data privacy, and digital trade. We thank our partners in the government for joint efforts towards achieving an open, innovative, and secure online environment that fosters commerce. We support the ongoing effort to address the changes and challenges that digital transformation brings. At the same time, our members remain concerned that new regulatory requirements are often not feasible, enforceable, or consistent with international practices.

The balance between protecting citizen's privacy, data stewardship and ensuring critical infrastructure protection is a priority for Vietnam - as demonstrated by the work and focus given to the Decree on Personal Data protection, amending Decree 72 on Management, Provision and Use of Internet Services, Decree 06 on Video Content Streaming, and the Draft Decree of Cyber-Security Administrative Sanctions. However, investment and advanced technology acceleration will be supported by policies that are open, transparent, regionally-focused, high standard, and globally consistent.

Homegrown technology companies have grown rapidly thanks to partnerships on digital infrastructure and finance with the global tech ecosystem. We encourage the expansion of these partnerships by ensuring that regulations do not prevent our working together towards growth. The free flow of data, which allows Vietnamese companies to access global services such as data centers and international finance in the digital payments sector, is critical to continue rapid development of Vietnam's digital economy.

Data protection is a vital component of responsible and sustainable growth of the digital economy and AmCham applauds the government's efforts to start building a data protection policy ecosystem. We encourage a regulatory environment that puts users at the center of new policies, ensuring that Vietnamese consumers continue to have access to global services, while limiting potential restrictions or requirements that would introduce unnecessary costs of doing business for both international and Vietnamese companies alike. Specifically, requirements for data localization of Vietnamese user data and onerous compliance procedures risk limiting access of new services for Vietnamese citizens.

Accelerate e-Government for Efficient and Effective Services to Residents

Modern governments work on the front lines of service delivery and face a challenging fiscal environment. With no room for administrative waste, governments increasingly need rapid access to technologies that simplify processes, deliver massive reductions in administrative costs, and enable innovation to create efficient and effective services to residents.

Cloud computing can play a role in creating better services while facilitating collaboration and data sharing among government agencies. Digital infrastructure transformations can benefit governments and residents by galvanizing innovation, facilitating interagency collaboration, and accelerating the timetable for services to reach constituents. We recommend the Government develop and adopt smart cloud- first policies to accelerate digital transformation through internationally recognized cloud accreditation, compliance, and security mechanisms.

Transition to a Cleaner Energy Future

We applaud Vietnam's progress in developing renewable energy capacity. To meet commitments to build a cleaner energy future made by the Prime Minister at the global Climate Conference in Glasgow, further effort is needed to both encourage technology standards and financial due diligence in energy transition and clean generation, as well as addressing policy and technical challenges faced by green energy. Global manufacturers increasingly demand clean sources of

energy for their operations. Progress on Vietnam's energy transition will create spillover benefits for the broader economy and deepen Vietnam's position in the energy value chain.

Energy policy needs to look at the issue as a whole and from many angles: access to finance, tax policy, use efficiency, public education, carbon emissions, transmission, and storage. Any plan must be open to innovations that are coming daily. Vietnam's geographical location and climate will continue to offer it comparative advantages for solar and wind energy development. Following on the successes already achieved with solar and wind power, to build a resilient energy infrastructure, we recommend that Vietnam explore diversified energy sources going forward, including geothermal, hydrogen, and bio-mass resources, which are given only very small consideration in the current draft of PDP8.

For now, onshore wind has had good success with more than 4GW constructed just within the past year thanks to Feed-in-Tariff policies. We encourage the Government to enact policies that continue supporting this sector - including both support to projects that faced construction delays due to COVID-19 and development of a new auction mechanism that enables further growth. Offshore wind provides great potential with estimates of both fixed bottom and floating capacity at around 600GW. AmCham supports the planned increase of offshore wind in PDP8 to bring economically feasible large-scale offshore wind farms to support development of Vietnam's private sector, international standards, and bankable Purchase Power Agreements attracting private investments. These offshore wind farms should be developed with green storage units to support transiting to a zero-carbon future. As Vietnam finalizes the Solar FIT-3, we encourage it to carefully consider meaningful criteria based on solar module energy yield performance to maintain and fully utilize its position as a global leader in manufacturing of thin-film solar panels and enable greater use of such panels in Vietnam. We support PDP8's use of direct power purchase and behind-the-grid for wind and solar, as well as a future DPPA that will allow the private sector to meet global zero-carbon policies when investing in Vietnam.

But the success of any energy generation project is access to market. Transmission can't be overlooked – curtailment of energy is a wasted investment. Transmission and grid build out should be open to private investment as Resolution 55 suggests, and can be done without sacrificing national security. Our Energy Committee has worked with the government on various ways other countries have built transmission systems to move clean energy to markets successfully.

Gas can serve as an important transition fuel, and help Vietnam get away as fast as possible from coal and be a bridge to clean energy. The transition to clean energy will take time and in the nearer term, the development of off-shore gas-to-power projects, LNG, Green LNG, and LNG/Hydrogen projects have the potential to provide both economic and environmental benefits. Tax policy and subsidies should be compared among fossil fuels and development of some of Vietnam's offshore gas reserved offshore gas looked at more carefully if tax policy is changed. LNG technologies also help reduce CO2 emissions relative to other fossil fuels and can increase renewable energy penetration. Furthermore, LNG technologies can offer lower electricity costs and provide greater price stability to support economic growth, and be engineered to be ready for hydrogen fuel in the not-so-distant future. Further, the importance of cleaner reliability (LNG to power) should not be used in such quantity to crowd out getting to the net-zero future. The build out of renewable capacity taking place over the coming decades will include innovations on storage and renewables overall and therefore strengthen the entire clean energy generation system.

Worldwide, energy storage is considered a 'force multiplier' for renewable energy, as it allows for the integration of solar, wind, LNG to hydrogen, and distributed energy resources while increasing grid stability. We strongly believe that energy storage could address the current challenges with renewable integration in Vietnam such as grid curtailment, intermittency, and non-dispatchability.

A variety of energy storage mechanisms, including pumped hydro, saltwater iron, and offshore wind/hydrogen, offer great opportunity and Vietnam should seek to accelerate deployment of new battery technologies. Batteries can also assist with transmission bottlenecks and with appropriate system planning can be used to reduce the investment needed in transmission lines. Equipped with the right mechanism, battery storage will be a critical enabler for a high Renewable Energy future of Vietnam which is not only self-sufficient and sustainable but also secure, reliable and stable.

Invest in Infrastructure to Drive Sustainable Growth

The pandemic has highlighted the importance of infrastructure writ large, particularly transportation and energy infrastructure, to maintaining economic growth and resilient supply chains. Our members value the investments Vietnam is making to improve transportation infrastructure, including ports, airports, roads, and bridges. We recommend additional measures to streamline customs clearance and other port logistics procedures, as well as consideration of more flexible entry procedures for air cargo personnel. Projects that have been delayed due to COVID should be given some consideration, such as tolling the FiT deadline to match the period of COVID-caused delay. This is important to show future investors how Vietnam supports those investors who have, so far, done what they can to meet their commitments.

Infrastructure and energy are vital to securing sustainable growth in Vietnam. Likewise, we reiterate the urgent need to address the poor air quality in large cities, and the environmental degradation caused by poor waste management. Clean air, clean water, and a clean environment can pay benefits for incoming investment, trade, and travel alike. In addition, clean product development can bring new jobs and investment to Vietnam.

Develop a Globally Competitive Workforce

AmCham and our member companies are committed to partnering with the Vietnamese government, educational institutions, and the private sector to address skills gaps in English, critical thinking, soft skills, and tech expertise to develop a globally competitive workforce. We very much support the upgrading of vocational training programs as key to skilled labor needs. We want to ensure Vietnam takes full advantage of its demographic dividend and doesn't get stuck in a low end of the middle-income trap, but rather is able to move up the economic development value chain. We would welcome establishment of an international educational institution advisory group with the Ministry of Education and Training, as well as a review of regulations to support greater digitalization and access to education to enable life-long learning. We encourage streamlining of work permit requirements and elimination of entry permits to ensure that Vietnam can continue to attract and retain top talent from abroad.

Partner Through the Pandemic

AmCham was an early and active advocate for U.S. vaccine donations to Vietnam. We are grateful for and proud of the U.S. Government's donations of over 24 million vaccines to date. AmCham member companies supplied much of the vaccines and medical equipment that supported Vietnam's COVID management. Our providers early on volunteered to partner with the Government for testing and vaccination clinics and now are providing testing as well as healthcare treatment for COVID patients, including through telemedicine support for mild cases. Our members have been generous donors to support Vietnam's COVID response, relief, and recovery. We are deeply grateful for Vietnam's impressive vaccine rollout which is enabling the rebound now underway. As boosters increasingly become a necessity for immunity, our members urge transparency and predictability of the booster vaccine rollout to ensure continuity of operations and resilient, sustainable economic growth. The availability of vaccines for children under 12 will

be an important development to support broader immunization, improve border crossings for families, and enable a return to in-person schooling.

Promote Health and Wellness

Our members in the Healthcare sector are committed to helping meet the increased demand for quality healthcare from Vietnamese residents while also developing the country as a potential destination for medical tourism. We encourage streamlined registration processes and harmonization with regional and global standards to ensure continued access to life-saving and top-quality healthcare products - including innovative pharmaceuticals, medical devices, and consumer nutrition products. A clear plan for COVID-19 vaccine supply continuity (for boosters and for children under 12) and advanced purchase of novel antiviral treatments is critical to ensure Vietnam is prepared for future stages of the pandemic. Our members would welcome the opportunity to share best practices to support the creation of an independent industry regulatory oversight body for Hospitals and Clinics. We encourage extending coverage to licensed retail pharmacies to dispense medicines subsidized by Social Health Insurance to enhance patient access and advance the goal of Universal Health Coverage here. Streamlining tech transfer systems and policies is also of importance to our members and we hope to work with the government on this in the new year. An example is COVID-19 treatment, where two of our member companies have been actively supporting the Ministry of Health in tech transfer through voluntary licensing to make the treatments available and affordable for patient access.

We encourage the revision of Decree 54/2017/ND-CP guiding the implementation of Pharmacy Law to allow foreign-invested companies to continue participating in warehousing and transportation of pharmaceutical products, providing much-needed assistance in meeting the increasing demands of hospitals and patients during the pandemic. We also support the revisions to Circular 32/2018/TT-BYT to ensure appropriate amendments are made to the registration and marketing authorization (MA) of new and existing products. This will ensure continuity of supply of critical medicines and support enhancement of the pharmaceutical sector in line with Decision 1661/QĐ-TTg.

We applaud the coordinated efforts and steadfast actions of the National Assembly and the Government to ensure health security for citizens, especially in the context of COVID-19, via the issuance of Resolution 12/2021/UBTVQH15 allowing current Marketing Authorizations that expire on and before December 31, 2022 to continue to be used until the end of 2022 (Article 6.5). This is a critical temporary solution to allow time to finalized sustainable regulatory solutions within the revisions to Decree 32/2018/TT-BYT and the Pharma Law. According to the Resolution, it is understood that the Article 6.5 is effective and implementable from the date the Resolution was signed, and that companies are not required to carry out any additional administrative procedure and/or wait for guiding regulations. We respectfully seek your support to ask the National Assembly and the Government to implement Resolution 12 in general and Article 6.5 in particular in a coordinated and effective manner among all relevant agencies (including but not limited to customs, services of health, and healthcare establishments), in order to facilitate the supply and circulation of medicines in the pandemic context, in line with the urgent spirit of the Resolution.

We also encourage revision of Circular 30/2018/TT-BYT dated October 30, 2018 regarding Promulgation of list of modern medicines, biologicals, radiopharmaceuticals and tracers covered by health insurance, insurance coverage ratio and payment conditions thereof as soon as possible to allow new innovative medicines to be enlisted in the National Reimbursement Drug List to provide eligible patients sustainable access to breakthrough treatments and support the Ministry

of Health in maintaining routine healthcare, which is more important than ever during the pandemic.

Reform Capital Markets to Drive Investment

We encourage financial sector reforms that will lead to “Emerging Market” vs “Frontier Market” status for Vietnam’s capital market in the assessment of MSCI and FTSE. In particular, we encourage:

- Changes on foreign ownership limits to allow more foreign holdings in listed and unlisted companies, and banks that are currently limited to 30%;
- Adopting the Central Counterparty model to make cash securities transactions consistent with global practices (removing prefunding requirements, respecting Delivery Versus Payment principle in settlement); and
- Enabling enhanced information flow to foreign investors: stock exchanges should require listed company disclosure be bilingual (Vietnamese & English); regulations and stock market information should also be bilingual and detailed.

We also encourage reforms to attain an investment grade sovereign rating for Vietnam. While the government’s policy flexibility and the overall resilience of the economy are positive factors, we believe measures are required to establish a track record of reforms to strengthen the supervisory/regulatory regime and to reduce systemic risks in the banking/financial sector.

Promote fiscal confidence through insurance awareness and penetration

The market is currently providing about 850 non-life insurance and 450 life insurance products. By the end of 2020, there were around 10 million people participating in some form of life insurance nationwide and around 4 million people participating in short-term medical and health insurance. The pandemic has made this gap even more relevant to be addressed. AmCham has actively participated in the drafting process for Vietnam’s new Insurance Law and we look forward to working with the Ministry of Finance to further develop this sector.

Sustainable Development to Boost Economic Recovery

AmCham members prioritize sustainability through their commitment to ESG in their business practices as well as their corporate social responsibility activities. Continued actions by both the public and private sectors will help ensure sustainable growth, and a higher quality of life for the people of Vietnam.

AmCham and our member companies are optimistic about the future in Vietnam. We believe that substantive progress on the issues raised above will enable a sound and resilient recovery and support Vietnam’s aspirations to propel itself to the next sphere of economic competitiveness. As major investors here, American companies are invested in Vietnam’s continued success.

Our members place great importance on engagement with the government and we believe that robust dialogue between the government and the private sector helps address challenges and lead to optimal public policy outcomes. We wish good health, happiness, and success to the leaders, distinguished guests, and our members participating in today’s Vietnam Business Forum.



**SPEECH OF KOREA CHAMBER OF COMMERCE IN VIETNAM
AT ANNUAL VIETNAM BUSINESS FORUM**

*Presented by
Mr. Kim Han-Yong
Chairman*

Ladies and Gentlemen!

I am Kim Han-yong - Chairman of Kocham Vietnam. I would like to take this opportunity to express my deep gratitude to Mr. Prime Minister and the leaders of the Government of Vietnam for providing active support to our Korean businesses despite the very challenging situation due to the complicated development of Covid-19 recently. Today, I would like to present 3 main issues.

- **Regarding tax**

The first agenda is related to tax.

Vietnam is making important achievements in regaining growth momentum thanks to the increase in trade turnover and rapid economic recovery despite the difficult circumstances caused by the pandemic domestically and internationally.

To accelerate economic growth and investment revitalization, it is necessary to provide an environment that meets global standards in which companies can invest and quickly respond to changes in circumstances.

Recently, there have been some improvements in regulations, such as the revised Law on Tax Administration and the amendment of the Agreement for the Avoidance of Double Taxation between Vietnam and South Korea. In this regard, I respectfully request that the Government will provide clear guidelines to ensure that these regulations are consistently applied nationwide, while also providing more seminars to disseminate these changes to Korean businesses operating in Vietnam.

We hope this VBF forum will be an opportunity for Vietnam to recover and become an even more attractive investment destination through an overall review of the tariff system as well as the investment environment of related enterprises, and at the same time review and implement improvement measures.

- **Regarding energy**

The second agenda is related to energy. Since the UN Climate Change Conference COP26 last year, discussions on sustainable and eco-friendly energy development are being conducted very actively in Vietnam. I learned that Vietnam is also opening up various possibilities regarding new and renewable energy, LNG, hydrogen, and small reactors, in addition to existing thermal power plants. Currently, many Korean energy enterprises are promoting the construction of LNG power plants in various regions, including Quang Tri in the central region, as well as in the northern and southern regions of Vietnam. Moreover, Korea has enacted the world's first "hydrogen economic law" and owns the world's best hydrogen energy technology. Vietnam is also currently considering

an investment in various fields such as using LNG facilities for hydrogen production and investing in hydrogen gas power generation projects, we hope that this will be an opportunity for cooperation to help both sides develop together in the field of energy.

- **Regarding trade**

Finally, I would like to mention a trade-related agenda. Entering 2022, the Regional Comprehensive Economic Partnership Agreement (RCEP), the world's largest FTA including Vietnam and South Korea, has officially come into effect. After RCEP comes into effect, Vietnam will rise to become the center of Southeast Asia and Oceania trade and trade relations with Vietnam, an important economic partner of South Korea, will be strengthened even more in the future.

However, it is unfortunate that companies cannot utilize the RCEP, which came into effect on January 1st of this year. We hope that the practical procedures such as the form of the certificate of origin, the issuance method, the procedure for applying the RCEP import tax rate will be implemented soon.

Finally, Korea officially started the process of preparing to join the CPTPP in December last year and is reviewing the details. We look forward to receiving active support from the member countries present here today, including Vietnam, so that Korea can officially join the CPTPP.

I would like to end my proposal here.

Thank you very much for your time.



POSITION PAPER OF KOREA CHAMBER OF COMMERCE IN VIETNAM AT ANNUAL VIETNAM BUSINESS FORUM

I. REGARDING TAX

1. Regarding the time to apply the APA of the Decree on the implementation of the Law on Tax Administration

We believe that Vietnam is currently an attractive investment destination for many countries around the world in the role of a global production base possessing a high-quality value chain, and in the future should continue to maintain and further expand a business-friendly investment environment.

We also hope that the revision of the decrees guiding the Tax Administration Law that Vietnam is currently carrying out will help solve the problems of many businesses investing in Vietnam. The thing is, if the application period of APA is delayed like the plan to amend the decree this time, businesses investing in Vietnam will be in a situation where there is no guarantee of the approval period even after applying for APA, so there will be concerns about the issue of stable investment expansion.

To further enhance investment attraction in Vietnam, the amendment of the controversial APA at the time of application should be reserved and implemented by the previous regulations, but through closer scrutiny, to look for a better alternative than meets international standards or adopting an APA can provide a decision-making mechanism through exchange between two countries that can help improve the investment environment in Vietnam. We would like to urge the Government to review these issues and reflect them in the final revision of the Decree amending the implementation of the Law on Tax Administration.

2. Regarding customs procedures

2.1. Implementation of Fast Track to confirm HS codes for Korean enterprises

The most difficult part for Korean enterprises in customs clearance for imports and exports is the judgment on HS CODE and the difference of opinion with the competent customs office. In particular, Korean enterprises are facing difficulties in the following specific cases.

- The HS code of customs classification is classified as undisclosed, non-referenced information.
- Select a single HS code when it occurs that one product is classified into multiple HS codes.
- Guide the procedures and documents for inquiring HS CODE to customs

We respectfully request the Government to allow Kotra and Ho Chi Minh City Customs to implement the fast track to solve the above difficulties related to HS codes.

2.2. Regarding Anti-Dumping Tax, Safeguard Tax, and Tax Refund

- For products subject to trade protection measures, a Certificate of Origin must be submitted at the time of importation. If the certificate of origin is not submitted at the time of import, it will be subject to anti-dumping or safeguard duty.

- However, the problem is, in case the enterprise fails to submit the certificate of origin at the time of import, but then additionally submits, the amount of anti-dumping tax or safeguard tax already paid at the time of importation will not be refunded.
- In fact, there was one case reported to KOTRA where anti-dumping duties on aluminum products made in China were levied on products imported from Korea. Therefore, we propose to develop a legal document to be able to refund anti-dumping tax or safeguard tax paid when the certificate of origin has not been submitted at the time of importation but has subsequently been additionally submitted for products subject to trade protection measures.

2.3.Request to share information on cases related to origin verification under the EU-Vietnam FTA

Since signing an FTA with the EU in 2010, Korea has regularly received origin verification requests from EU customs. 2022 is the 3rd year since the EV FTA was signed, so it is expected that the number of cases requiring origin verification will increase similar to Korea. Since many Korean companies are exporting textiles and electronic products to the EU, so that Korean businesses can prepare in advance in case EU customs require verification, we would like to ask to be shared information about EU origin verification cases.

3. Determination of retroactive tax on imported goods of contractors and subcontractors to build factories and offices of EPE enterprises

The Law on Import-Export Tax and Value-Added Tax stipulates that customs duties and VAT are not levied on goods imported from abroad into the non-tariff zone. Accordingly, the Ministry of Finance and the General Department of Taxation have recognized written tax exemption for construction materials imported by 'contractors' or 'subcontractors' to build factories of EPE companies.

Legal grounds for tax exemption for export processing enterprises: Clause 2, Article 2 and Section C, Clause 4, Article 2 of the Law on Import-Export Tax No. 107/2016/QH13 and Clause 20, Article 5 of the Law on Value-Added Tax No. 13/2008/QH12.

Official letter recognizing tax exemption for import of construction materials imported under sub-contracts or sub-contractors of EPE enterprises: 12366/BTC-TCHQ (Ministry of Finance), 271/BTC-TCHQ (Ministry of Finance), 1697/BTC-TCHQ (Ministry of Finance)), 5832/TCHQ-TXNK (General Department of Customs), 6010/TCHQ- TXNK (General Department of Customs), 768/TCHQ-TXNK (General Department of Customs), etc.

However, in August 2021, the customs authority decided to retroactively impose a tax on subcontractors through Official Letter No. 4199/TCHQ-TXNK. But this retroactive tax imposition is not justified, contrary to the previously issued documents.

Accordingly, it is requested to notify that there will be no tax arrears for tax-free imported goods that fully meet the requirements according to the official dispatch of the Ministry of Finance and the General Department of Customs issued before August 2021.

4. Regarding the arrears of preferential corporate income tax for Korean enterprises investing in Tien Son industrial park and Que Vo industrial park expansion in Bac Ninh province.

Since June 2003, 117 companies have moved into the industrial park because of the belief in the preferential corporate tax policy for companies moving into the industrial complex (70% of them are Korean companies).

FDI companies have been granted investment licenses by the Industrial Cluster Management Board of Bac Ninh province when registering to invest in the area. On the content, it is clearly stated that “the project is located in an industrial park”.

According to the investment license and investment certificate, the company has been recognized as a company operating in the industrial park and is determined to be the subject of incentives.

In May 2016, the company received an official dispatch from the Industrial Park Management Board of Bac Ninh province. This official letter states that the complex area of the expanded Tien Son industrial park and the Que Vo industrial park of Bac Ninh province has not been completed yet, therefore request arrears for the corporate income tax incentives that the enterprise has previously recognized.

According to this official letter, the Tax Department of Bac Ninh province is carrying out procedures to send notices to each company to request additional declaration of previous corporate tax incentives and urge tax payment.

Status of affected businesses

Affected businesses:

- 117 companies located in Tien Son Industrial Park, Que Vo Industrial Complex 2, and Que Vo Industrial Park Development Zone 3 on Zone 2.
- Amount of damage: About 182 billion VND, after calculating and subtracting the corporate income tax incentives.
- The amount of late payment of corporate tax: about 118 billion VND (arrears)
- Total: about 300 billion VND

Details of corporate tax incentives will be determined depending on whether the area meets the conditions to be recognized as an industrial park or not.

Accordingly, we would like the People's Committee of Bac Ninh province to guide and approve the procedures for establishing industrial clusters in the above areas and to allow companies located in the above industrial zones to be applied the tax incentives while waiting for the completion of procedures for the establishment of the industrial cluster.

Most Korean businesses enter Vietnam with the desire to achieve the goal of cooperation and growth through investment in Vietnam, and they all agree that it is natural to receive corporate tax incentives when moving into the industrial zone.

Vietnam needs to create an environment as a stable investment destination and needs to build a foundation for joint development between Korea and Vietnam.

If the above case happens, it will affect the intention to invest in Vietnam of Korean companies that are considering to invest in Vietnam, and this will adversely affect the investment promotion in Vietnam of Korean enterprises in the future.

5. Taxation and Tax Investigation Based on the Principle of Trust

Last year, in 2021, Vietnam went through a very difficult period, although human casualties have been minimized through a high-intensity lockdown that is unprecedented anywhere else in the world, it appears that many businesses are going bankrupt or experiencing economic difficulties.

As Vietnam's coronavirus subsides, optimism for an economic rebound prevails, but the recent excessive taxation and tax investigation by the Vietnamese tax authorities have made Korean investors as well as foreign investors in general very worried and concerned.

Recently, there has been a case where the tax authorities of Vietnam taxed after transactions that 10 years ago were not taxed by law. For example, 10 years ago, a Korean enterprise bought back shares of a business incorporated in Hong Kong from a Japanese enterprise. This Hong Kong-based company holds 70% of the shares of a Vietnamese enterprise, and the tax authorities have imposed a very high capital transfer tax on Vietnamese enterprise for the transferred capital of foreign enterprise(the one based in Hong Kong). Although the General Department of Taxation has made an official notice stating that the Vietnamese tax authority does not have the right to tax and the above subjects are not taxed, the tax authority still opposed the above view and proceeded to tax on the foreign transactions like the one above.

Taxation contrary to the principle of trust of the Vietnamese tax authorities may destabilize foreign investors and become an obstacle to further investment in the future, which can also go against the Vietnamese economy and national interests.

We would like the above issues to be resolved as soon as possible through the wise leadership of the Vietnamese Government and tax authorities and hope that foreign investors will be able to contribute to Vietnam's economy and national interest by making their investments in Vietnam with confidence.

II. REGARDING ENERGY

6. Regarding the redeployment of the nuclear power plant project

To create momentum for Vietnam's sustainable economic growth, a stable power supply is crucial. We know that the Ministry of Industry and Trade of Vietnam is still preparing for PDP 8 (2021-2030) to implement power supply according to medium and long-term vision. Accordingly, we know that shortly, Vietnam will accelerate the expansion of new and renewable energy projects including solar power, and Korean businesses also agree with the direction of the electricity policy of the Vietnamese government.

However, to support the universal expansion of renewable energy sources, it is necessary not only to expand the electricity transmission network but also to have a base power source to ensure stable and uninterrupted power production. In this regard, in the medium and long-term vision, there is a need for an in-depth assessment of the need to redeploy Vietnam's nuclear power generation projects, which had previously been paused for discussion.

Korea has a lot of experience and know-how in nuclear power production and exports abroad, so Korea can cooperate with the Vietnamese government to aim for a stable power supply in the future.

7. LNG to Power project (it is recommended to keep the progress of Hai Lang project phase 1)

Korean companies, including KOGAS, are interested in LNG power generation projects, especially many Korean enterprises (Korea Gas Corporation, South Power, Hanwha Energy) are participating in the Hai Lang project phase. 1 in Quang Tri province, which is expected to start commercial exploitation in the period 2026 -2027.

However, the project progress that was approved in the PDP 7 (2026 ~ 2027) has now been converted to the draft PDP 8, which states that it will be carried out after 2040, therefore, investors, as well as provincial authorities, are facing quite serious problems. We hope that the Vietnamese government will pay attention and create conditions for the project to be implemented as originally planned.

We understand that the Hai Lang project is located quite far from the area with electricity demand in the North or the South, so the Ministry of Industry and Trade is concerned about the cost of electricity transmission. However, the Hai Lang phase 1 project (1.5GW) has points that are very suitable for Vietnam's development interests such as: a) does not require expansion of the existing 500 kV line, b) has the optimal location to put the LNG production model in, c) Investor's capacity, d) High level of enterprise's contribution to the balanced development of the country.

a) Continue to use the existing national grid (500 kV) without further expansion

According to the Pre-Feasibility project implemented by the Institute of Energy, the Hai Lang phase 1 (1.5GW) project can operate normally without expanding the existing power transmission network.

In general, the loss during power transmission on the 500 kV grid is not significant, the loss rate is about 0.1% from Quang Tri province to the North. This is a reasonable loss that can be fully compensated by the introduction of the LNG system with economic and competitive advantages due to favorable geographical conditions.

b) Optimal location for LNG development

In terms of seaport equipment and operating costs of LNG carriers necessary for the implementation of LNG project development, the land area for the Hai Lang project is economical and stable because this area ensures the deep water level necessary for the porting of LNG carriers, which is quite rare in Vietnam.

In Southern/Northern Vietnam, the water depth of most coastal areas is low, so large-scale dredging or establishment of floating LNG terminals (FSRU), construction of long undersea pipelines for LNG carriers to access is required.

c) Investor's ability to execute the project in a timely and economically efficient manner

KOGAS can provide LNG in the most economical way to Vietnam thanks to its LNG purchasing power equivalent to 9% of the total global LNG trade (35 million tons per year).

KOSPO has the largest number of LNG power plants in Korea, so KOSPO has excellent LNG power generation capacity, related operating technology capability, and excellent key equipment negotiation capacity.

d) Contributing to the equal development of the whole country

Contributing to the balanced development of provinces in Central Vietnam and revitalizing new industrial complexes in the country (Southeastern economic zone in Quang Tri province and Chan May Lang Co area in Hue city, etc.)

Can transmit electricity to northern or southern regions, helping to provide stable electricity in the country

Although using fossil fuel sources, LNG power generation is the optimal solution to help achieve the goal of net-zero emissions (Net Zero) with a stable baseload in the process of replacing coal-fired power sources, at the same time, the Hai Lang project can comply with the current schedule of PDP 7.

We would like to note that, if in PDP 8 it is announced that the plan is to be rolled back beyond 2030, the project development may become practically impossible, for example, it will be difficult to coordinate with finance, construction, and equipment companies that are intending to participate in the Hai Lang project.

8. New Hydrogen and LNG production project

- In February 2020, Korea enacted the world's first hydrogen economy law ("Hydrogen Economy Promotion and Hydrogen Safety Management Act") and officially embarked on an effort to accelerate the growth of the hydrogen economy. As the authority in charge of the distribution of Hydrogen, we KOGAS saw it as the next-generation growth engine and started making bold investments.

※ Supply of hydrogen through the use of LNG facilities and pipeline networks; producing hydrogen and trading in vehicle chargers; hydrogen fuel cell manufacturing business, importing green hydrogen overseas, etc.)

- KOGAS is also interested in linking green hydrogen production using new and renewable energy with the LNG power generation business in Vietnam.

※ We believe that hybrid hydrogen + LNG power generation using abundant new and renewable resources such as wind power and solar power in central Vietnam, and the ability to export hydrogen, are among the most important factors, and valuable contents which should be considered.

- KOGAS is implementing a variety of projects using LNG refrigeration in Korea, and we also plan to research and apply the LNG Power project in Vietnam.

※ Businesses using cold LNG: Smart Cold Platform (agricultural and aquatic product preservation/distribution - a project in cooperation with the Vietnamese Government), Datacenter, vaccine storage/distribution, etc.

III. REGARDING TRADE

9. Regarding the issue of money transfer to increase capital

In case of changing the contents of the Enterprise Registration Certificate (ERC), Clause 2, Article 31 of the Law on Enterprises of Vietnam stipulates: "Enterprises are responsible for notifying changes to business registration contents within 10 days from the date of the change.". At the same time, Article 24, Decree No. 50/2016/ND-CP on sanctioning of administrative violations in the field of investment planning stipulates a fine of between 10 million VND to 15 million VND for violations of regulations on the declaration of business registration documents.

It must be affirmed that in the relevant legal documents there is no clear regulation, but based on this, the competent authority (DPI) is currently understanding as "First to remit the full capital, then within 10 days, the Certificate of Business Registration must be changed.". Thus, according to the provisions of Vietnamese law, there will be several competent regulatory agencies that require the submission of 'documents of the bank's certification to prove that the charter capital has been fully paid' when applying for an ERC, and there will also be some authority to amend the ERC without bank confirmation.

In the case of applying for a capital increase, there will be a disagreement between the ERC issuing authority and the bank on whether it is possible to implement "remit first, amend later" or "amend first, remit later". Regardless of the relevant laws and regulations mentioned above, banks often have clear regulations that: The enterprise must first apply for an amendment to the ERC that includes a capital increase to be approved to transfer money to the capital account(eg. Shinhan Bank Vietnam), and this regulation is still being strictly applied. We are continuing to discuss with the bank whether to apply for the ERC amendment first or remit the capital first in the context that there are no specific implementation instructions. We think that the bank will still hold the view that it is necessary to submit all relevant documents first because the nature of the case is to conduct foreign exchange transactions.

However, if the ERC adjustment dossier is made before the money is transferred, in principle, the company can be fined from VND 10,000,000 to VND 15,000,000 (Article 24 Decree 50/2016/ND-CP on June 1st, 2016).

Currently, due to the difference of opinion, foreign-invested companies are choosing the method of raising capital: 1) depositing money in Korea (money will be kept in banks)), 2) applying for amendment and applying for an ERC/IRC, 3) only then will the bank approve the transfer of capital to the respective account and the enterprise can withdraw capital. As a result, due to the difference in the implementation instructions of the bank and the DPI, the difference in-licenses and procedures, the time to apply for a capital increase is prolonged, leading to some cases where enterprises do not have enough working capital.

For businesses, it is most advantageous if there is no regulation on the order in which money transfer procedures and license modifications are made in the process of raising capital, or if it is regulated, it is also necessary to be clear about the before-after process.

If possible, remittance should be allowed first and then amend later. In case it is necessary to increase capital, it is necessary to allow the simultaneous implementation of the money transfer step so that the enterprise can use the capital immediately, thus creating favorable conditions for the enterprise to immediately stabilize its operation. It should be improved so that the IRC/ERC amendment related to capital increase is the responsibility of the enterprise and they are required to do it after the amendment has been made.

In addition, consideration should be given to the process of applying for notarization of documents abroad and the time it takes to send documents to allow for a longer time to apply for amendments. (According to the current Law on Enterprise, if we consider the notarization process abroad, in fact, many cases cannot be handled within 10 days.)

10. Raise the basic income of workers through increased employment opportunities

Due to the impact of the Covid pandemic, many workers have returned to their hometown, then again it is the end of the year and the Lunar New Year holiday, so it has greatly affected the return of employees to the business.

This is currently hurting the increase in employment and the recovery in consumption, which are essential for an economic recovery.

The Korean business community is very hopeful for the return of workers and in the immediate future, the government also needs to actively support this. It is necessary to pursue policies that actively attract workers back to the workplace with incentives in recruitment, such as exemption from social insurance premiums for employees who return to work.

POSITION PAPER OF VBF ASSOCIATE CHAMBERS

*Prepared by
VBF Associate Chambers*

The Associate Members of the Vietnam Business Forum (“VBF”) consist of the Singapore Business Group, the Australian Chamber of Commerce, Swiss Business Association, the Council of Taiwanese Chambers of Commerce in Vietnam, the Thai Chamber of Commerce and Industry in Vietnam, the Hanoi Business Association, the Indian Business Chamber in Vietnam, the Hong Kong Business Association, and Canadian Chamber of Commerce in Vietnam.

We appreciate the Government's great effort, and making of difficult decisions, in managing the pandemic. We agree with the approach of "living with COVID" and the safe and gradual re-opening of the economy. On one hand, it is important to protect the population and public health (with the mass deployment of vaccines, masking requirements, to mobility restrictions when really needed); on the other hand, it is also essential for the economy to grow, for people to earn income, and for societal activities to continue.

We have put together a list of items that we believe will help attract investments into Vietnam, create a healthy and vibrant business environment, and to support the development of the supply chain in Vietnam.

1. Business Support and Investment Incentives

It is encouraging that the Prime Minister and Government has policies and regulations that help with softening the impact of the economic difficulties caused by the pandemic and safety measures, as well as incentives to attract desired investments (e.g., large scale or high-technology investments).

These include the following policies and regulations:

- **Decree 57/2021/ND-CP** of the Government dated 4 June 2021 supplementing Decree 218/2013/ND-CP on CIT incentives for businesses involved in the supporting industry ("**Decree 57**"). The main highlight of Decree 57 is to increase incentives for eligible manufacturers and increase processing and manufacturing industries in the local economy. Eligible businesses shall enjoy a corporate income tax ("**CIT**") rate of 10%, plus a tax holiday, followed by a reduced CIT by 50% following the timeline and conditions set out under such Decree 57.
- **Resolution 68/2021/NQ-CP** of the Government dated 1 July 2021 and its guiding document, Decision 23/2021/QD-TTg dated 7 July 2021 on certain policies to support employees and employers affected by COVID-19 Pandemic ("**Resolution 68**"). Resolution 68 introduced financial incentives for employers and employees such as reduction in insurance premiums for occupational accidents and diseases, support packages for employees on suspension of employment contracts, unpaid leave or having their employment contracts ceased or terminated, loan policy for employers for payment of employment suspension and production recovery. Regarding such loan policy, employers can access short-term loans at a 0% rate. To access such loan policy, businesses should not have any bad debt. The maximum loan amount per employee per month should not exceed the regional minimum wage for each employee and the total amount does not exceed by more than three months.
- **Decision No. 27/2021/QD-TTg** of the Prime Minister dated 25 September 2021 on reducing land rent by 30% for those affected by the pandemic. Eligible parties include businesses, households, and individuals who directly lease land from the State or are under contract with

the relevant government agency with annual land rental payments. Those who are already enjoying another rent reduction incentive, shall enjoy the 30% reduction upon expiry of such rent reduction period.

- **Resolution 116/2021/NQ-CP** of the Government dated 24 September 2021 on reducing contribution rates to the unemployment insurance (UI) fund ("**Resolution 116**"). According to this Resolution 116, the reduction is 0% from the standard 1% of the monthly wage fund for employees participating in unemployment insurance.
- **Resolution 406/NQ-UBTVQH15** of the Standing Committee of National Assembly dated 19 October 2021 on promulgation of certain measures for supporting businesses and residents to ease impact of COVID-19 pandemic ("**Resolution 406**"). Under Resolution 406, there is an incentive of a 30% CIT cut for businesses for the fiscal year 2021 that applies to businesses having a turnover of not greater than VND 200 billion in 2021 and a decrease in revenue in 2021 compared to the one in 2019.
- **Decision 29/2021/QĐ-TTg** of the Prime Minister dated 6 October 2021 prescribing special investment incentives ("**Decision 29**"). Decision 29 provides regulations on levels, duration and conditions for application of special investment incentives to investment projects as prescribed under Article 20.2 of the Law on Investment. Depending on the level of satisfaction of conditions for such investment incentives, investment project shall be entitled to certain investment incentives in corporate income tax rates, corporate income tax exemption and reduction, and land and water surface rent.

However, it is equally (if not more) important to ensure that such support and incentives are actually implemented.

There are cases where foreign investors applied for the grant of the investment incentives provided by law, the competent authorities hesitated to grant those incentives even to the leading companies in the industry because those authorities became overly cautious as to recognizing the fulfilment of the conditions to enjoy the applicable incentives.

There are FIEs that applied for the loan package to pay employment ceasing wage under Resolution 68 that are required by the Bank for Social Policies to provide many additional documents together with the required documents under Resolution 68 and its guiding document. Without the additional documents, the Bank for Social Policies will not approve for the loan. Such documents include:

- wet-ink signed copy of the mutual agreements on applying work ceasing wage rate between the employer and all the employees. There are no requirements under the current laws for such mutual agreements in this case. Moreover, collecting those signed copies during the pandemic period is not an easy task, especially for large-scale enterprises;
- decision, approval regarding the loan not just from the direct mother company/ investor but also from the higher layer of owner/ ultimate owner.

We recommend the following:

- If the laws and regulations provide an incentive for investors, the laws and regulations must clearly describe and elaborate on the conditions to grant such an incentive so that the competent authorities will not hesitate to grant the incentive.
- The incentives granted and/or lawful status of the investors shall not be deprived retroactively as well as in future during the period of the operation term of the enterprises or the period provided by the law on the grounds of changes in laws and regulations or policies after the grant, and the investors shall continue to enjoy them in accordance with the conditions at the time when the grant was given.

2. Real Estate

There continues to be strong interest and investment into the real estate sector - from commercial use, and residential apartments and condotels, to logistics and industrial parks.

Access to land

Access to land, and procedures and process to clear land remains challenging, for investors. We advocate for continued efforts to improve the transparency in the process for which land can be obtained by developers.

Warehousing / logistics

There should also be more certainty in policy and law that warehousing and logistics investment and business activities can be carried out within industrial zones. Warehousing activities (or warehouse services) as mentioned above mean the storage of goods for hire, and, in connection with this operation, may include the loading, packing, sorting, stacking, wrapping, and delivery of those goods. Another type of warehouse is fulfillment centers, a location from which a third-party logistics provider fulfills customer orders for e-commerce retailers. A fulfillment center exists to get online orders to customers in a timely fashion and relieve e-commerce companies of managing this logistical process.

Due to the growth of the sectors of logistics and e-commerce, and the shift of production to Vietnam, investments into warehouse and fulfillment centers to support such sectors are also growing, and one of the challenges that the investors are facing is finding the appropriate sites for such businesses. For example, land/ site (whether inside or outside industrial zones) could be rezoned for such purposes.

Real estate business

With the issuance of the new Decree 02/2022/ND-CP dated 6 January 2022 detailing the implementation of a number of articles of Law on Real Estate Business (which will be effective as of 1 March 2022) ("**Decree 02**"), there is more guidance on certain legal requirements applicable to the investor or the investment project when investing into the real estate business. In particular, the decree provides regulations on the conditions for organizations and individuals to conduct the real estate business, mandatory templates of various real estate contracts such as contracts for sale and lease of properties (including residential house, construction works, apartment, tourist apartment and officetel); contracts for transfer, lease or sub-lease of land use right; contracts for the transfer of the whole or part of the real estate projects, and new guidance regarding the type of project transfers that shall be implemented in accordance with the regulations of Decree 02.

In general, Decree 02 has more detailed provision on the conditions, procedures and dossiers required while conducting real estate business; however, it does not resolve certain key issues or provides further clarity in investment into real estate business, which include:

- conditions and procedure for the investors to receive land from the State;
- no clear mechanism to enable a foreign invested company to lease the land from local land owner;
- challenges of the investors in land compensation procedures;
- lack of legal framework for the second-home market. For example, regarding the second-home products to be built on commercial and service land (or non-residential products): strata titles

of the second-home products; management, usage and trading of the second-home products; or regarding the second-home products to be built on residential or mix-use land; lack of regulations on whether the units can be leased out and operated as hotel rooms without contravening the current laws on housing.

We hope that the Government will issue further policies or guidelines.

3. Digital Economy / e-Government

It is encouraging that the Government is focusing on advancing the digital economy, smart cities, and IR4.0.

The pandemic, in particular, has shown both the need, potential and capacity for remote work and online activities. This can be seen in the growth of e-commerce to the successful use of contract tracing apps.

With regard to government procedures and applications, we advocate further use of web portals and online submissions, adoption and recognition of e-signatures, use of e-mails between authorities (including for formal correspondence), and decreased use of paper documents submissions. We understand that some of administrative procedures have been approved to be done online such as enterprise registration related procedures, however, the procedures relating to foreign elements such as investment registration related procedures, approvals for M&A, foreign loan registration, setting up representative office, obtaining business license for retailing activity of foreign investor, etc., still require physical meeting and submissions. We urge the Government to also adopt online procedures for the aforementioned which helps bring new capital and partners into Vietnam.

We also urge the Government to further explore and expand on supporting various fintech business models, to introduce a regulatory sandbox where needed to test certain models, and to ensure that this sector is open for investment - both foreign and domestic.

Another important area where digital technology has shown great potential and uptick of use is healthcare. The Ministry of Health has issued several policies to support the advancement of digitalized health care services such as Circular No. 54/2017/TT-BYT dated 29 December 2017 on criteria for assessment of information technology application at health facilities, and Circular 46/2018/TT-BYT dated 28 December 2018 on prescribing electronic medical records.

These policies help to improve healthcare services and benefits doctors, medical staff and patients. In particular, the use of digital technology in healthcare services will reduce the existing difficulties that doctors and patients have to face such as lack of time for consulting and treatment, high cost of medical services, or the need for patients to be present in person. The development of a telemedicine system can partly solve the above issues. Doctors and patients can use such telemedicine service for online consultations, remote treatment, and issuing e-prescription. Reducing paper use is a global issue, therefore, regulations on recognizing electronic prescriptions instead of requiring paper prescriptions would be another enabler. Doctors, through the assistance of such system, could conduct online consultation, e-sign the electronic prescription and send to their patients. Upon receiving the electronic documents from the doctors, the patients would have an option of having their prescription medicines directly delivered to their places from authorized hospitals or pharmacies, and this would also enable e-commerce in healthcare services.

In order to support telemedicine services, it is important to also build a FHIR-based (i.e., Fast Healthcare Interoperability Resources) national patient/ health record database that is built with necessary data protection methods and could be accessible by all medical establishments - whether

public or private, or domestic or foreign invested. The lack of such database makes it difficult to share patient data across hospitals and requires patients to repeat the same diagnostic and/ or imaging tests when visiting a hospital.

We urge the Government to have more policies, regulations and guidance to support the use of digital healthcare - in particular with regard to the above-mentioned national patient database and telemedicine.

The acceptance and use of digital signatures is still limited when the only type of electronic signature generally accepted by Vietnam authorities is a digital e-signature with its digital certificate granted by an onshore licensed certification agency. The scope of acceptance of e-signatures should be widened.

4. Energy

Following COP26 - the 26th annual Conference of the Parties to the UN Framework Convention on Climate Change, Vietnam should consider renewable energy trends and opportunities into its upcoming updates for the new national power development plan #8 ("**PDP8**") for finalization, as well as a number of other new master plans and implementing mechanisms for implementing the PDP8.

In this context, while there are current short-term challenges, we encourage the Government to continue promoting renewable energy, energy efficiency, battery energy storage and hydrogen. The clarity on the tariff mechanism for under-construction wind farms, which were not able to manage to achieve the recent FiT commercial operations date (COD) deadline due to the COVID-19 pandemic, should be one of the prioritized considerations - in particular, to continue completing those projects and to utilize the invested economic resources from those projects for the energy market.

On corporate power purchase agreements ("**PPAs**"), corporates continue to look to corporate PPAs for economic and environmental benefits. There is a concern about the delay in the direct power purchase agreement ("**DPPA**") pilot program for renewable energy due to the recent conversion of a previous circular to a new Prime Minister's decision to be drafted - as well as the recently proposed change to the tariff structure under which power consumers will take and buy power from EVN/PC at the retail price (instead of the Vietnam Wholesale Electricity Market (VWEM) spot market price plus DPPA charges as proposed under the previous draft circular of Ministry of Industry and Trade) and its financial and commercial impacts on the proposed program.

Separately, for onsite rooftop solar, while we understand that the Government's policy is still to promote rooftop solar development for onsite self-consumption, we look forward to further clarifications on technical/licensing issues such as 1MW threshold, tariff mechanism for excess energy to EVN's grids.

In addition, we encourage the Government to consider the role of battery energy storage and hydrogen in the new context of the power market. For example, on hydrogen, many governments have started supporting the growth of the low-carbon hydrogen market as countries across the world are rapidly concluding that a successful decarbonization path cannot solely rely on renewable electricity and that a zero-carbon hydrogen solution will be needed. Growing the clean hydrogen market will also be necessary so as to lower costs, to increase the power system's flexibility and to decarbonize many industries.

5. Government guarantee under the Investment Law

While we understand the government's concerns over the State's public debt and liabilities, we would like to seek for certain appropriate levels of government guarantees on certain critical risks (e.g., PPA termination risk, foreign currency convertibility, etc.) from the viewpoint of ensuring bankability on a non-recourse project financing in order to ensure the loans from international financial institutions for large-scale infrastructure investment projects by flexibly applying special investment assistance or investment assurance provided by Article 20 of the Investment Law and Article 3.2 of Decree 31/2021/ND-CP. In recent years, there has been a tendency that many investors are trying to obtain the permits for these large-scale infrastructure projects under the scheme of the Investment Law instead of in the form of a PPP project under the new PPP Law because of the prolonged investment process under the PPP Law/regulations. The government guarantee for private investment projects under the Investment Law should also be considered to be granted for the eligible investors in eligible PPP projects to ensure bankability of these projects. Separate from government guarantee issue, the other areas of contractual drafting standards and risk allocation mechanisms under the project contracts and PPAs should be improved and clarified to show very clearly how various risks under the contracts will be better managed and allocated between involved parties in a more reasonable way.

6. 0% VAT treatment for exported services

The requirement for services being consumed outside Vietnam is vague and not defined in any way in the law. This leads to discretionary interpretation of the tax authorities when taxpayers take their position to apply 0% VAT for exported services. The current practice of interpretation by tax authorities would discourage taxpayers to apply 0% VAT on exported services, which would eventually make Vietnamese service providers less competitive in terms of pricing in the international market if they have to charge 10% VAT instead of 0% VAT.

It is recommended that the MOF change the regulations with clear definition of exported services. Alternatively, exported services should be based on the status of the foreign customer and foreign source of payment for the service fee for simple tax administration.

7. Mobility

In terms of mobility, we encourage the Government to continue to study and introduce measures and reforms that will safely allow back into Vietnam international tourists and business and work travelers. We also encourage the Government to continue to enable cross-border data flows in a way that is safe and where integrity of the data is secured. Both people and data need mobility in order to bring value to the economy.

**ROLES OF LOCAL AND FDI
BUSINESSES IN GLOBAL
SUPPLY CHAIN**

UNLOCKING THE FINANCES NEEDED FOR INDUSTRY CLUSTERS AND SUPPLY CHAIN GROWTH

*Presented by
Mr. Dominic Scriven
Head of VBF Capital Markets Working Group*

H. E. Mr. Pham Minh Chinh, Prime Minister of the Government of Vietnam,

On behalf of all participants in the Vietnamese capital markets, and the VBF Capital Markets Working Group (CMWG), may I wish you personally, and all your colleagues across the leadership of Vietnam, the very best of health and happiness for 2022.

2021, just past, and 2020 before that, must be two of the worst years in the history of modern Vietnam. That said, the firm leadership, endless commitment, and strong unity of the people and leadership of Vietnam, have delivered results that have impressed and surprised the world. This can be seen in the success and good spirits within Vietnam's capital markets, as of today. Let us consider:

1. The total capitalization of VN's equity markets is approx. USD340bn, or 95.6% of GDP, ahead of the vision set for VN in 2025.
2. The size of the Govt debt market is \$54.6bn, and the VN Government can currently borrow cheaper than the US Treasury.
3. 2021 saw an increase of 56% in new stock trading accounts, or an increase of one-and-a-half times in a year in the number of stock market participants. More and more people get exposure to and consider stock market as a channel to accumulate wealth.
4. In 2021, average daily market turnover increased 3.6 times to reach \$1.1bn (equities) and \$0.5Bn (debt).
5. Capital raised, via both equity and debt reached an estimated \$29,1bn, equivalent to 45% of total credit growth in 2021 (\$55bn).
6. The number of listed companies with an enterprise value over US\$1bn has increased from 5 to 62 in just ten years.
7. VNX's 10-year return is the best of all major markets in the world.

Fig. 1: Total Returns (USD Adjusted) – December 31, 2011 to December 31, 2021

Indices	Total Return	10Y CAGR
1 VNINDEX (Vietnam)	425.7%	18.0%
2 S&P 500 (US)	362.1%	16.5%
3 TAIEX (Taiwan)	300.4%	14.9%
4 TPF (class A)	285.2%	14.4%
5 NZX 50 (New Zealand)	249.5%	13.3%
6 NSE 500 (India)	242.3%	13.1%
7 Nikkei 225 (Japan)	174.6%	10.6%
8 CAC 40 (France)	172.9%	10.5%
9 CSI 300 (China)	158.5%	10.0%
10 DAX (Germany)	135.1%	8.9%
11 ASX 200 (Australia)	127.0%	8.5%
12 SET (Thailand)	110.2%	7.7%
13 KSE 100 (Pakistan)	99.8%	7.2%
14 MOEX (Russia)	97.8%	7.1%
15 KOSPI (South Korea)	86.1%	6.4%
16 HSI (Hong Kong)	79.3%	6.0%
17 PCOMP (Philippines)	69.7%	5.4%
18 FTSE 100 (UK)	69.3%	5.4%
19 JALSH (South Africa)	61.1%	4.9%
20 STI (Singapore)	60.3%	4.8%
21 JCI (Indonesia)	36.9%	3.2%
22 KLCI (Malaysia)	8.4%	0.8%
23 IBOVESPA (Brazil)	-38.0%	-4.7%

Many Congratulations Vietnam!

The capital markets play the following important roles in the development of Vietnam; in particular, to address the themes of today: *Restoring the economy & Developing supply chain in the new normal*, with a particular focus on the domestic VN private sector:

- 1. Government finances:** The Government Bond Market offers govt flexibility in managing the flows in and out of the State Treasury; it is the principal location for Govt to borrow for infrastructure and other budget needs; it is an extremely important market for setting monetary policy, and finally, is the basis for the risk-free interest rate which is a foundation for the cost of capital throughout the country.
- 2. Medium-long-term finance:** As the banking sector seeks to reduce maturity mismatches between short-term liabilities (principally deposits), and medium to longer term assets (principally loans to households and businesses), and are subject to restrictions on credit growth, capital markets are the obvious funding alternative to commercial banks.
- 3. Private sector:** Capital markets are a principal source of finance for strong and growing private sector companies. Companies can access strategic partners through market transactions; they achieve proper valuations for their businesses, including goodwill. Markets reward success, and indicate failure. Through listing on markets, companies find a mechanism for retaining talent and succession planning, developing strong brands, and a currency with which to make acquisitions. Evidence of this, as mentioned earlier is the number of companies worth over US\$1bn has increased by ten times in ten years.
- 4. Pricing of capital:** Through the continuous processing and assessment of information, markets have a reliable and constant ability to assess and price risk, making them one of the best determinants of the price of capital for each business.

5. **Quality/transparency of enterprise management:** Through the requirements to disclose all relevant information, and interests of related parties, regular financial reports, disclosures on governance, the markets promote transparency, responsibility, and accountability.
6. **Long term investment of domestic savings and investments:** In most developed economies, long term savings, and investments to provide for old age, are regularly invested via pension funds into equity and debt markets. Investment via capital market institutions thus reduces the burden on the state for social care, and allows individual citizens to take responsibility for themselves.
7. **SOE Reform:** Markets offer a mechanism to accelerate reform of SOE's, through promotion of transparency, provision of valuation, ability to divest, and entry of strategic partners.
8. **Green Finance:** As Vietnam moves to meet its brave CO2 commitments, the markets can be charged with the task of developing market-based instruments to fund green investments, and price carbon emissions.

However, in order to perform these functions, the following are required:

1. **Close and informed co-operation between key govt bodies:** Key Govt Agencies such as SBV, MOF, MPI, MOJ, GO, as well as SSC, all have a role to play in developing and regulating the markets. Successful co-operation is key. Should Vietnam look to strengthen its high-level management capacity?
2. **Solid infrastructure:** Although in some senses they are invisible, the markets need a strong hard and soft infrastructure. Vietnam is to be commended on its strong base in law, and in other regulations. Further investment is needed to unify Vietnam's different markets, install efficient and reliable trading systems, provide an international standard central clearing party, develop credit-rating agencies, and above all, a body of well-trained regulators.
3. **Investor Confidence and Protection:** Partly because of their 'invisibility' markets are enormously dependent on confidence, which in turn requires transparency, fairness, discipline of malfeasance, and other mechanisms to protect investors, particularly in Vietnam's market with very high levels of individual participation.
4. **Institutions and diversified participants:** Like any eco-system, capital markets thrive from a diversity of participants, institutions, levels of interest and activity. Vietnam's markets today are very one dimensional, with the debt market reliant on commercial banks; and the equity market reliant on individual investors. More could be done to develop other institutions, to encourage pension funds, insurance companies and other types of institutional and professional investor.
5. **International access:** Vietnam has a remarkably open economy, yet international participation in capital markets is frankly rather low, and well below the level that could be achieved. The issues are not always simple, but a concerted effort could deliver more impressive results than currently. One further aspect here is accelerating efforts to turn HCMC into a regional financial centre, to find its areas of competitive strength set against regional competitors such as Hong Kong and Singapore.
6. **Responsibility, ESG, and Climate:** Alongside your excellency's masterful and inspiring statements at COP26 in Glasgow, on the subjects of deforestation, coal, and net zero; markets

can and should play a forceful role in funding and incentivizing responsibility towards sustainable development in Vietnam, by creating a set of disciplines and behaviours amongst the corporate sector.

- 7. Innovation:** We hear much of 4.0, and the financial sector needs support and encouragement to develop a properly legislated environment for fintech; and also the structures to support start-up funding.
- 8. A culture of Risk Management:** Markets can be a powerful and leading driver for national development. At the same time, policymakers need to be increasingly aware of the management of risks, within, but more particularly outside the borders of Vietnam. These would currently include: the recent rapid rise in debt amongst most global economies; the persistence of negative real interest rates; rising inflation and income inequality; the absence of a properly planned transition path to decarbonization; and the corollary of volatile global energy prices; aging demographics and the rising demands for social care.

Prime Minister, notwithstanding these and no doubt other challenges that face Vietnam in coming years, your Government and State bodies inspire confidence, partnership and support. Those of us in the Capital Markets are proud to be here, and remain enthusiastically committed to the journey ahead.

Once again, Chuc Mung Nam Moi, and wishing you and all members of the Government a happy healthy and prosperous year ahead./.

KEY ISSUES OF VBF BANKING WORKING GROUP

*Prepared by
VBF Banking Working Group*

The year 2021 was the first year of the 2021-2025 term, a year of great importance for Vietnam in restarting and completing the new objectives and plans set out for the whole period and also a time with strong market fluctuations due to the impacts of the fourth widespread outbreak of the COVID-19 pandemic that heavily affected the economy. Worldwide, 2021 also witnessed certain bright spots such as the economic recovery of many countries, yet there were still black spots such as the global supply chain crisis due to the impact of COVID-19 control measures.

We highly appreciate the efforts of the Government of Vietnam & the State Bank of Vietnam (“SBV”) in controlling the 4th wave of COVID-19, stabilizing the macro-economy, and curbing inflation during the pandemic, achieving annual GDP growth of 2.58%, and maintaining a good position for FDI attraction, with an expectation that Vietnam’s economy will regain its GDP growth rate of 6.8% in 2022.

I would like to mention three (03) main issues to leverage the role of the banking sector in supporting businesses to recover and develop production after the pandemic, specifically as follows:

1. New regulations to support businesses affected by the COVID-19 pandemic, retroactive application of VAT on Letter of Credit (L/C) fees, credit growth, and credit room expansion.

We welcome the direction and policies of the Government and the State Bank of Vietnam to leverage the role of the banking sector in supporting businesses to recover and develop operations after the pandemic, notably: (i) The Government and the State Bank of Vietnam’s policies on promoting economic growth, exemption and reduction of bank fees and interests, restructuring loan repayment terms, and supporting customers affected by the COVID-19 pandemic with the promulgation of Resolution No. 63/NQ-CP and Circulars No. 03 and 14/2021/TT-NHNN, (ii) the solutions on exemption and reduction of Corporate and Personal Income Taxes and Value-Added Tax to support businesses and individuals set out in Resolution No. 406/NQ-UBTVQH15.

Following the spirit and policies of the Government, we would like to have a number of specific recommendations as follows:

First, we are looking forward to receiving feedback and direction from the Government, the Ministry of Finance and the State Bank of Vietnam regarding the retroactive application of VAT on Letter of Credit (L/C) fees. We support SBV’s point of view and propose not to retroactively apply VAT for a period of 10 years to lessen the difficulties and tax burdens.

Second, the State Bank of Vietnam is kindly requested to consider expanding the credit room so that banks can have more room to lend to and support businesses (particularly small and medium enterprises) when necessary.

2. Green finance – a premise for sustainable development

Green finance has been among the key topics of interest to ensure that post-pandemic recovery is inclusive, resilient, and sustainable. At COP26 Glasgow Climate Summit, Vietnam committed to achieve ‘Net Zero’ by 2050. The Government recently issued the “National Green Growth Strategy for 2021 - 2030, with a Vision until 2050” and the Ministry of Planning and Investment has

completed the draft National Green Growth Action Plan for the period of 2021-2030, along with a number of related legal documents aimed at financially facilitating green growth, contributing to promote the restructuring of a green and sustainable economy. However, the implementation roadmap still has a lot of challenges and barriers in terms of limited awareness, immature green bond/stock market with limited number of products, limited financial resources for green projects. We would like to make some recommendations to strengthen the role of the banking sector in promoting green financial growth, combined with the support of sustainable supply chain in the COVID-19 context as follows:

First, the Government, Ministry of Finance, and State Securities Commission should promptly complete the financial policy framework for the development of the green capital markets and green financial products, attracting investment for green development. The State Bank of Vietnam should also quickly promulgate specific documents and regulations on green credit and strengthen the driving forces for banks and credit institutions to provide green credit.

Second, the banks should be allowed to develop new sustainable trade finance solutions to support businesses in implementing and applying more sustainable operation methods within their ecosystems as well as in developing more efficient supply chains, encouraging customers to improve transparency in information disclosure, reporting, and use of resources, while meeting Environmental, Social, and Governance (“ESG”) objectives. Through solutions such as sustainable Supply Chain Finance (SCF), banks can reach a diversity of customers in complex supply chains, aiming to achieve the dual goals of providing working capital for businesses to overcome difficulties and risks of supply chain disruption, and at the same time encouraging the development and application of sustainable standards in business operations and long-term growth.

3. Importance of the financial - banking sector’s digital transformation in the course of economic recovery

Digital transformation is considered a ‘vaccine’ and a driving force to help the economic sectors overcome the pandemic in a more efficient manner, and the financial - banking sector is among the key factors in creating a comprehensive digital financial ecosystem, promoting digital transformation in other sectors.

We highly appreciate the Government’s orientation on Digital Transformation as well as the fact that the State Bank of Vietnam has issued a plan for digital transformation of the banking sector until 2025, with an orientation until 2030 with specific goals and solutions. However, the practical digital transformation in the banking sector and other sectors still faces some challenges such as the lack of consistency among relevant legal regulations, standardization of infrastructure to form the digital ecosystem; and challenges in changing awareness and consumption behaviors; ensure security and safety in digital transformation.

Recommendations to the Government:

- (1) Instructing and speeding up the study and amendment of the Law on Electronic Transactions, promulgating a Decree on electronic identification and authentication, and promulgating a Decree guiding the Law on Cybersecurity with more appropriate and specific instructions.
- (2) Promulgating a Decree on a mechanism for controlled testing of financial technology (Fintech) operations in the banking sector. Studying the legal framework allowing the application of tangible cash flow management - physical cash pooling products in Viet Nam.
- (3) Instructing the Ministry of Public Security to complete the National Population Database, with a decentralized information sharing mechanism, allowing the banking sector to connect with

and utilize online information from this database for comparing and verifying customer identification information by electronic means.

Conclusion:

As a conclusion, we are willing to accompany and support the Government of Vietnam in developing a strong banking sector and improving the investment environment, so that Vietnam can increase its ability to attract foreign investment flows, and increasingly strengthen its position as a popular destination in the region for foreign investors - an economic sector that is playing an important role in the national economic development potential.

POWER AND ENERGY AND ENHANCING A SUSTAINABLE ENVIRONMENT FOR GROWTH

*Presented by
Mr. Michael R. DiGregorio
Head of VBF Environment WG*

His Excellency Prime Minister Pham Minh Chinh, Ministers, Ladies and Gentlemen.

On behalf of the Vietnam Business Forum Power and Energy Working Group (PEWG) and the Environment Working Group (EWG), we would like to express our congratulations to the Government of Vietnam in the development process of Power Development Plan 8 (PDP8). In particular, we are pleased that the Government has taken a step by step and approach that included comments and discussion with PEWG and other private sector power and energy organizations. Based on the drafts of PDP8 we have seen, meetings, and follow-up request for comments, we are confident that PDP8 will address Vietnam's economic, environmental and social needs in line with the consequential threats to our environment and society and Vietnam's international commitments.

We would also like to congratulate Prime Minister Pham Minh Chinh for announcing Vietnam's commitment to become a net-zero carbon emissions economy by 2050 at the COP 26 summit. We are aware that many government ministries and agencies are now preparing strategies to reach that goal. Our member companies welcome these changes and are eager to support Vietnam's energy transition.

The Government of Vietnam must also be congratulated on kick-starting renewable energies with subsidized feed-in tariffs and making a PPA backed by the State Owned enterprise EVN bankable with a Moody rating. Through these policies, Vietnam has been able to attract renewable energy investors and manufacturers, making us now the leader in renewable energy capacity within Southeast Asia. However, EVN cannot continue to pay substantial subsidies and take losses in the sale of electricity. A financially strong EVN is a prerequisite for sustainable power development. International, unsubsidized rates for electricity from renewables, LNG and other power sources are compatible with Vietnam's road map for electricity pricing and will also support compliance with international climate agreements. In addition, a financially strong EVN and bankable PPAs will make it possible for private investors to access lower cost green financing and reduce CO2 emissions.

The November 2021 draft of PDP8 estimated investment costs of US\$131.79 billion for the period 2021-2030, the vast majority of which must come from the private sector. Vietnam Business Forum Power and Energy Working Group and the Environment Working Group (EWG) welcome the opportunity to provide continued realistic inputs into the policy dialog regarding the development of the country's energy sector. However, policies put in place to reach Vietnam's sustainable energy goals must serve both the long-term interests of the country and accommodate the needs of private sector contributors.

COP26 made it certain that the world has turned to phase down the use of coal. Governments, multilaterals, the private sector, banks - in short, all major institutions with a stake in energy - have agreed that the negative environmental impacts of coal thermal power far outweigh short-term economic gains. To attract the funding necessary to move away from coal, Vietnam will need bankable, economically feasible and lower emission energy projects. However, to maintain grid stability and expansion, Vietnam must also secure a baseload sufficient to replace coal. This means the transition toward renewables, including hydro, wind and solar, will require

a pathway that includes energy storage and flexible gas or LNG power. These projects can be designed now for the introduction of hydrogen as a renewable, clean fuel source for baseload in the near future. A recent report by Reuters, in fact, noted that most global oil and gas majors are investing heavily in hydrogen in expectation that his transition will begin in the transportation sectors and rapidly accelerate in the 2030s. As noted above, Our member companies are eager to see progress in our discussions with Vietnamese authorities as we consider creating a legal framework for high quality energy projects to access funding from international financing markets.

The political, financial and technical leaders attending today are working together to ensure that clean power is the most attractive option for new power generation for Vietnam, and to support its targets of zero carbon by 2050. At the same time we are growing a coalition of professional banks, financial institutions, investors, planners, developers, equipment and service providers working together to meet these goals with the best technical, social/environmental and financial expertise, local knowledge and the highest standards for corporate social responsibility.

We are also aware of the changing geopolitical climate with respect to climate change as over the past few years. Now even the most reluctant countries have become aware of the impacts of climate change on their security, political stability, ecology and economy. The EU in particular has addressed these issues through their “green deal”, of which their proposed Carbon Border Adjustment Mechanism is a part. According to draft legislation submitted to the EU Parliament, importers will have to purchase emissions allowances for the embedded carbon in 30 products sectors, with the price equal to the weekly average of similar EU emissions allowances.

We believe that carbon border adjustments will play an increasing role in trade not only with the EU, but also Vietnam’s other trading partners. We see opportunities in this for Vietnam to push forward its transition to 21st century technologies that lower carbon emissions and would encourage the government to “cautiously accept” the EU’s proposal with their own transition in mind. VBF member chambers and participants are willing to support these efforts with investment, technology, and finance. The development of Vietnam’s Emissions Trading System (ETS) and carbon market will play a major role in this transition. By creating a price for carbon tied to a periodically adjusted cap on emissions that aims to meet Vietnam’s goal of becoming a net-zero economy by 2050, government can make clear that carbon intense industries and sectors must transition to a lower carbon economy or face competition from those who do. Working with businesses to plot this transition while also developing technical assistance, finance readiness, and loan guarantee programs would assist domestic businesses, in particular, to prepare. We also note the benefits a transition to a lower carbon economy will make on the air quality of our cities. Industrial sources, including power generation, and motor vehicle traffic are the primary sources of air pollution. A focus on renewables, shift to lower carbon industrialization, particularly in the iron and steel sector, and transition to low and zero emissions vehicles will help Vietnam to meet its nationally determined contributions to emissions reduction, reduce potential border taxes, and improve air quality.

The Power and Energy Working Group in 2022 will develop Made in Vietnam Energy Plan 3 which will concentrate the private sector support in the implementation of PDP8, especially in securing the private sector financing, local and international planning, investing, development and operation, capacity building and recommendations on technical standard norms for a sustainable power development plan.

Thank you./.

DIGITAL TECHNOLOGY AS A KEY TOOL FOR GROWTH

*Presented by
Mrs. Ha Nguyen
CoHead of Digital Economy WG*

Introduction

The Digital Economy Working Group would like to express our gratitude to the Prime Minister, leaders of Government ministries for the opportunity to present at this VBF Annual Meeting. Inspired by the Government's Digital Transformation Vision by 2030 and the establishment of the National Digital Transformation Committee chaired by Prime Minister Pham Minh Chinh, the Vietnam Business Forum has set up this new Digital Economy Working Group with the commitment to supporting the Prime Minister's Digital Transformation initiatives. Our paper provides a topline listing of considerations to the Government in building the environment that encourages the digital partnerships among the Government, Vietnamese and international private sector and global investments in Vietnam's digital infrastructure.

The COVID-19 pandemic saw an unprecedented reliance on technology and data services. Organizations that embraced the digital technologies were able to swiftly adapt to disruption, leveraging its elasticity to scale services up and down as needed, save costs, and optimize resources. FDI community supported Vietnam's Government by amplifying COVID-19 response efforts, from virus research to information-sharing. We have also aided our Vietnamese organizations by mitigating business disruptions. Whereas the initial emphasis was on technology's role in crises management, the focus has now pivoted to the need for more long-term digital transformation. As innovation and emerging technologies continue flourishing, so will the need for public-private collaboration. Strong public-private partnerships will allow both parties to jointly address oncoming challenges, collectively innovate and test new ideas, and share their expertise. These partnerships are valuable as they typically result more enabling policy environments. As Vietnamese Government have more opportunities to learn about these emerging technologies, they are able to develop a better understanding of how to craft stronger and more fit-for-purpose policies to keep pace with the rate of digital transformation – or even accelerate it.

The Government, and the policies the Government introduces, play an outsized role in driving the adoption of the technologies that will enable economic recovery plans. Technology neutral policies help guide private and public sectors to harness the full power of the advanced technologies to solve complex problems with speed, using the world's most advanced technologies.

Government to pioneer digital transformation

The most important strategy a government can adopt to accelerate economic and social recovery is to be a champion of digital transformation itself, and encourage change. Beyond immediate efforts, we recommend the Vietnam Government look at the long-term benefits of digital transformation and be a strong advocate for progress. For example, as we've seen from the pandemic, the cloud has kept many governments and organizations resilient during these times of disruption with its cost savings, scalability, reliability and security. To promote long-term resiliency, Vietnam Government can introduce Cloud First Policies to offer directional clarity that government agencies, and other organizations, are encouraged to adopt commercial cloud. Leading by example, the Government can demonstrate how the cloud improves transparency, delivers more innovative services to citizens, and reduces IT costs for the public sector; this could translate into a strong signal to its businesses and other organizations to do the same. The most effective cloud-

first policies are often ones that clarify the roles and responsibilities of government entities and cloud service providers, adopt a risk-based approach to data classification, leverage international standards for compliance and accreditation, and accommodate a procurement mechanism that recognises the pay-as-you-go model of cloud. By embracing the cloud and its benefits, public sector organisations can focus on their core mission- serving citizens.

We applaud the Government's efforts to launch more than 1000 services available on the Single Public Services Portal. In order to make further progress, it would be important to recognise certificates for electronic signatures issued to individuals. The foundation of a digitalised world is to provide electronic alternatives for wet signatures and personal identification. Aligning Vietnam's standards with those defined by The Electronic Identification and Trust Services Regulation (eIDAS) would be the first step, expediting the regulation around the Electronic Signature standards and converging towards a global standard.

Betting big on startups

As the country continues to rebuild and recover, Vietnam Government may invest in and support ideas that will kickstart the economy. Startups and SMBs are at the heart of these innovative solutions and are a critical growth engine for Vietnam. Many Vietnamese startups and SMEs are the beneficiaries of our members' advanced technology infrastructure to help early-stage startups as they build, launch, and grow solutions in health, digital government, smart cities, agriculture, and space technology. Many of our members remove barriers for Vietnamese entrepreneurs who want to make an impact in the public sector by providing technical design and architecture reviews, mentorship, credits, and support with go-to-market plans to help navigate the complex regulatory and security requirements in the public sector.

Governments can lead new technology adoption by example, and they can support the startup ecosystem by investing in policies, including sector-specific policies, that allow them to harness the full benefits of the new technologies. For example, allowing for cross-border data flows can help startups and SMBs scale and take innovative businesses global. Encouraging cross-border data flows can improve productivity and trade and developing policies promoting digital trade in the region can truly boost local economies.

Digitisation and decarbonization

New technologies has helped Asian countries accelerate digital transformation, while simultaneously opening avenues for decarbonisation. For example, companies can already reduce their carbon footprint today by adopting digital signatures or moving to the cloud. New technologies allows us to achieve greater energy efficiency, and government policies should encourage tools and services to help organizations architect and innovate sustainably.

Investments in renewable energy to supplement energy efficiency efforts across operations will also be key in helping us drive greater sustainability outcomes for Vietnam. Many of our Digital Economy Working Group members are the world's largest corporate purchasers of renewable energy, and we are on a path to run our worldwide operations with 100 per cent renewable energy by 2025. We continue to collaborate with private and public partners to encourage more renewable energy procurement options for corporates in the region. While we have made some progress, helping governments develop the right policies for twin transitions in digitisation and decarbonisation will be imperative for shaping a sustainable economic future for the country.

Digital Infrastructure and Novel Services

We are encouraged by the Government's recent announcement to welcome global technology companies to invest in digital infrastructure and novel services (such as Internet of Things, Infrastructure as a Service, Data Centers...). These novel services underpin the development of a robust and dynamic digital economy in Vietnam. Novel services speed up Vietnam's goal of unlocking digital economy, and give access of Vietnam enterprises to the wealth of global innovation that can support and enhance their digital transformation. We highly recommend that any new digital laws and regulations take the digital infrastructure and novel services out of licensing regime. Instead, investment incentive programs should be considered to encourage investments in digital infrastructure and deployments of novel services.

We recommend the Government take into account following considerations when considering any regulations impacting digital infrastructure and novel services, so as to not inadvertently compromise the reliability and security on which IT customers depend, or to stifle innovation.

- Use a measured, fit-for-purpose approach as these business models operate across a range of industries and jurisdictions, each with varying business and risk considerations.
- Align regulations with international standards to maximize the value of compliance processes, and to ensure any local requirements remain globally relevant.
- Encourage innovation and level playing field. Any new regulatory framework should be designed in a way that it does not restrict the ability of technology providers to innovate. New regulations should create a level playing field for all players and support innovation across the sector.
- Avoid overregulation and duplication to avoid inadvertent impact on all of the sectors in which novel services are typically provided to and which are regulated respectively (like telecom, financial services, energy, automotive, healthcare, aerospace and others).

Secured and free flows of data cross borders, alignment with international privacy laws

Enabling the free flow of data across borders is crucial for Vietnamese businesses and multinationals operating in Vietnam to service domestic and international customers. Where no data localization mandates exist, tech-dependent businesses can take advantage of advanced technology solutions that allow affordable and scalable ways to deploy the latest technology and tools across the network to make it secure, and that decentralize where sensitive or personal data are stored to ensure it is harder for malicious actors cannot find and access.

To promote development of Vietnam as an attractive tech investment hub, we recommend that the Government encourage the free flow of data across borders, putting in place guidelines to facilitate data transfer in a safe and secure manner, such as recognizing internationally reputable third-party data security, privacy, and information management certifications (e.g., ISO). We strongly recommend the Government to rethink restrictive data localization requirements currently proposed in laws and decrees of cyber security, personal data protection, internet and data center services...), to address legitimate data-related concerns raised by the international business community, to ensure citizens, enterprises, and government agencies can maximize the enormous societal and economic benefits of data and digital technologies.

Digital Upskilling and Reskilling the workforce

Proactively encouraging digital transformation efforts – such as investing in workforce development for digital skills, introducing policies conducive to technology adoption and

innovation, and incentivizing the digitalization of businesses – should also be part of government’s digital strategy. A major takeaway from the Covid 19 pandemic has been the fundamental need to equip our workforce with the necessary digital skills to embrace and drive transformational change. The growing pace of digitalization has generated a greater demand for employees with specialized digital skills – to install or maintain security IT systems, or provide technical support. And as the demand for digital-skilled or digitally-skilled talent expands, so does the need for greater workforce development. In our efforts to address this growing need, many of our members host education and training for students, higher-education institutions, the general workforce, and unemployed or underemployed individuals. Bridging the skilling gap will involve deeper public and private sector collaboration, and this can be achieved across a few different areas, to target not only students and currently skilled workers, but disenfranchised workers as well. Some best practices could include:

- Developing digital skilling roadmaps to identify skills trends and gaps;
- Cultivating a strong base of horizontal digital competencies for students, with a focus on STEM;
- Incentivizing employers, particularly MSMEs, to invest in their workers’ digital skills development; and
- Promoting lifelong learning programs for continuous skill upgrading.

These foundational best practices can serve as a guide to help governments begin evaluating their unique challenges and skills priorities. This will be essential to building up effective and impactful skilling programs. We look forward to partnerships with Vietnam Government to build these programs.

Vietnamese digital products go global

International business community supports the Government’s ambition to bring Vietnamese digital products and solutions to the world. Vietnam’s digital economy will be interconnected with the global digital economy driven by international partnerships and opportunities. We encourage the Government join global partnerships and frameworks that shape the norms for the digital sector, benefiting Vietnam’s digital businesses and digital economy. Across continents, countries accelerate digital economy collaborations. Japan, Korea, Singapore, New Zealand, Australia, UK, the United States, Canada, Chile have set or are making progress in digital economy agreements to advance digital trade, data flows and enable a more trusted and secure digital environment to benefit participating economies, to support an open, innovative, and integrated global digital economy.

The global digital economy is in need of new rules to protect digital trade and data flows. However, these rules are not sufficient given how fast technology and regulatory requirements change. Technology and associated business models outpace traditional trade agreements and domestic regulations related to data and digital trade. Digital economy agreements combine legally binding and enforceable commitments on well-known digital trade issues and soft commitments to cooperate on emerging regulatory issues. They can adjust to the changing nature of digital trade, technology, and regulation. This involves proactively bringing domestic regulatory agencies into trade discussions when they are only just starting to think about new rules for digital issues. Digital economy agreements represent a flexible and accessible approach to building interoperability between digital economies at varying levels of development.

The benefits of digital economy agreements are multifold. Vietnamese and global digital companies benefit from the certainty of knowing they can transfer data as part of cross-border

digital trade and innovation. In the long term, Vietnamese digital businesses and their global business partners benefit from early regulatory interoperability by avoiding barriers to digital trade related to new laws. Regulatory engagement also builds trust and confidence among regulators and consumers that trade commitments on data do not impede regulatory responsibilities e.g privacy and can improve oversight as it allows information sharing and joint investigations. Vietnam has become an attractive investment destination since its participation in many international trade agreements and integration into the global trade. We encourage Vietnam take bold steps joining the global digital economy agreements to unblock its digital capability potential, to achieve its ambition to become a high income economy.

Government, International and Domestic Private Sector go further together

With tech friendly policies and informed regulations that encourage tech adoption, Vietnam Government can fully leverage the global technologies to create a future where adaptability, scalability, reliability, security, and speed are in the forefront of the development of citizen services and economic growth. This will allow to move further and faster together, towards digital driven economic recovery in the region.

Digitalizing all industries and the whole economy is a long journey that requires a lot of efforts of all people, and there are a lot of things for Vietnam business to do when transforming their business. Vietnam Business Forum's Digital Economy members want to put heavy investment in Vietnam such as in digital infrastructure, services, solutions, partner resources, training resources, to best support Vietnamese Government, our Vietnamese technology partners and customers in their journey. International cooperation is needed more than ever as we embrace the future of digital economy and Vietnam needs to continue to participate in international agreements where innovative approaches to addressing the challenges are developed, policies are discussed and consensus for implementation is achieved.

APPENDIX

POSITION PAPER OF BANKING WORKING GROUP

SUMMARY OF TECHNICAL ISSUES

A) CATEGORY 1: ISSUES BROUGHT FORWARD FROM 2020 UNDER THE MANDATE OF THE STATE BANK OF VIETNAM AND TO BE FOLLOWED UP IN 2021

A.1. ISSUES ADDRESSED BY SBV IN 2020 AND TO BE FOLLOWED UP IN 2021 (OLD ISSUES)

A.2. NEW ISSUES IN 2021

A.3. ISSUES THAT REQUIRE BILATERAL COOPERATION BETWEEN THE TWO PARTIES, SBV HAS ACKNOWLEDGED AND WILL TAKE INTO ACCOUNT WHEN AMENDING SBV'S CIRCULARS AND DECREES

B) CATEGORY 2: ISSUES THAT RELATE TO THE COMPETENCE AND RESPONSIBILITIES OF OTHER LINE MINISTRIES

B.1 – OLD ISSUES

B.2 – NEW ISSUES

C) CATEGORY 3: ISSUES THAT HAD BEEN RESOLVED IN 2020 & 2021

NO	ISSUES	DESCRIPTION	PROGRESS
CATEGORY 1: ISSUES BROUGHT FORWARD FROM 2020 UNDER THE MANDATE OF THE STATE BANK OF VIETNAM AND TO BE FOLLOWED UP IN 2021			
A.1. ISSUES ADDRESSED IN 2020 AND TO BE FOLLOWED UP IN 2021			
1.	(BWG AML) Decree 87/2019/ND-CP and Circular 20/2019/TT-NHNN on	After discussions in 2020 and at the meeting between the BWG and the AML Department on January 15, 2021, BWG recommends continuing to discuss a number of issues related to prevention and combat of money laundering in Decree 87 & Circular 20 as follows:	BWG continues to coordinate and work with the Banking Supervision Agency in the process of amending the AML Law.

	anti-money laundering (AML)	<ul style="list-style-type: none"> - Proposing the SBV to provide further guidance on how to apply Article 16 of the Anti-Money Laundering Law (AML Law). - Article 3.1c, Decree 116 - Customer identification “requires to re-implement the KYC customer identification process if the customer makes a transaction with a value of over 300 million VND after 6 months” - CV 387 (SBV) & CV 5588 (Securities Commission): Request to update UN list within 24 hours. - STR reporting process - Request the bank to report within 48 hours of the transaction date - Share STR reporting information with parent bank <p>At the meeting on January 15, 2021, BWG received answers and instructions from the AML Department for appropriate implementation. The parties agree that the reporting organizations must make every effort to comply with the current AML laws and regulations and will continue to cooperate, coordinate to exchange information, remove obstacles in the next time amending and supplementing the law on prevention and combat of money laundering.</p>	
2.	(BWG AML) Official Letter No. 830/TTGSNH11 dated May 27, 2019	<p><u>Quote from Official Letters: 200824BWGVBF dated August 24, 2020:</u></p> <p>The above documents have provided a number of lists containing about 330 websites alerted to provide online gambling/betting services with signs of legal violation and unlicensed video games.</p>	<p>BWG continues to work with the Ministry of Information and Communications (MIC) and update the progress to the SBV.</p> <p>BWG received response from the SBV on September 28, 2020.</p>

	<p>Official Letter No. 1080/NHNN-TT dated Feb 21, 2020</p> <p>Official Letter No. 233/NHNN-QLNH dated March 26, 2020</p> <p>Official Letter No. 551/TTGSNH5 dated May 14, 2020</p> <p>Official Letter No. 585/NHNN-TT dated August 10, 2020</p>	<p>These websites may be active and/or shut down and/or only active at certain times. Banks are required to:</p> <ol style="list-style-type: none"> 1. Strengthen inspection, monitoring and prevention of illegal transactions; 2. Regularly monitor and update the list of websites and applications showing signs of violation as stated in Clause 1, Article 11 of Circular No. 24/2014/TT-BTTTT dated December 29, 2014 at websites of the Ministry of Information and Communications https://www.mic.gov.vn/; and 3. Report to competent state agencies (such as Anti-Money Laundering Department; Police Department of peripheral/urban Districts or Province, City). <p>I. Difficulties in fulfilling requests in the Official Letters:</p> <ol style="list-style-type: none"> 1. Lack of information of beneficiary or merchant 2. Inability to control transaction based on payment content 3. Absence of specific guidance on the website of the Ministry of Information and Communications <p><u>Recommendation:</u></p> <p>For banks that do not provide online card payment acceptance services or provide a card accepting machine (POS machine), the Bank only checks once to ensure that accounts are not opened for individuals or organizations whose identification information is listed in the above Official Letters. For websites that do not have the complete identification information of beneficiaries or operators, we will not be able to check due to lack of information.</p> <p>For banks that provide online card payment acceptance services or provide card-accepting machines (POS machines), we will ask</p>	<p>BWG continues to expand the issue related to the control of online game transactions and has actively discussed with the SBV and the MIC in 2021. <i>(Please refer to detail at point 17 - Monitor Transaction related to unlicensed online games)</i></p>
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		<p>customers to commit not to provide services to legal violating individuals/organizations. However, since some documents are marked as Confidential, we cannot provide detailed information.</p> <p>II. More guidance is needed on preventing other illegal transactions</p> <p>BWG also hope to receive further guidance and support from the State Bank of Vietnam in detecting and preventing not only gambling and betting but also other illegal transactions in the card payment domain (electronic currency trading, gambling and forex trading, etc.)</p> <p>We would like to emphasize the important role of the SBV and the Payment Network in this fight against crime.</p>	
<p>3.</p>	<p>(BWG IT & Cyber Security)</p> <p>Circular 09/2020/TT-NHNN replacing Circular 18/2018/TT-NHNN regulating information system security</p>	<p>1. Information system level 4</p> <p>Article 5: As far as we understand, for systems that are common to the banking industry and are operated by the State Bank (such as CITAD) or Vietcombank (such as VCB Money), the components installed at credit institutions classified as follows is level 3. Please help confirm our understanding is correct.</p> <p>2. Article 40.c</p> <p>Request third parties to provide software source code for outsourced software of information systems at level 2 or higher.</p> <p>The purchase of available third-party software by credit institutions, which requires modification of some features as well as integration with the credit institution's internal system, is not called outsourcing software. Please help confirm our understanding is correct.</p>	<p>BWG received the SBV's response on January 27, 2022 & continues to study for appropriate implementation.</p>

3. Article 20.4. Requirements for multi-factor authentication at the final approval step for information systems processing customer transactions

Quote from Official Dispatch No. 09112021BWGVBF dated 9/11/2021:

BWG recommends that the IT Department allow banks to apply multi-factor authentication (“Multi factor authentication – MFA/2FA”) at the login step instead of the transaction approval step, for the following reasons:

1. It takes time and affects the completion of day-to-day accounting and the performance of payments and operations of banks when applying MFA in the final approval step.
2. Banks have strict processes to minimize payment risks, including order creation and approval steps performed by two different people, and reconcile all transactions processed during the day.
3. The above requirement can hardly be applied to orders made through international payment channels such as SWIFT (Society for Worldwide Interbank and Financial Telecommunication) - Association of International Financial and Interbank Telecommunications.

During our implementation, we noticed that even after signing in at the final approval step, there was still a chance of a security incident if employees didn't manage the security device well.

The addition of multi-factor authentication has increased the security of the payment system, with no violation cases recorded in recent years thanks to the application of current management methods such as management centralized inter-bank system,

		distinguishing between those who approve and make orders, assign limits for order approval, change passwords and use strong passwords, regularly check employee rights, check reconciliation at the end of the day... etc	
A.2. ISSUES ADDRESSED BY SBV IN 2021			
4.	(BWG Consumer Finance) Article 24.2 Circular 19/2016/TT-NHNN regulating banking card activities	BWG sent SBV OL No. 210414BWGVBF on April 14, 2021 to update on the process of complying with the provisions of Article 24.2 of Circular 19/2016/TT-NHNN, as well as report on the progress of transactions through ATM switches through international card organizations and the system improvement process from the international card organization to allow real-time transmission of domestic ATM transactions via NAPAS as required by regulation.	BWG received the SBV's response on January 27, 2022 and continues to study for appropriate implementation.
5.	(BWG LC) Decision 2182/QD-TTg in 2020 on the list of State secrets in Banking sector.	BWG sent comments to the SBV on March 2, 2021 on the following points: 1. Definition of information on the lists of state secrets 2. Amendment of regulations on document storage in the Banking industry	The SBV has responded to the recommendations of the BWG on May 11, 2021 and January 27, 2022. BWG continues to coordinate and work with the SBV in the process of amending relevant regulations. 1. Definition of information on the lists of state secrets BWG received response from the SBV on May 11, 2021. 2. Regarding amendments to regulations on keeping of documents in the Banking sector <i>- Regarding the proposed amendments to the Circular to replace Circular</i>

			<p>43/2011/TT-NHNN: On December 29th, 2021, SBV Governor issued Circular No. 22/2021/TT-NHNN providing for the duration for keeping records and documents formed during the operations of the State Bank of Vietnam. The Circular takes effective since February 15th, 2022, replacing Circular 43/2011/TT-NHNN providing for the duration for keeping records and documents in the banking sector.</p> <p><i>- Regarding the proposed amendments to Decision No. 1913/2005/QD-NHNN on the regime of keeping accounting documents in the banking sector:</i></p> <p>SBV has currently a plan for amendment and supplements of Decision No. 1913/2005/QD-NHNN. Thus, BWG is kindly recommended to provide specific practical issues during the implementation of Decision No. 1913 in particular as well as the keeping of accounting documents in general. SBV will study and take into account the issues under our authority in amending and promulgating the documents. For issues governed by Laws, Decrees and Circulars that are not within our scope of authority, SBV will work with the</p>
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			banking working group in consulting with other ministries and agencies
6.	<p>(BWG Consumer Finance)</p> <p>Controlling card transactions based on MCC and the responsibility of the issuing bank in controlling POS.</p>	<p>BWG sent official letter No. 210615BWGVBF on June 15, 2021. Accordingly, BWG presented difficulties and false warnings of card issuers when applying control measures, includes blocking short-payments/cash withdrawals based on some common MCC codes (such as 4900, 5411, 5499, 5541, 5542, 5172, 6300), combined with allowable transaction value thresholds.</p> <p>BWG continues to expand the issue related to the control of online game transactions and has actively discussed with the SBV and the Ministry of Information and Communications in 2021.</p> <p><i>(Please refer to detail at point 17 - Monitor Transaction related to unlicensed online games)</i></p>	<p>BWG has received a response from the State Bank through OL No. 5913-TT dated September 17, 2021 of the State Bank confirming the roles and responsibilities of both the purchasing bank and the issuing bank, SBV recommends making some improvements in reporting of suspicious transactions and merchants and OL No. 980/Department V.1 dated October 4, 2021.</p> <p>In terms of issues related to anti-money laundering, SBV recognized the difficulties and barriers in the provisions of the law on anti-money laundering related to the reporting entities and reporting information in the “cardholder - card issuer – merchant - card acquirer mentioned by BWG in Document No. 210615BWGVBF and which will be studied and considered during the amendment of the Law on Anti-money laundering, relevant guiding documents and other regulations as well as in the propagation and implementation of the laws on anti-money laundering and payment.</p>

7.	<p>(BWG Consumer Finance)</p> <p>Circular 39/2016/TT-NHNN</p>	<p><u>1. Proposal on Implementation refinancing process for mid-term and long-term loan with loan purpose to meet individual’s living needs</u></p> <p>BWG sent to SBV a proposal via OL 210602BWGVBF on June 2, 2021, asking for SBV’s consideration to allow refinancing mechanism for mid-term and long-term loan with purpose to meet clients’ living needs by following the same conditions as regulated under Art.8.6 Circular 39.</p> <p><u>2. lending via digital platform:</u></p> <p>Related legal provisions: Article 9. Loan documents, Article 17. Loan appraisal and decision, Article 23. Loan contract, Article 32. Loan file storage – Circular 39</p> <p>For consumer loan with small ticket size to Vietnamese residents, digital channel is used to receive, collect, process and store loan applicant’s documents, credit decision, loan agreement.</p> <p>However, Cir 39 has still required paper-based loan documentation and there is no guidance to accept electronic copies of documents, AI-based credit decisioning, electronic signatures in loan agreement, cloud storage of loan documentation. As a result, lending process still follows the traditional hard-copy based method which will make the objective as guided in Decision 810 to digitalize lending activity for individual clients remain difficult to achieve.</p> <p><u>Recommendation:</u></p> <p>Currently, SBV allows providing current account opening and card issuance for usage via digital platform. In addition, to achieve the target of digitalization in lending activity as required by Decision 810, SBV please consider to update Cir39 on lending</p>	<p><u>1. Proposal on Implementation refinancing process for mid-term and long-term loan with loan purpose to meet individual’s living needs</u></p> <p>Implementing the instructions of the Governor, SBV (Department of Monetary Policy) is reviewing Circular 39 to continue to improve the legal framework and facilitate the credit institutions’ lending operations to customers in a safe, efficient manner, and in line with market development trends and state regulatory requirements. Accordingly, the recommendations on consumer loans are being considered by SBV during the review of Circular 39.</p> <p><u>2. Recommendations on lending via digital platforms:</u></p> <p>SBV (Department of monetary policy) is currently studying and reviewing to propose amendments and supplements to regulations on credit institutions’ lending operations via electronic means to customers in compliance with the provisions of the Law on Credit Institutions and market trends to be included in the general legal framework for lending operations in Circular 39.</p>
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		activities with guidance on the end-to-end lending process via digital channel.	
8.	(BWG Financial Market) IBOR Alternative	BWG is supporting the SBV in implementing the LIBOR interest rate alternative.	SBV discussed, worked and will continue to cooperate with BWG in exchanging information and practical implementation of LIBOR interest rate conversion.
9.	(BWG L&C) Circular 21/2013/TT-NHNN	<p>Clause 1b, Article 14 of Circular 21 stipulates conditions for opening domestic branches and transaction offices, according to which, banks are required to fully comply with regulatory cash and vault security standards, even in the event that the Bank does not have a retail banking segment and has ceased on-site cash operations for many years & is currently outsourcing this service to a Vietnamese bank.</p> <p>BWG found this regulation inconsistent with the Bank's non-cash payment strategy as well as the Government's policy of "digital banking" and "non-cash payment strategy".</p> <p><u>Recommendation:</u></p> <p>BWG proposes to discuss with the SBV and is ready to assist in providing relevant information and international experiences in the process of amending and supplementing Circular 21/2013.</p>	<p>BWG received on January 27, 2022 & studied the following feedback from the SBV to continue the appropriate implementation.</p> <p>“The State Bank has stipulated in Clause 1, Article 15, Circular No. 01/2014/TT-NHNN dated January 6, 2014 of the State Bank on delivery and receipt, preserve and transport cash, precious assets and valuable papers in accordance with regulations to ensure absolute safety of cash, precious assets, valuable papers in the banking industry.”</p> <p>Currently, the State Bank of Vietnam (Department of Issue and Vault assigned as the lead) is studying and developing the project “Innovation of cash transactions of credit institutions”, covering the permission for credit</p>

			<p>institutions to provide cash services to credit institutions other than in their own network. Therefore, when the project is approved and implemented, credit institutions and foreign bank branches can utilize cash services provided by other credit institutions. As such, credit institutions shall not necessarily be required to construct their own vaults for keeping of cash as currently when using the service.</p>
<p>A.3. ISSUES THAT REQUIRE BILATERAL COOPERATION BETWEEN THE TWO PARTIES, SBV HAS ACKNOWLEDGED AND WILL TAKE INTO ACCOUNT WHEN AMENDING SBV’S CIRCULARS AND DECREES</p>			
<p>10.</p>	<p>Developing a legal framework for cash pooling product</p>	<p>BWG recommends developing a legal framework and allowing a form of tangible transfer in VND, both internally and for domestic transactions.</p> <p>Since the BWG ‘s initial proposal (October 2017), BWG and the SBV have held many meetings and seminars in 2018-2020 to exchange and listen to BWG's product characteristics and proposals.. The State Bank also noted that the current legal framework does not prohibit it, however, according to the development trend, the Banks propose and urgently need support from the SBV and the Government to develop and develop relevant legal regulations. to support businesses in particular as well as the economy in general.</p> <p>At the September 2021 meeting with the SBV, BWG explained in detail about the product's features, the full process, and answered the SBV's questions and concerns from the manager's perspective</p>	<p>BWG continues to research, coordinate and work with the SBV on this issue.</p>

		and raised the following questions: practices and practices in China, and at the same time make comparisons between the similarities and differences in the legal framework of Vietnam - China. The SBV noted and requested the BWG to propose more about obstacles in the current legal framework in Vietnam and corresponding solutions.	
11.	(BWG Financial Market) Underlying transaction for hedging could be a hedging transaction	<p>From the perspective of valid customer demand and large scale of transactions, BWG proposed that the SBV amend the requirements of valid documents to facilitate implementation of derivative products and help customers actively participate in hedging exchange rate and interest rate risks according to Circular 01/2015/ TT-NHNN (“Circular 01”).</p> <p>According to the provision of Circular 01, Article 7: Legal entities using interest rate derivative products are to prevent and limit interest rate risks for their original transactions. Instead of just using merely the original derivative contract as the basis for the second CCS, customers may use both their original loan contract along with the IS they did to hedge interest rates, as a basis for hedging exchange rate of both principal and interest. We would like to ask for SBV’s comments on this approach.</p> <p>2021: BWG and SBV discussed and closely coordinated, contributed ideas on the Draft amendment of Circular 01.</p>	Regarding underlying transactions: According to Circular 01, only commercial banks and foreign bank branches are allowed to conduct interest rate derivative transactions based on underlying transactions to ensure that commercial banks and foreign bank branches only perform such transactions for the purpose of hedging for the underlying transactions subject to interest rate risk. Allowing commercial banks and foreign bank branches to conduct interest rate derivative transactions without the underlying transactions, such transactions are actually investment or speculative product, with potential unpredictable risks; in the current market conditions, it is difficult to control speculative transactions, thus the State Bank of Vietnam will study BWG’s proposal in the near future when market conditions permit. On December 31 st , 2021, the State Bank of Vietnam issued Circular

			No. 25/2021/TT-NHNN amending and supplementing a number of articles of Circular 01 (Circular 25), including amendment and supplements to a number of provisions related to underlying transactions in order to make it easier for commercial banks and foreign bank branches such as no requirement on provision of information and documents proving eligibility to use interest rate derivative products.
12.	(BWG Financial Market) Close-out netting in derivative transactions	BWG proposed SBV to allow Close-out netting in derivative transactions.	BWG continues to coordinate and work with the Monetary Policy Department in the process of amending relevant regulations. - Regarding netting: Circular 25 provides that commercial banks and foreign bank branches are allowed to make net payments (clearing) in interest rate derivative transactions.
B) GROUP 2: ISSUES THAT RELATE TO THE COMPETENCE & RESPONSIBILITIES OF OTHER LINE MINISTRIES			
B.1 – OLD ISSUES			
13.	(BWG LC) Regarding the requirement to have the accountant's signature in the the chief in the	Regarding this issue, there have been a number of meetings between BWG and Department of Settlement, SBV, and Ministry of Finance. The origin of this issue is the Law on Electronic Transactions, Decree No. 35/2007/ND-CP dated March 6, 2007 on electronic transactions in banking activities, Law on Accounting and Decision 1789 of SBV 2005. Before, banks have	BWG continues to work with the Ministry of Finance and other ministries (Ministry of Justice, Ministry of Information and Communications) to gradually remove obstacles for credit institutions in the process of researching

<p>operation and use of bank accounts</p> <p>Decision 1789/2005/QĐ-NHNN promulgating the regime of accounting vouchers</p>	<p>not met with a lot of difficulties in implementing this decision because transactions were paper-based. Yet the online transaction systems have been well developed, with 2 groups of signatures: those of the legal representatives and chief accountants and authorized representatives, thus the requirements set out in this decision is no longer practical for banks' operations. For example, on SBV's CITAD system, only one person can now log in to approve the transactions and send the payment orders, and approval of both groups is not required. Some banks have developed the mechanism for granting ID as well as password for customers to assign an authorized person to carry out the transactions. Yet, due to the barriers in Law on Accounting and Decision No. 1789, banks face with compliance risk, because when customers use a bank's payment system, both they and the bank cannot prove both groups of signatures as required.</p> <p>According to discussion between BWG and the Ministry of Finance, the latter agreed that these requirements were developed based on paper transactions and were no longer appropriate with the current e-transactions.</p> <p>Recommendation:</p> <p>With experience in development of e-banking systems in parent banks in developed countries, BWG would like to further work with functional entities under SBV and support SBV in the drafting and revising the relevant laws, and developing a legal system for conduction of e-transactions in Vietnam - such as the revision of Decision 1789 to be in line with the current development status of e-banking.</p>	<p>and proposing amendments to relevant regulations.</p>
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14.	<p>(BWG LC) E - Signature</p>	<p>- Re. E-signature: Following the technical discussions on November 13, 2019 and the high-level meeting on January 9, 2020, BWG would like to seek further guidance from the SBV's IT Department on the criteria of digital signatures/digital signatures. According to international practice in current countries, the process of applying electronic signature always follows the basic process / specific instructions of the authorities (Standard electronic signature - SEF). Example: The UK/US has had its own electronic signature guidance (e-signature guidance/Federal commercial acts - <i>like some of the following references:</i></p>	<p>BWG continues to coordinate and work with the SBV (IT Department) and the MIC in the process of amending relevant regulations such as the Law on Electronic Transactions, Decree 130/2018/ND-CP.</p>

		<p>UETA - uniform electronic transactions Act ¹</p> <p>ESIGN - federal electronic signature in global and national E-commerce Act²</p> <p>EU³</p> <p>BWG & SBV (Legal Department, IT Department, Payment Department, International Cooperation Department) held a meeting to discuss on November 13, 2019.</p> <p>BWG & SBV held a working session on September 30, 2020 on electronic signatures (e-signature- with IT Department, Legal Department, Payment Department) to discuss in more detail the problems and relevant circulars/regulations.</p> <p>In 2021, the Ministry of Information and Communications is developing a Law amending and supplementing a number of articles of the Law on Electronic Transactions No. 51/2005/QH11 and is expected to be issued in 2022. BWG proposes to work together. with the Ministry of Information and Communications and the State Bank in this regard.</p>	
15.	<u>(BWG Finance)</u> Retrospective Application of VAT on L/C	<p>We propose not to apply VAT retroactively to L/C fees of credit nature</p> <p>- BWG has sent Official Letter No. 200429-BWGVBF dated April 29, 2020 to the Prime Minister on this issue.</p>	BWG continues to coordinate with the State Bank (Department of Credit for Economic Sectors) and the Ministry of Finance and General Department of Taxation on this issue.

¹ <https://www.uniformlaws.org/committees/community-home/librarydocuments?communitykey=2c04b76c-2b7d-4399-977e-d5876ba7e034&tab=librarydocuments&LibraryFolderKey=&DefaultView=>

² <https://www.govinfo.gov/content/pkg/PLAW-106publ229/pdf/PLAW-106publ229.pdf>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0910&from=E>
https://www.etsi.org/deliver/etsi_en/319400_319499/31941102/02.00.06_20/en_31941102v020006a.pdf

		<ul style="list-style-type: none"> - The Prime Minister's Office responded to Official Letter No. 4945/VPCP-KTTH dated June 19, 2020 and assigned the SBV to work with the Ministry of Finance; then the State Bank of Vietnam has sent Official Letter No. 5496/NHNN-TD dated July 30, 2020 to the Ministry of Finance - - BWG looks forward to further working with the Ministry of Finance. Since this is a common problem for the banking sector, BWG will cooperate with VNBA and join the meeting with the Ministry of Finance to discuss details and solutions for the banking sector <p>In 2021, BWG had many discussions with the SBV through:</p> <ul style="list-style-type: none"> - discussion with the SBV, providing documents, experiences, international practices, etc. - Each BWG member bank officially responded to Official Letter No. 1116 of the SBV asking banks to report on L/C activities, - The SBV issued Official Letter No. 2032/NHNN-TD to the Ministry of Finance, stating the State Bank's view that "L/C is both a payment service and a credit provision activity", and providing international practices. and continued to confirm the proposal not to apply VAT retrospectively. - BWG participated and delivered a speech at the Conference co-organized to VNBA, VCCI with the participation of the State Bank, Ministry of Finance on May 11, 2021 on practical difficulties when applying VAT retrospectively for fees L/C having nature of credit provision. - The State Bank sent CV No. 7390/NHNN-TD dated October 18, 2021 to the Ministry of Finance, clearly stating its views on the classification of fees collected from L/C services, the legal basis 	
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		<p>of the classification; provide data on L/C fees collected by credit institutions from customers in the period 2011-2020 and affirmed that their view on Retrospective Application of VAT on L/C (for 10-years period) is inappropriate.</p> <p>- On December 24, 2021, the Ministry of Finance issued Official Letter No. 14694/BTC-TCT to the State Bank of Vietnam asking for comments on the draft Report to the Prime Minister on the plan for VAT application for L/C fees and proposed the State Bank to review and amend a number of Circulars of the State Bank.</p> <p>- The State Bank has sent the Ministry of Finance Official Letter No. 576/NHNN-TD to respond to Official Letter No. 14694/BTC-TCT with the following contents: (i) Legal regulations related to L/C and VAT collection guidelines of the Ministry of Finance in Official Letter No. 11754/BTC-CST; (ii) Regarding the assessment “L/C is providing payment services via account”; (iii) Regarding the plan for VAT application for L/C fees proposed by the Ministry of Finance; (iv) SBV’s proposed plan</p>	
B.2 – NEW ISSUES			
16.	<p>(BWG Finance)</p> <p>Roadmap/ Timeline for IFRS implementation in Vietnam</p>	<p>On March 16, 2020, the Minister of Finance issued Decision No. 345/QD-BTC approving the scheme on application of international financial reporting standards in Vietnam, including 3 phases: preparation (2020-2021), pilot (2022-2025), and application (after 2025).</p> <p>The application of IFRS in the banking sector: The Ministry of Finance has issued regulations on the application of IFRS and it is time for banks to apply this new standard. The Banking sector wishes to receive further instructions from the MOF & SBV in the application of IFRS to the particular banking industry. The</p>	<p>Currently, Ministry of Finance has not yet announced the translation of IFRS into Vietnamese and has not issued the legal documents on how to apply IFRS; or supplementing, amending and issuing new financial mechanisms related to the application of IFRS as per the roadmap.</p> <p>The SBV has coordinated with a number of stakeholders in developing & implementing a roadmap for IFRS</p>

		<p>adoption process is expected to be complex and resource-intensive (human and costly to attract external consultants) as well as a significant expected impact on banks' operations.</p> <p>BWG would like to know the detailed roadmap and expectations of the State Bank & MOF to be ready for implementation</p>	<p>application in Vietnam and in the near future, the SBV will coordinate to conduct a survey on the needs and applicability of IFRS at credit institutions and assess the impact of the application of IFRS as a basis for making a specific roadmap.</p>
17.	<p>(BWG AML)</p> <p>Monitor Transaction related to unlicensed online games</p>	<p>1. BWG sent OL No. 210719BWGVBF to MIC and SBV presenting the difficulties in implementing and asking for general guidance on unlicensed online games as follows:</p> <p>1.1. Regarding the request of official dispatch No. 585/NHNN-TT dated August 10, 2020 asking banks to refuse to process transactions related to unlicensed online games: SBV sent OL No. 998 /TT4/NHNN-TT dated September 4, 2020 instructing BWG on payment connection.</p> <p>1.2. The inclusion of games with short keywords, few characters such as K8, M88, G88, GDW (Dispatch 830/TTGSNH11); R88, Long ho, B24 (Official Letter 551/TTGSNH5) and a string of characters written in Chinese, game publishers without identifying information (Official Letter 585/TTGSNH5) on the list of possible reviewers resulting in a very large number of inaccurate warnings, making it difficult to determine if these warnings are actually related to the online game. Therefore, BWG proposed the State Bank to clarify and provide further guidance.</p> <p>1.3. In controlling transactions related to customers in the field of hotels, bars, clubs, resorts, MCC codes 5813, 7011, etc. BWG has difficulty identifying licensed establishments from which to determine whether transactions with them are legitimate. BWG is</p>	<p>BWG proposes to continue to coordinate with the Ministry of Information and Communications on this issue in the coming time.</p>

	<p>looking forward to receiving guidance from the SBV on the list of licensed gambling service establishments in Vietnam.</p> <p>To ensure that the controls that block transactions to merchants with the relevant MCC code are implemented efficiently, consistently, and comprehensively by all banks, we would like to receive guidance. guidance of the State Bank in understanding the list of MCCs related to transactions that are prohibited by law.</p> <p>1.4. Related legal regulations: Decree 03/2017/ND-CP, Circular 102/2017/TT-BTC on casino business has a 3-year pilot regulation allowing Vietnamese to be 21 years or older and have the capacity for civil acts to play at the casino business location permitted by the competent authority.</p> <p>Currently, BWG has no way to determine which businesses are on the list of allowed pilot, nor if the businesses have completed the pilot and are officially licensed to allow Vietnamese people to enter. We look forward to receiving further guidance from the SBV to make our transaction reporting more accurate and complete.</p> <p><u>BWG received the following responses:</u></p> <p>- The Ministry of Information and Communications (Dispatch No. 1631/PTTH& TTĐT) responds to CV No. 210719BWGVBF:</p> <p>In addition to licensed online games, there are many games that are being released without authorization and that collect player fees through local payment agents, most of which are offered cross-border. entering Vietnam through the Apple & Google app stores.</p>	
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	<p>The Ministry of Information and Communications requests BWG to guide and request payment support units to comply with the provisions of Clause 1, Article 9 of TT24/2014/TT-BTTTT.</p> <p>About the list of legal/licensed online games updated by the Ministry of Information and Communications once a month at the website: www.gameportal.gov.vn, ww.abei.vn; www.mic.gov.vn. It is recommended that BWG actively access and look up legally released games that have been updated.</p> <p>Clause 2, Article 31 of Decree 72/2013/ND-CP stipulates that before considering and connecting payment for each game, payment support enterprises may request the enterprise to provide online video game services. provide the prescribed documents, to have enough grounds to connect or actively refuse or suspend the connection. In case of need, BWG can send to the Ministry of Information and Communications a list of games that are expected to be connected to payment for information.</p> <p>- SBV (Official Letter 7069/NHNN-TTGSNH) response to CV No. 210719BWGVBF:</p> <p>Card issuers and card payment organizations shall base themselves on their responsibilities in accordance with applicable laws to carry out their duties in monitoring and detecting suspicious card transactions and taking measures to handle such transactions. this case. In addition, the card issuer and the card payment organization can coordinate information exchange with each other and with the international card organization to prevent card transactions that are against the law.</p> <p>When the Card Issuer detects suspicious signs related to the Cardholder (the customer) or detects suspicious signs related to</p>	
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		<p>the Merchant, the Card Issuer needs to find out, collect information about its customers and about the Card Acceptor through coordination with the Card Payment Institution), the Card Issuer, and the Card Payment Institution to report suspicious transactions (in which including providing information about the Card Acceptor that the Card Issuer has).</p> <p>The SBV acknowledges the difficulties and problems related to AML law and will study and consider in the process of amending the AML Law</p> <p>2. BWG sent CV No. 01-141021BWGVBF on October 14, 2021: in which, continue to present the following issues:</p> <p>2.1. Request the State Bank to give further comments to the Banking Association (VNBA) and card payment organizations to support, facilitate and accelerate the connection and sharing of the above information as well as to have more guidance on the coordination of the whole industry in the prevention of violations in card activities.</p> <p>2.2. Regarding reporting standards: Due to the currently unknown channels as well as communication rules or clear response time and consensus between the Card Issuer and the Card Payment Institution, BWG has/will conduct a report. Report suspicious transactions with the best effort, providing the most information required.</p> <p>BWG proposes to report suspicious transactions on a group basis based on common points in terms of information collected on customers' card transactions during the investigation process – a detailed separate reference sheet for each organization that pays cards by this method attached to the suspicious transaction report template will help report the information in a concise, consistent, and concise manner.</p>	
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	<p>the bank on an internal database, and then submit additional information provided by the card paying organization (if any).</p> <p>The STR report is made according to form No. 01 issued with Circular 35/2013/TT-NHNN, including information about (i) individuals and organizations performing transactions, (ii) individuals and organizations related to the transaction, (iii) the reason for doubting the transaction and the work performed, (iv) the attached document.</p> <p>In case the Bank through the review detects that a group of related customers are performing suspicious card transactions, the Bank may present information of the individuals performing the transaction, individuals and organizations related to the transaction according to the appendices attached to the STR report; The bank can also make a detailed list of information about the suspicious card transaction (including information about the card acceptor and card payment organization) and attach the STR report form.</p> <p>3. BWG cooperates with the State Bank to organize an online meeting with the Ministry of Information and Communications/ Department of Broadcasting and Electronic Information related to the issue on December 21, 2021.:</p> <p>BWG and the State Bank of Vietnam presented relevant regulations, procedures for controlling and screening transactions at banks and proposed as follows:</p> <p>3.1. We understand that the requirement in official letter 585 only applies to the case where banks make "payment connections" for online video games.</p>	
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		<p>and does not apply to other banking products and services (if any).</p> <p>3.2. In the case that banks make "payment connections for online games", banks will strictly follow the instructions in article 9; Clause 5đ, Article 14 and Clause 5đ, Article 23 of Circular 24/2014/TT-BTTTT detailing the management, provision and use of online video game services.</p> <p>3.3. In the case of banks that open accounts for businesses providing video game services then each bank is responsible for fully implementing the requirements on customer identification for customers who are organizations in accordance with the provisions of the law on anti-corruption, including the examination of the certificate of registration for providing G1, G2, G3, G4 video game services as prescribed in Circular 24/2014/TT-BTTTT. Therefore, payment related to businesses providing video game services will be the responsibility of each bank where the business opens an account. In addition, other forms of payment mentioned in CV585 such as using telecommunications scratch cards, game cards, e-wallets are not within the scope of products and services provided by the bank.</p> <p>3.4. In the event that the transaction review must be based on a specific list as provided in the official dispatches of the SBV, we wish to regularly update and receive full information about illegal games. this method/unlicensed so that screening can be performed most accurately and efficiently. Proposing the SBV and the Ministry of Information and Communications to consider and establish a coordination mechanism to provide and update information on a regular basis and to notify banks so that the banks know and facilitate the review effectively and in accordance with regulations.</p>	
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18.	<p>(BWG Consumer Finance)</p> <p>Decree 91/2020/ND-CP against spam messages, spam emails, spam call</p>	<p>BWG sent OL No. 210407BWGVBF to MIC, SBV on April 7, 2021: Clearly stating the problems and difficulties of banks that have not yet responded to customers' requests to refuse to receive marketing emails as prescribed in Clause 3, Article 20 of Decree 91/2020 ND-CP on prevention of spam messages, spam emails and spam calls. It usually takes 2-4 working days for foreign banks to notify internally and implement changes in the global system.</p> <p>- Proposal: MIC to coordinate with SBV to consider providing guidance and accept appropriate implementation methods from banks to ensure data consistency and technical standards to avoid wasted resources, time, costs and reduce risks that may arise in financial services.</p> <p>The Ministry of Information and Communications has CV No. 2634/BTTTT-QHQT dated 19/7/2021 to reply to BWG's CV as follows:</p> <p><i>“The termination of emails, spam messages, and spam calls as prescribed in Clauses 4, Article 13 and Clause 3, Article 20 of</i></p>	<p>The Ministry of Information and Communications has not yet issued specific and effective guidelines to suit the operating mechanism of banks.</p> <p>The Ministry of Information and Communications proposed that the BWG continue to coordinate with the Ministry of Information and Communications and the State Bank in the process of amending and developing implementation guidelines on prevention of spam messages, spam emails and spam calls.</p>

		<p><i>Decree 91 is important to ensure the interests of users in the face of email problems. spam calls and messages. These measures need to be deployed automatically, synchronously, based on appropriate tools and software.</i></p> <p><i>Clause 1, Article 13; Clause 1, Article 11 of Decree 91 prescribes the principles of sending promotional emails, messages, and calling calls. The Ministry of Information and Communications requires that before sending advertising messages or making promotional calls to customers, banks need to check carefully to make sure that customer is not on the DNC (Non-Advertising List) list. In addition, now the connection to the DNC List is made easy and the MIC (Department of Information Security) has detailed instructions at website ais.gov.vn. Recommend access banks to follow instructions.”</i></p>	
19.	(BWG LC) Draft Decree on non-cash payment	BWG contributed ideas, participated in the Appraisal Council and worked with the SBV and the Ministry of Justice in the process of drafting & developing the Decree.	BWG continues to coordinate with the Ministry of Justice and the State Bank in this regard.
20.	Draft Decree on Personal Data Protection	<p>Some key issues in the Draft Decree propose to discuss:</p> <p>(i) Handling of sensitive personal data: Regarding the banking sector's handling of sensitive personal data (regarding Articles 2, 20, 21, 24.4 and other provisions of the Draft Decree),</p> <p>(ii) Article 8: Consent of data subjects to personal data</p> <p>(iii) Point c) and g) Clause 2 Article 17 on statistics of activities related to personal data</p> <p>(iv) Clause 1 Article 21 - Regarding the requirement for original data to be stored in Vietnam:</p>	BWG will coordinate with the SBV & the Ministry of Public Security in the process of drafting and developing the Circular, with the aim of implementing appropriate regulations for the banking industry.

		<p>(v) Clause 3, Article 4 and Clause 3, Article 22 on a maximum fine of 5% of the total revenue of the personal data breach handler in Vietnam for a number of acts.</p> <p>(vi) Article 29. Effect</p>	
21.	<p>(BWG Finance)</p> <p>Circular</p> <p>80/2021/TT-BTC</p>	<p>BWG proposes MOF to clarify the following issues:</p> <p>1. Article 4, Circular 80:</p> <p>Banks can rely on this clause to make payment of taxes/fees in foreign currencies within the territory of Vietnam.</p> <p>2. Article 73:</p> <p>- Article 73.1:</p> <p>Will the tax apply on the seller of goods/services or on the company providing the e-commerce platform abroad?</p> <p>- Article 73.4:</p> <p>Does this apply to banks, payment intermediary service providers and other related organizations and individuals in foreign countries? And does the tax apply on these objects?</p> <p>- Need to clarify the concept of "other services" including services within the scope of Decree 85 or all services in general between foreign suppliers and Vietnamese organizations and individuals?</p> <p>3. Article 81:</p> <p>Vietnamese individuals, if paying directly to foreign suppliers, usually pay the full value of the service. The invoice value will not specify the commission that the supplier is entitled to (which is the supplier's net revenue) from providing the application to the hotel and the service user because this is a separate contract between the customer hotels and suppliers. Therefore, it is</p>	<p>BWG held a meeting with the General Department of Taxation, Ministry of Finance on January 15, 2022 and received some answers. BWG will continue to study the feedback, and coordinate with the General Department of Taxation and the Ministry of Finance to implement accordingly.</p>

		<p>difficult for individuals and banks to show the revenue of foreign suppliers in this case to calculate VAT and CIT.</p> <p>Moreover, foreign suppliers can open accounts at commercial banks in Vietnam (accounts of non-residents). At that time, the Vietnamese individual will pay directly to the supplier's VND account.</p> <p>We respectfully request GDT to have specific instructions, or issue a regulation that requires foreign suppliers to receive only the right amount of revenue from providing platforms and applications.</p> <p>Please advise GDT for specific guidance because currently SBV does not stipulate the responsibility of commercial banks in checking tax obligations for current transactions (when foreign investors receive VND as well as repatriate revenue).</p> <p>According to regulations, the declaration, deduction, payment on behalf of and tracking of money transferred to overseas suppliers by commercial banks are carried out on the basis of the list of foreign suppliers notified by the General Department of Taxation. However, it can be seen that the list of foreign suppliers that have not yet registered, declared and paid tax will be regularly updated. This makes it difficult for commercial banks to track, update and determine who and when they will have to declare, deduct, and pay on their behalf and track remittances to overseas suppliers.</p> <p>In case the list is updated at a later time, there are additional subjects who have not yet registered, declared and paid tax while at the previous time they were not on the list (so the bank has not fulfilled its obligations) as provided in Article 81), does the bank have to retroactively/ additional to these new objects? Will the bank be responsible if these objects are not recovered? How to prove the</p>	
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		<p>bank has followed the list updated by the General Department of Taxation? etc...</p> <p>The bank has difficulty and cannot deduct, pay on behalf of money transfer transactions online automatically or at the counter without the consent of the customer.</p> <p>Determining the percentage to calculate VAT & CIT of foreign contractor tax is relatively complicated, which may lead to incorrect determination of tax percentage. It is recommended that a standard tax rate be applied.</p> <p>- Article 81.4: Request the GDT to clarify the concept of "Other forms"</p> <p>- Articles 81.5, 87.1:</p> <p>Declaration, deduction, payment on behalf of and tracking of money transferred to overseas suppliers by commercial banks, payment intermediary service providers.</p> <p>According to the provisions of Clauses 2, 3, 4, Article 81 of this Circular, this Circular shall be implemented from the time the General Department of Taxation sends a notice to the head office of the bank or the organization providing intermediary payment services.</p> <p>However, this Circular 80/2021 takes effect from January 1, 2022.</p> <p>Thus, in the event that by January 1, 2022, the General Department of Taxation has not sent a notice to the Bank's Head Office for implementation, the period from January 1, 2022 until the date of receipt of the notice of How does the General Department of Taxation handle it? Did the return, withholding, filing, and tracking of offsets apply retroactively for this period?</p>	
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		We respectfully request the BTC to provide specific guidance on not retroactively applying compensation for the period from January 1, 2022 until the date the General Department of Taxation sends a notice to the Bank's Head Office, but only from the date of receipt of the notice. notice onwards.	
22.	(BWG L&C) Work from home - Future of Work Arrangement	As businesses (including financial institutions) have to adapt to the new normal, Work from home/ Flexible working is a global trend that will become Future of Work Arrangement. We look forward to having regulations/guidelines on this topic.	BWG will propose to work further with relevant ministries and SBV.
C) CATEGORY 3: ISSUES THAT HAD BEEN RESOLVED IN 2020 & 2021			CAT EGO RY 3: ISSU ES THA T HAD BEE N RES OLV ED IN 2020 & 2021
23.	(BWG Finance)	BWG proposes to discuss with the SBV on a number of issues such as the centralized reporting model of head office - branch.	

	Draft Circular to replace Circular 11/2018/TT-NHNN and Circular 35/2015/TT-NHNN stipulating the statistical reporting system applicable to credit institutions and foreign banks		
24.	(BWG Finance) The Internal Capital Adequacy Assessment Process (ICAAP) in Circular 13/2018/ TT-NHNN, Circular 44/2011/TT-NHNN stipulating the internal control and audit system of credit institutions and branches of the State Bank of Vietnam.	BWG summarizes a number of problems, proposes to organize an online meeting to discuss with the Banking Supervision and Inspection Agency/SBV through the official dispatch No. 161121BWGVBF dated November 16, 2021.	RESOLVED BWG has received the SBV's response via Official Letter No. 77/TTGSNH1 dated 11/1/2022 & studied the SBV's response to continue the appropriate implementation.
25.	(BWG LC) Circular 24/2016/TT-NHNN on amendment and	- The SBV's Circular 42/24 stipulated that to be able to act as some appointed agent roles (security agent/security asset agent, facility agent/credit extension agent, etc.), such a member must be a lender/credit provider (credit granting member). In fact, as per international practice, those agent roles can be played by a separate party jointly appointed by lenders, not necessary to be	SBV and BWG held a meeting to discuss in details. The SBV advocated for changes in line with international practices and facilitates the expansion of operations in the market.

	<p>supplement to a number of articles of circular no. 42/2011/TT-NHNN on grant of syndicated loans to clients by credit institutions</p>	<p>one of the lenders. Even some credit institutions are specialized in providing those services for lenders in a syndication.</p> <p>- BWG suggest amendment to facilitate further arrangement of syndication transaction in Vietnam for big projects for which financing requirements exceed either Single Borrowing limit (“SBL”) or appetite of a single bank.</p>	<p>BWG supported the SBV in conducting relevant surveys.</p>
26.	<p>Circular 52/2018/TT-NHNN prescribing credit rating of credit institutions and foreign bank branches</p>	<p>According to Circular 52/2018/TT-NHNN regulating the rating of credit institutions and foreign bank branches:</p> <p><i>“Article 23. Ranking result management</i></p> <p><i>1. Credit institutions and foreign bank branches are not allowed to provide rating results to third parties (including parent banks of foreign bank branches) in any form.”</i></p> <p>We have referenced and studied regional practices (e.g. Monetary Authority of Singapore - "MAS") allows sharing of annual ratings with the parent bank (Head office), but not with branches in other countries. Or in Malaysia, foreign banks are allowed to share risk rating with parent bank and regional office; there are no restrictions to this sharing in the Philippines and Indonesia.</p> <p>Besides, pursuant to Clause 9, Article 4 of the Law on Credit Institutions:</p> <p><i>“Foreign bank branch means a foreign bank's subsidiary without legal entity status and the foreign bank is liable for all of the branch's obligations and commitments in Vietnam.”</i></p> <p>A branch is a dependent unit, so it is subject to the strict control and management of the parent bank while complying with the</p>	<p>RESOLVED</p> <p>The Governor of the State Bank of Vietnam signed and promulgated Circular No. 23/2021/TT-NHNN dated December 31st, 2021 amending and supplementing a number of articles of Circular No. 52/2018/TT-NHNN dated December 31st, 2018 of the Governor of the State Bank of Vietnam providing for the rating of credit institutions and foreign bank branches. Accordingly, Article 23 of Circular No. 52/2018/TT-NHNN was amended and supplemented to allow foreign bank branches to provide their ratings to the parent banks upon commitment by the parent banks not to provide the ratings to third parties in any form.</p>

		<p>parent bank’s business directions and plans. Therefore, the parent bank needs to know the rating results of the branch to promptly adjust the management practice and improve the quality of capital, assets, governance, liquidity and business operations as required and expected by the SBV while improving the branch's rating. So we believe it is essential for our banks to share the risk rating results from the SBV with the parent bank.</p> <p>Furthermore, information on this rating can also be shared between the State Bank of Vietnam and the parent bank's local regulatory authority as part of an agreement between the two regulators. The parent bank may be perceived as failing to closely oversee the subsidiary if they do not know the ratings of the subsidiary while their regulator is aware of this information.</p> <p>If the SBV is concerned about confidentiality, parent banks may sign a Non-disclosure agreement (NDA) undertaking that they will not disclose to any other parties about this rating (if necessary).</p> <p>Recommendation:</p> <p>We sincerely hope that SBV will allow credit institutions and foreign bank branches to share rating results with the parent bank's leaders and relevant functions to ensure close and strict supervision over the branches. The Branch and the Parent Bank will have to ensure confidentiality of the rating results and not provide to other third parties without the approval of the SBV.</p>	
<p>27.</p>	<p>(BWG Finance) Law on Tax Administration &</p>	<p>BWG is studying and is expected to discuss a number of important contents with the State Bank and the Ministry of Finance on the</p>	<p>BWG directly worked with the Ministry of Finance on this matter and will update</p>

	Decrees, Circulars on Tax Administration.	Law on Tax Administration & the Draft Tax Administration Decree.	the progress to the SBV (Department of Finance and Accounting).
28.	<u>(BWG Finance)</u> Value-added taxes (VAT) applicable to services provided to processing enterprises.	<p>BWG sent the OLS no. 200616BWGVBF and 141021BWGVBF to the Ministry of Finance asking for guidance on the below issue:</p> <p>VAT of 0% applies to banking services provided to export processing enterprises satisfying eligibility conditions under current tax regulations (specified in Article 9.1, Circular 219/2013/TT-BTC dated December 31, 2013) and is not included in the list of cases ineligible for 0% VAT.</p> <p>However, BWG members are required to pay 10% VAT on banking service fees provided to export processing businesses (including remittance fee, collection fee, L/C processing fee) for the past period from 2013 to 2018 because the tax inspection team held the opinion that this service is performed in Vietnam (outside the export processing zones and non-tariff zones) so it is not acceptable to file this service under 0% tax rate line under the provisions of Clause 1, Article 6, Chapter 2 of Government Decree No. 123/2008/ND-CP dated December 8, 2008 (effective from 2009 to 2013) and Clause 1, Article 6, Chapter 2 Decree No. 209/2013/ND-CP dated December 18, 2013 of the Government (effective from 2014 to 2018).</p> <p>BWG respectfully requests the Tax Authority to confirm that the 0% VAT rate applicable to banking services provided to export processing enterprises can be applied in accordance with Vietnam's current VAT regulations.</p> <p>BWG also respectfully requests the Ministry of Finance/General Department of Taxation to consider and confirm the understanding/interpretation of the tax calculations for services</p>	BWG has received instructions from the Ministry of Finance for further appropriate implementation.

		provided by the Centers to the affiliated parties according to Official Letter 200616BWGVBF	
29.	(BWG Finance) E-invoice	<p>BWG has sent Official Letter No. 200918BWGVBF to the Ministry of Finance asking for guidance on the following issues:</p> <ul style="list-style-type: none"> • Mandatory timeline to start applying e-invoices • Transfer e-invoice data directly to tax authorities • Time to issue e-invoices • Enterprises apply to issue electronic invoices during the period from the date of Decree 123/2020 issued to June 30, 2022, which Decree applies? <p>Specific guidance on invoice issuance for some specific banking products</p>	RESOLVED BWG had a meeting with the Ministry of Finance on item (d) above on November 25, 2020 and received response on this.
30.	(BWG Financial Market) Implementing FX SWAP transactions and/or making settlement of the transaction value (Mark to Market) between the bank and the client upon premature termination or extension of the FX	It is recommended to authorize FX SWAP trading and/or Mark to Market re-valuation between the bank and the customer upon prior termination or renewal of FX FWD transactions.	RESOLVED

	FWD transaction upon the client's request		
31.	(BWG Financial Market) CCS to be booked in trading book instead of banking book	<p>According to Circular 41/2016/TT-NHNN regulating capital adequacy ratio, only derivative transactions with a term of less than 1 year are recorded in the business books. Meanwhile, interest rate swap derivative transactions between two currencies usually have a maturity of more than 1 year.</p> <p>Recommendation:</p> <p>We suggest that the State Bank consider revising this regulation so that derivative transactions with tenor of more than one year are allowed to be recorded in the trading book.</p>	<p>RESOLVED</p> <p>BWG discussed and continued to work with the Banking Supervision Agency & the Monetary Policy Department in the process of amending relevant regulations.</p>
32.	(BWG LC) Circular 16/2020/TT-NHNN amending Circular No. 23/2014/TT-NHNN dated 2/3/2021 guiding the opening and use of payment accounts at payment service providers	<p>BWG has sent some comments and requests for guidance from the SBV regarding the Draft Circular 16/2020/TT-NHNN amending Circular 23/2014/TT-NHNN dated June 1, 2020 guiding the opening and use of payment accounts at payment service providers</p> <p>BWG wishes to receive feedback from the SBV and provide guidance on some important issues such as: Consular legalization, etc.</p>	<p>RESOLVED</p> <p>BWG & SBV (Payment Department) continued to coordinate exchanges.</p>
33.	(BWG Consumer Finance) Currency structure for circulation and strengthening note selection.	<p>BWG sent official dispatch No. 242021BWGVBF to the State Bank on April 2, 2021 stating the difficulties and problems when implementing the regulations in Official Letter 2547/NHNN-PHKQ dated April 10, 2020 issued by the State Bank on improving the quality and selection of currencies for circulation.</p> <p>Recommendation:</p>	<p>RESOLVED</p> <p>The Issue & Vault Department responded to BWG's recommendations on May 4, 2021.</p>

		We respectfully recommend SBV to apply the small-note spending limit in stages and flexibility allows the bank to apply the limit to the best of its ability at that time.	
34.	(BWG Financial Market & LC) Circular 02/2021/TT-NHNN replacing Circular 15/2015/TT-NHNN guiding foreign currency transactions on the foreign currency market by credit institutions licensed to conduct foreign exchange operations	BWG has sent some comments and requests for guidance from the SBV regarding the implementation of Decree No. 26/2020/ND-CP and Decision No. 45/2007/QD-NHNN. (September 2020).	RESOLVED In 2021, the BWG discussed with the Monetary Policy Department/SBV through documents and technical meetings and received guidance and answers from the Department.
35.	(BWG LC) Decree 26/2020/ND-CP detailing a number of articles of the Law on State Secrets	BWG has sent some comments and requests for guidance from the SBV regarding the implementation of Decree No. 26/2020/ND-CP and Decision No. 45/2007/QD-NHNN. (September 2020).	RESOLVED BWG received response from the SBV on May 11, 2021.

36.	<p>Interest subsidy repayment</p>	<p>In the past few years, banks have been waiting for the refund of 20% of the interest subsidy received under the interest subsidy program that ended in 2009 in which BWG members actively worked with relevant Departments of the State Bank, providing sufficient data related to the repayment of interest rate support. The State Audit has also reviewed and assessed the compliance situation in this program and has concluded data. After some previous meetings with the SBV at the end of 2012, we presented that the data had been officially checked and finalized for some member banks of the BWG.</p> <p>We understand that this is a complex issue related to the state budget balance sheet and national financial situation. However, the fact that the accrued interest subsidies have not been repaid is causing more and more problems for banks regarding the international accounting system and internal audit and financial reporting, so BWG respectfully request the State Bank to conclude on the matter and direct the reimbursement of these subsidies as soon as possible.</p>	<p>RESOLVED</p> <p>BWG has been updated by the State Bank on the progress of interest subsidy repayment and continues to coordinate with the Monetary Policy Department.</p>
37.	<p><u>(BWG Consumer Finance)</u></p> <p>Article 27a, Circular 41/2018/TT-NHNN amending and supplementing a number of articles of Circular 19/2016/TT-NHNN (Circular 41) on compliance with the</p>	<p>As far as BWG is concerned, the current base standards for domestic chip cards must comply with the international standard EMV v4.2. However, if all ATMs now comply with EMV v4.2 or above (e.g. EMV v4.3), as per Article 27a of Circular 41/2018/TT-NHNN amending and supplementing a number of articles in Circular 41, banks may not have a contract with NAPAS for domestic chip cards to enable cash withdrawal from these ATMs.</p> <p>Please kindly advise if BWG's understanding of Circular 41 as mentioned above is correct or not and give further guidance so that BWG can comply with the law.</p>	<p>RESOLVED</p> <p>BWG received the SBV's feedback on the above-mentioned issue on June 5, 2020 and continues to coordinate with the SBV for appropriate implementation.</p>

	roadmap for transformation to domestic chip cards		
38.	(BWG Financial Market) Article 27b of Circular 19/2016/TT-NHNN regulating banking card operations (amended and supplemented) Circular 41/2018/TT-NHNN on POS transactions of credit cards	<p>Regarding bank card activities, the SBV issued Circular 41/2018/TT-NHNN (articles 1.3 and 1.5), In particular, SBV plans to have at least 30 per cent of active cards in the country meet domestic chip standards by the end of 2020. The number will rise to 60 per cent by the end of 2020 and all cards by the end of 2021.</p> <p>Some foreign banks are facing difficulties in improving and changing technology to convert domestic cards in circulation with BIN issued by the State Bank (domestic BIN card) and ATM system according to a common basic technical standard on domestic chip cards as required in Circular 41.</p> <p>In order to ensure the consistency of data, technical standards, avoid wasting resources, time and costs and minimize possible risks, some BWG members are issuing BIN cards. At home, sent a letter to the SBV reporting on the failure to complete the first phase of the roadmap by December 31, 2019 and is making an effort to promptly convert 60% of the card in circulation to comply with the Mechanical Standard. Domestic chip card department according to the general schedule on December 31, 2020. We respectfully request the SBV for further guidance.</p>	<p>RESOLVED</p> <p>BWG received the SBV's feedback on the above-mentioned issue on June 5, 2020 and continues to coordinate with the SBV for appropriate implementation.</p>
39.	(BWG Consumer Finance) Loan purpose requirement	<p><u>Quote from official dispatch 200805BWGVBF dated 5/8/2020:</u></p> <p>1. Circular 39/2016/TT-NHNN:</p> <p><i>Article 22.2:</i> Internal rules on lending of the credit institution shall be implemented in a consistent manner within the entire network of the credit institution and address the following</p>	<p>RESOLVED</p> <p>BWG received the SBV's feedback on the above-mentioned issue on September 8, 2020 and continues to coordinate with the SBV in the process of implementing and</p>

	<p>(Circular 39/2016/TT-NHNN 21/2017/TT-NHNN)</p>	<p>minimum contents:: (i) Procedures for inspection and supervision of loan application, use and debt repayment of customers; (ii) Requirements concerning security for loans, assessment of assets pledged as collateral for loans; management, supervision and monitoring of collateral appropriate to loan security, collateral features and customers</p> <p><i>Article 32</i> states that the credit institution shall create loan documentation including Materials arising during the period of use of the loan which relate to the loan agreement under the credit institution’s instructions.</p> <p>Our challenges / challenges for some of the following:</p> <ul style="list-style-type: none"> - Post disbursement monitoring on client level periodically - For retail banking in many global banks, loan performance is monitored on the portfolio scale and portfolio movement is reviewed on weekly/biweekly meeting. Early sign of delinquent accounts is alerted and tracked on daily basis by collection system upon various buckets which have different treatments upon each bucket. - In compliance with the regulation, credit institutions in Vietnam proactively design and apply different methods to check loan purpose and manage their loan portfolio. These may include taking client self-declaration through application, document checking, call back, client visit, collateral revaluation after disbursement dependent on loan exposure or client segment. - For personal loan with low value credit facility for consumption purpose, clients may have difficulty in obtaining document of loan purpose and hence credit institutions apply a risk-based approach to comply with this requirement. 	<p>developing the Circular amending Circular 39.</p>
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		<p>Recommendation:</p> <p>For personal loan for consumption purpose, since clients may have difficulties in obtaining loan purpose documents, we appreciate that SBV can be flexible and take customers' declaration through application as consent for loan purpose and banks will apply different methods of verification including call-back, or collateral revaluation, or reassessing of mortgage assets, or site visit, or email reconfirmation after disbursement depends on bank's risk appetite.</p> <p>We appreciate SBV be flexible on controls applied by banks and give further guidance on this.</p> <p>Circular 21/2017/TT-NHNN on disbursement modes</p> <p>Article 4 stipulates that credit institution shall disburse the loan fund into the payment account of the beneficiary at the payment service suppliers, except for the cases that the customer, as a beneficiary, maintains a payment account at the payment service supplier and has already advanced his own capital for payment of the costs of the every business plan, project or the plan for living purpose to which the lending credit institution decides to lend in accordance with laws and regulations.</p> <p>Difficulties & challenges:</p> <p>- For loan for personal consumption or house renovation purpose, client may have to make payment to many service suppliers with small amount which causes multiple partial disbursements to many beneficiaries in different times. It is inconvenient for client to monitor goods or service delivery and payment between bank and suppliers.</p>	
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<p>40.</p>	<p><u>(BWG Consumer Finance)</u> OL No. 6410/NHNN-TT dated August 16, 2019 on the request to strengthen control and supervision of credit card issuance and use.</p>	<p>As for the Card Issuer, the bank has no direct relationship or control with the Merchant. Therefore, the bank cannot report to the State Bank of Vietnam in case of detecting violations of the Card Acceptance Unit. At the same time, the bank is also unable to notify the Payment Institution due to the absence of the Card Payment Institution's information. According to the BWG, this reporting responsibility should rest with the Card Payment Organization.</p> <p>On the side of the Card Issuer, by professional measures, the Card Issuer will review the transactions on the credit card. In case of suspicion that the transaction is illegal, the bank will stop the</p>	<p>RESOLVED</p> <p>BWG received the SBV's response on the above issue on June 5, 2020.</p>

		customer's card transaction and/or close the customer's account and notify the SBV as well as the Card Switching Organization.	
41.	<u>(BWG Risk)</u> Import of OTP Token (Payment Department)	<p>Relevant legal documents: Decision 630 / NH-NN, Decree 58/2016 / NĐ-CP, Law on cyber information security 86/2015 / QH3, Article 34.</p> <p>We would like to request Customs authority to allow bank continue importing Advanced OTP Token, which is to protect the security of internet banking system as pursuant to regulations of the State Bank Vietnam.</p>	<p>RESOLVED</p> <p>BWG has received a response from the State Bank (July 8, 2020) & the General Department of Customs (“GDC”), in which both the SBV and the General Department of Customs have proposed to comply with current regulations. The Customs Department proposed that BWG work more with the Government Cipher Committee and the SBV proposed that the BWG work more with the Customs Department.</p> <p>BWG continues to study the feedback of the SBV and the Customs.</p>
42.	<u>(BWG LC)</u> Circular 22/2019/TT-NHNN stipulating safety limits and ratios in operations of banks and foreign bank branches	<p>On February 4, 2020, BWG sent some comments and asked for guidance from the SBV in compliance with the implementation of some points of Circular 22/2019 / TT-NHNN as follows:</p> <p>(i) the method of calculating undistributed profits for the calculation of the individual equity of the banking industry and of foreign bank branches; (ii) composition of total outstanding credit; (iii) reporting on undisbursed loan limits; (iv) request for approval in some cases of credit extension in the definition: “Total outstanding credit, including undisbursed loan limit”; and (v) the definition difference of exchange rate differences between reported in Circular 10/2014 / TT-NHNN dated 20/03/2014 and Circular 22/2019 / TT-NHNN dated 15 / 11/2019.</p>	<p>RESOLVED</p> <p>BWG received feedback from the State Bank of Vietnam along with implementation guidelines - Official Letter No. 2415/NHNN-TTGSNH dated April 6, 2020.</p>

	(Banking Inspection and Supervision Agency)		
43.	<p><u>(BWG LC)</u></p> <p>OL 2049BWGVBF and 20420BWGVBF on some issues of the covid-19 epidemic and Directive 02 / CT-NHNN on urgent solutions of the banking sector to strengthen prevention, combat and overcoming difficulties caused by the impact of the covid-19 epidemic</p>	<p>1. About VND liquidity</p> <p>Concerned about issues such as: VND liquidity will deteriorate if the market continues to be tightened, the increase in USD cash withdrawal together with the phenomenon of restricting flights to Vietnam to supply money makes buying USD timely market is also an obstacle.</p> <p>2. Regarding banking operations in the context of Covid-19 epidemic</p> <p>State Bank of Vietnam (SBV) guidance on “essential” banking services and whether banks may choose to close a few branches in order to keep resources focused on existing branches.</p> <p>3. Regarding the dividend payment as directed in Directive No. 02 / CT-NHNN</p> <p>The State Bank’s guidance confirms the point 5, section IV of Directive No. 02 / CT-NHNN dated 31/3/2020 requires credit institutions (CIs) to limit dividends: this requirement is not applicable to domestic banks & foreign bank branches in Vietnam.</p> <p>4. About trading on digital platforms</p>	<p>RESOLVED</p> <p>BWG received feedback from the State Bank of Vietnam on June 23, 2020.</p> <p>BWG studied the SBV's guidelines for appropriate implementation.</p>

		The State Bank should consider having guidance related to digital transactions, such as: e-KYC, electronic signature (e-signature) ... (e-KYC)...	
44.	<p>(BWG L&C)</p> <p>Draft to replace Circular 22/2018/TT-NHNN guiding procedures and documents for approval of expected list of personnel of commercial banks, non-banking credit institutions and foreign bank branches</p> <p>(Banking Inspection and Supervision Agency)</p>	<p>BWG provided comments as follows:</p> <p>Article 1.</p> <p>Clause 2 Article 3 is amended and supplemented as follows:</p> <p>"2. Documents of credit institutions, foreign bank branches requesting the State Bank to approve the tentative list of personnel:</p> <p>a) For a credit institution, it is a document of the Board of Directors, Members' Council proposing the State Bank.</p> <p>..... ”</p> <p>BWG recommends:</p> <ul style="list-style-type: none"> • Continue to allow the General Director of the CI, the legal representative or the authorized representative of the General Director to sign the document and send it to the SBV. • Supplementing a regulation allowing the Board of Directors / Board of Directors of the CIs or its authorized representative to sign the document and send it to the State Bank of Vietnam. • At the same time, the proposal to add a person appointed by the Board of Directors or Members' Council is entitled to sign this proposal. 	<p>RESOLVED</p> <p>The State Bank of Vietnam has issued Circular 13/2020/TT-NHNN amending Circular 22/2018/TT-NHNN dated November 13, 2020.</p>
45.	<p>(BWG LC)</p> <p>eKYC</p>	<p>BWG & SBV (Legal Department, IT Department, Payment Department, International Cooperation Department) held a meeting to discuss on November 13, 2019.</p>	<p>RESOLVED</p> <p>The State Bank of Vietnam issued Circular 16/2020/TT-NHNN replacing</p>

	Payment Department, Anti-Money Laundering Department, Legal Department		Circular 23/2014/TT-NHNN allowing E-KYC implementation.
46.	<p>(BWG AML & LC)</p> <p>Circular 03/2021/TT-NHNN amending Circular 01/2020/TT-NHNN stipulating that credit institutions and foreign bank branches restructure the repayment term, exempt or reduce interest and fees, maintain the same debt group to support customers affected by the Covid-19 epidemic</p> <p>(Banking Supervision and Inspection Agency)</p>	<p>The BWG recommends the following:</p> <p>(1) Regarding the amendments to Articles 4, 5 and 6, our member banks are (or will start) expanding the support program to customers whose loans were disbursed between January 23, 2020 and before April 25, 2020 and were past due during this period as specified in the content to be amended. At the same time, banks will apply the principle of keeping the debt group unchanged when restructuring according to Circular 01. When a debt restructured under Circular 01 is overdue or is further restructured outside the scope of Circular 01, banks will classify debts and make provision for risks in accordance with Circular 02/2013/ TT-NHNN. However, the restructuring times according to Circular 01 will not be aggregated to classify debts under Circular 02 (regardless of whether there is no structure before the classification begins under Circular 02).</p> <p>(2) The member banks also proposed to expand the scope of implementation of the Circular, allowing the rescheduling of repayment terms for credit card debt.</p> <p>We also ask CIC to share the list of customers supported under Circular 01 by credit institutions, foreign bank branches (similar to CIC sending notice of highest debt group to banks) so that banks have enough information when appraising & evaluating new credits.</p>	<p>RESOLVED</p> <p>BWG has commented on Circular 01 and Q&A table dated June 23, 2020.</p> <p>The SBV issued Circular 03/2021/TT-NHNN amending Circular 01/2020/TT-NHNN on April 2, 2021.</p> <p>BWG and SBV continue to coordinate implementation.</p>

ANNUAL VIETNAM BUSINESS FORUM 2020
Hanoi, December 22nd, 2020

CHALLENGES AND OPPORTUNITIES IN THE NEW NORMAL

SUMMARY

OPENING

Mr. Nguyen Chi Dung, Minister, Ministry of Planning and Investment

The year of 2020 was full of huge difficulties and challenges for countries around the globe, including Vietnam, with the outbreak of the COVID-19 pandemic. However, with drastic, proper, and efficient solutions in realizing the dual goals of “Disease prevention and control and economic development and recovery”, Vietnam still achieved positive results with GDP in 2020 expected to reach about 2.5 - 3%. This was also the last year of the 2016-2020 socio-economic development plan, a period in which Vietnam overcame many challenges to make important and comprehensive achievements in most fields. The whole country focused on preventing and controlling the pandemic, facilitating economic and social development.

The above results were achieved with significant contribution of the business community, domestic and foreign investors. The trust and joint-efforts of the business community added motivation for the Government of Vietnam to determine and administer in a flexible manner to effectively realize the set objectives.

Entering 2021, the first year of implementing the 10-year socio-economic development strategy for the period of 2021 - 2030 and the 5-year socio-economic development plan for the period of 2021 - 2025, Vietnam aims to achieve the following goals:

- Focusing on effectively implementing the dual goals of pandemic prevention and socio-economic development and recovery;
- Strongly promoting economic restructuring in association with growth model innovation;
- Improving productivity, efficiency, competitiveness, and the autonomy of the economy;
- Accelerating digital transformation and digital economy development, building a digital society;
- Focusing on high-quality human resource development along with scientific and technological development and innovations;
- Conducting administrative procedure reform, creating a more favorable and open business and investment climate, unlocking resources for development investment, enhancing external affairs and international integration.

With the theme of Challenges and Opportunities in the New Normal, our Forum today will be an opportunity for us to come together to exchange, share, and propose new initiatives and solutions to facilitate business and investment in the new normal.

Mr. Kyle F. Kelhofer, Country Manager, Vietnam, Lao PDR and Cambodia, IFC

Vietnam's competitiveness although improved in recent years, has room for further growth. Thanks to its resolute fight against the pandemic, Vietnam has the good headstart but it also has an opportunity to make necessary policy improvements to economically run even faster even more.

This requires a step change to recognize that the ease of doing business is key to attract the right type of investors, not just the cost of doing business. Today is a world of increased opportunities to tap into global value chains with unique chances to absorb inward additional supply chain value and investment as such, we encourage courage and already responsive government, like agile businesses to adopt some strategic shifts to accelerate higher value and next generation industry and FDI.

I would add a specific need for the domestic private sector is increased access to finance and one measure is to provide these companies with greater access to international financing sources at more competitive costs through removing mortgage obstacles for international lenders. At the same time, respecting internet local land ownership laws to overcome liquidity challenges and to reboot businesses more quickly. It is also important to improve the NPL resolution system through development of functional NPL debt market and remove constraints on preventing investors to enter this NPL market, particularly during this post COVID time.

We look forward to the upcoming party congress to facilitate fresh momentum to further reforms. IFC is committed to supporting Vietnam as it further adopts to the World's new normal and help it to rebuild better.

Mr. Hong Sun, Co-chair, Vietnam Business Forum Consortium

2020 was a challenging year for the business community due to the impacts of the COVID-19 pandemic. However, the Government of Vietnam was always acting quickly and decisively to control the pandemic and successfully controlled the outbreaks domestically. This also helped confirmed Vietnam as a safe destination for investors. The Government of Vietnam has always accompanied and stood by the business community, promptly promulgating policies to remove barriers and help restore production and business. On December 10th recently, Prime Minister Nguyen Xuan Phuc chaired a meeting with representatives from 15 business associations under VBF to better understand the difficulties faced by businesses, and provided timely instructions. On behalf of VBF, we once again would like to express our sincere thanks to the Prime Minister, as well as representatives of the ministries and agencies for your close attention to the business community in general and VBF in particular during this challenging year.

Dr. Vu Tien Loc, President, Vietnam Chamber of Commerce and Industry

The business community expects the Government to take concrete and quick measures to immediately address bottlenecks that are hindering businesses from capitalizing on integration opportunities from FTAs to recover from COVID-19 pandemic and to continue to grow.

Specifically, we have some recommendations as follows:

- **Human resources**: It is recommended that the Government develop and implement specialized training programs for technical workers in the current most essential supporting engineering industries.

- Infrastructure: The Government is kindly recommended to direct the focusing on strategies for effective implementation of the Law on PPP and the Law on Public Investment, with priority given to the transport infrastructure sector and unfinished projects. Currently, the high logistics costs in Vietnam has been a bottleneck that needs to be solved.
- Enhancement of products' competitiveness: We hope the Government can support businesses in:
 - Capacity building with quality trade and investment promotion
 - Establishing a market and business matching portal, especially with the European market and the markets with which Vietnam has FTAs;
 - Domestically, for groups of agricultural products, the Government should support to set up technical centers to guide producers and exporters to fulfill the requirements and to perform inspection of the goods with charge waiver/discount against the importing country's standards, speeding up the customs clearance process.
- Focusing on administrative procedure reform:
 - Focusing on reforming administrative procedures in a number of areas such as land, tax, social insurance, construction, market management, traffic, fire prevention, environment, treasury, labor, etc.
 - Focusing on applying information technology in processing administrative procedures.
 - Developing and implementing efficient business support programs with a focus on small and medium and micro enterprises.
 - Developing policies to support the economic sectors, key economic projects, and encouraging them to make a breakthrough after the pandemic.

H.E. MR. PHAM BINH MINH, DEPUTY PRIME MINISTER

In the context of the complicated developments of the COVID-19 pandemic on a global scale, the Government of Vietnam has shown great determination with all its efforts in realizing the dual goals of socio-economic development and recovery and controlling the COVID-19 pandemic.

Creating an enabling environment to help the business community to quickly recover and regain their momentum of development in the new normal has been the top priority of the Government of Vietnam in directing and administering the macro-economy this year. A series of resolute measures to support production, promote public investment, boost consumption, expand markets, attract investment, and many other measures have been implemented.

In the coming time, in order to accompany and support the business community to overcome the consequences of the COVID-19 pandemic, the Government will strongly implement the following groups of solutions:

- Consistently realizing the goal of maintaining socio-political stability, stabilizing the macro-economy, facilitating production and business, promoting growth, proactively and flexibly implementing the monetary policy along with fiscal and other policies. Supporting businesses, including small and medium enterprises, to access finance and business opportunities. Continuing to stimulate domestic consumption with proper measures. Prioritizing digital transformation and development of a digital economy and digital government.
- Further encouraging private investment, foreign direct investment, investment in infrastructure. Developing high-quality human resources to be prepared for the new wave of investment, together with effective participation in the global value chains and transfer of advanced and environmentally friendly technologies. Well implementing all trade agreements

such as CPTPP, EVFTA, RCEP and bilateral and multilateral trade and investment agreements to effectively capitalize on international economic cooperation opportunities.

- Strengthening trade promotion at home and abroad via new forms to advertise the market potential and attractiveness of the Vietnamese economy, helping businesses expand their markets and trading partner network, and attracting high-quality investment projects.

I very much hope and suggest that today's forum will strongly serve its role as a channel of communication between the business community and the Government, facilitating frank discussions to thoroughly analyze the opportunities and challenges in the new normal, thereby making practical and feasible policy recommendations to help the government make proper decisions, creating the most enabling environment for the business community to recover and strongly develop in the coming time.

I would like to ask the leaders of the Ministries and agencies listen to the recommendations of the business community in a positive and constructive manner, and actively discuss and respond to the questions and concerns of the business community in order to successfully achieve the common national development goal, contributing to making Vietnam a continued reliable and attractive investment destination for the global business communities and investors.

SITUATION OF BUSINESSES IN THE COVID-19 PANDEMIC

Mr. Tomaso Adreatta, Vice-Chairman, European Chamber of Commerce in Vietnam

In Human resources and training, to retain quality and essential staff, we recommend that a new work permit application shall be lodged and that the applicant is not required to leave Vietnam after 4 years. We also propose to adopt simplified documentation to be used to proceed over this road.

The new normal PPP does not resolve some serious issues. For instance, the lack of guarantee that money invested from abroad and its profit after tax can be fully and immediately taken home in a convertible currency, increases regulatory risk to developers so that that will have a heavy impact on the pricing off risk, or even the denied approval of the transaction. We hope to be seeing soon:

- Develop the pipeline of visible projects
- Improve capacity and coordination among industries, relevant Government agencies
- Prepare practical implementation of a comprehensive regulatory framework for the PPP projects in Vietnam.

In energy, we suggest the Government gives a roadmap for energy prices or producers and buyers and extends effective tariffs. The completion of PDP8 should be the vision of the bold Vietnam. They can rely on its own resources as much as possible and that over performs climate change goals.

In mobility sector, we recommend that only Circular 41/2018/TT-BGTVT -related spare parts not mounted in the imported CBU or CKD models - or different from the Original Equipment Manufacturer description for those models - should need homologation in order to reduce homologation costs. This will exempt spare parts with the purpose of repair and replacing and allow importers to comply with their legal obligation to technical recall and warranty under Decree 116. We recommend that such certification be done once only, the first time upon the first importation of such commodities.

Mrs. Virginia B. Foote, Chair, American Chamber of Commerce in Vietnam

I want to focus on a few issues that I think Vietnam can look at to prepare for the post-pandemic recovery.

Digital economy and e-commerce, e-banking, fintech, modern cloud computing and e-government: We hope the technological and regulatory requirements particular on cyber security can further help that process while being mindful of global standards being developed.

Plans for a **cleaner environment and a cleaner energy future**: We recommend opening the door wider for renewables, and improving procedures that welcome foreign and domestic investment into renewables, transmission, LNG and offshore gas. We also look to work with you to build a recycling industry under the new Environmental Law to help clean up Vietnam's waterways and cities, and attract new jobs as well.

Administrative reform: Streamlining the regulatory environment adds value and encourages innovation - not only by attracting new and growing investment, but also by welcoming imports.

Tax system: We hope to see the use of Advance Pricing Agreements (APAs) which create the stability and predictability necessary for our companies integrating into valuable global supply chains, which of course is Vietnam's priority.

Mr. Kim HanYong, Chairman, Korean Chamber of Commerce in Vietnam

Entries to Vietnam: I strongly believe that this business-friendly action will be helpful to boost both the Korean and Vietnamese economy under the current COVID-19 situation. I wish regular commercial flights between Vietnam and South Korea will resume in the very near future.

Licensing issues: Licensing for some large Korean projects in Hanoi and Ho Chi Minh City have been delayed due to lack of clear legal instructions and this caused many difficulties in investment activities. We look forward to receiving guidance from local authorities so that the delayed projects can receive license in a timely way.

Building nuclear power plants: We urge the Vietnamese Government consider the development of Vietnam's nuclear power, which has previously been discontinued in the mid to long term plan. We will be able to cooperate with the Vietnamese government in building up a stable power supply in the future since Korea has a lot of experience and know-hows in the production of nuclear power plants.

Mr. Tetsu Funayama, Representative, Japanese Chamber of Commerce and Industry in Vietnam

Japanese companies that have expanded their business into Vietnam face challenges when they execute permitted investment or when establish a production plant. In addition, they are confused about "tax and labor" and concern about "energy infrastructure". Solving these issues will lead to the attraction of FDI not only from Japan but also from other countries.

To resolve these issues, we have two recommendations:

- *Establishing a centralized window for investment projects*: We propose the Government to establish this window and respond to consultations from foreign companies in cooperation with each provincial government.

- *Continuation of immigration support for business people and special measures for short-term business people entering Vietnam:* The entry of short-term engineers required for production line construction, test runs, and pre-production measures is still limited. Please consider special measures for the entry of this short-term engineer.

It is expected that “realization of a securities/ financial market that is transparent and fair, and that is sufficiently open and efficiently managed externally” will be required. In addition, the further implementation of “digital transformation”, which has been suggested to determine the rise and fall of companies and businesses. This is also a very important theme when considering future international competition of Vietnam.

Mr. Kenneth Atkinson, Representative, British Chamber of Commerce Vietnam

We would like to bring to the attention of the Government the following issues being raised by our member companies:

Renewable energy:

- *Extension of Feed-in-Tariff (FIT) for wind energy:* The current FIT for wind is due to expire on 1 Nov 2021, which leaves insufficient time for wind developers to get their projects operational by the time – 91 wind projects approved in July 2020 to be included in current Power Development Plan (PDP7) and still awaiting for licenses from MOIT. We recommend that the FIT to be extended for at least 2 years, until 31 December 2023 to give these projects time to be implemented.
- *Solar energy fit extension:* We also recommend that the FIT should have a longer expiry date so as to enable developers to develop solar projects.

Education: UK international schools are facing with a complex set of procedures to obtain license for establishing campuses. There are four levels of licensing: (1) land use; (2) permission to build; (3) building completion; and (4) permission to open the school. Different ministries and departments handle each these. We recommend that Ministry of Education and Training would collaborate with Ministry of Planning and Investment to provide a clear process for obtaining licenses, with time scales and a line of appeal.

Border control – Visa and travel issues: The prolonged border closure is impacting investment activities. We recommend prioritizing the establishment of sale travel bubbles or air corridors with regional centers that are important to Vietnam such as Singapore, Thailand, Korea, Japan. Arrangement to allow short-term business travel and the entry into Vietnam of technical experts with a streamlined procedure (such as testing, shortened quarantine, and restrictions on domestic activities), combined with a streamlined application process including the approval of flights and removing direct approvals to specific flights on specific days because of the constant changes in flight schedules.

Mr. David Whitehead, Representative, Australian Chamber of Commerce in Vietnam

To ensure sustainable business in the long term, we see the need for safety protocols to be implemented not only for employees’ health and safety, but also in materials handling, packaging, transport and logistics. And there must be shortened or diversified supply chains to minimise the risk of disruption to supply.

Australia is heavily engaged in **education** in Vietnam, in universities, colleges and international schools, we are interested in how schools are designed, built and operated to minimize contraction and transmission of disease, and to reduce the likelihood of infection in the future by teachers, parents and students.

Hospitality and Tourism operators are awaiting the removal of travel restrictions, and the return to an environment where the foreign visitor in Vietnam is the norm, not the exception.

Modern sustainable **mining** in Vietnam would clearly meet two of the World Bank's key objectives of its Country Partnership Framework in Vietnam which are to (a) deliver infrastructure and (b) broaden the economic participation of ethnic minorities in these remote areas. Australia can play an important role in helping Vietnam benefit from its rich, untapped mineral resources in an efficient, environmentally responsible, sustainable and safe manner, which would attract FDI and make a vital difference to Vietnam's economic growth and reduction of national debt, particularly in the post-pandemic recovery period.

RELAUNCHING BUSINESS OPERATIONS; ATTRACTING FOREIGN INVESTMENT CAPITAL

Mr. John Rockhold, Head of Power and Energy Working Group

Based on consultations with business leaders and a careful review of national and international trends, PEWG proposes the following recommendations that would improve the sustainability, reliability and affordability of Vietnam's energy system:

- Prioritize renewable energy in national power planning
- Increase use of natural gas as the current best-fit baseload for renewable energy
- Construct a regulatory and permitting environment that attracts private sector investment in clean energy generation and energy efficiency
- Extend the FIT deadline for wind and solar power developers under Decision 13 and Decision 39
- Construct a regulatory and permitting environment that attracts smaller scale off-grid investment in clean energy generation and energy efficiency
- Invest in grid infrastructure to improve stability and capacity
- Specific policies on waste solar panels towards material recycle and reducing emissions into the environment

These proposed regulatory actions will aid both the Vietnamese and Foreign Private Sector to mobilize their Expertise, Technology and Financial Capacity to assist the Party and State in building an affordable, reliable, sustainable and secure energy system.

Response from Mr. Bui Quoc Hung - Deputy Director of the Electricity and Renewable Energy Authority, MOIT

Regarding nuclear power, currently, the Ministry of Industry and Trade is preparing to submit to the Government for approval the national grid development masterplan for the period of 2030 - 2045 (Overall Diagram VIII), mentioning that the nuclear power will be considered after 2035.

Coal thermal power: Due to the high growth rate of Vietnam's electricity load, which is about 8-10% in the period of 2020 - 2030, it is calculated that by 2030, the total electricity output at power plants about 12,000 MW, doubling that of 2020, expected. Therefore, if coal thermal power is not developed, it will be difficult to meet the demand for electricity supply. Therefore, the Overall Diagram VII still raised the issue of continuing to use coal thermal plants, however, to mitigate the emission and climate change impacts, the Overall Diagram VIII will not add more coal power plants but only remain the number the plants planned in Overall Diagram VII. The government is directing to accelerate the use of renewable energy as well as the construction of plants based on liquefied natural gas (LNG) and offshore gas.

For solar power, according to the Overall Diagram VII, by 2020, it is expected to have 850 MW of solar power. However, after the Government's Decision No. 11 and Decision No. 13 on the incentive mechanism for solar power development are issued, it is expected that by the end of 2020, there would be more than 10,000 MW of solar power, which is more than 10 times of the approved Overall Diagram VII (revision 428). The total out of all masterplans of solar power that have been approved so far as well as reported to the Prime Minister for approval are about 19,230 MW.

For wind power, a masterplan of about 18,300 MW has been appraised and reported to the Prime Minister for approval. Thus, the total masterplan of wind and solar power that has been approved and is being submitted to the Prime Minister for approval is a very large rate of about 40,000 MW. However, because the characteristics of renewable energy are high cost and discontinuity, by 2030, it is calculated that only 4,500 MW of solar power and 7,710 MW of wind power can be added, and offshore wind power might be considered.

For the use of offshore power and LNG power, the Ministry of Industry and Trade has submitted to the Prime Minister a supplementation in the masterplan of Overall Diagram VII. By 2030, there is expected to use about 16,400 MW of LNG power, including:

- ✓ about 1,500 MW from Nhon Trach 3 and 4 plants,
- ✓ about 4,500 MW from Son My 1 and 2 plants,
- ✓ about 3,200 MW from Bac Lieu Thermal Power Center,
- ✓ about 1,500 MW from Long Son Thermal Power Center
- ✓ about 1,500 MW from Ca Na Power Center,
- ✓ about 1,500 MW from Long An Thermal Power Center,
- ✓ about 1,200 MW from Hiep Phuoc plant,
- ✓ and 1,200 MW from Quang Ninh plant.

7 out of 8 above projects have been supplemented in planning. By 2025 - 2030, the use of coal power plants will be restricted, as well as accelerating the progress of LNG power projects, to ensure the mitigation of emissions, and speeding up the mobilization of renewable energy sources.

In considering the proposal to adjust the FiT price for wind power: Currently, the Ministry of Industry and Trade is consulting other ministries and sectors and submitting to the Government to extend the FiT for wind power. However, as technology is gradually outdated over time, prices will also have to adjust downwards accordingly. For solar power, the Government has regulations to apply the bidding mechanism in order to select project owners after 2020 to ensure objectivity and transparency for selected projects. Currently, the Ministry of Industry and Trade is preparing to submit to the

Government the pilot bidding mechanisms for solar power projects after 2020 and as such, there will be no FiT for solar power after 2020.

Response from Government: *Mr. Bui Ouoc Hung, Deputy Director of the Electricity and Renewable Energy Authority, MOIT*

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Mr. Colin Blackwell, Head of Human Resources Working Group

Our members raised a number of points regarding opportunities for legislative clarifications and administrative efficiencies in areas such as trade union fees, work permits, social insurance and employment taxes.

Simplifying the amount of labor reporting required to avoid any duplication of providing the same information twice, would be most welcome in reducing the administrative burden to business. Our members would like to be able to submit reports online and without having to then resubmit a paper version later. Such streamline processes would not only reduce the administrative burden on the Government, but could also provide better data for the Government. This would provide the Government with better quality data faster to act upon.

Ms. Nguyen Kim Dung, Head of Education & Training Working Group

Law on Education 2019 became effective since July 1st, 2020, with many new points to promote the development of education in Vietnam. However, in order for these new points to be applicable in practice, the Decree guiding or amending Decree 46/2017 providing for conditions for investment and operation in education and Decree 86/2018 on investment cooperation with foreign countries in education should be promulgated in the soonest manner.

We would like to respectfully request the Ministry of Education and Training to soon issue a document on not requiring the recognition of diplomas granted by foreign educational institutions to students of joint training programs in Vietnam which have been approved by the Ministry of Education and Training.

With the goal of developing higher education, and developing high-quality human resources, the Government is kindly requested to consider promulgating a number of policies to ease the work permit conditions for foreign Professors and Doctors to work in Vietnam under the short-term visiting mechanism for less than 3 months for which no work permit should be required.

Regarding vocational skills training, the Education and Training Working Group would like to recommend that the following areas need to be addressed with appropriate policies in place:

- Developing dynamic curricula that meets industry needs

- Improving capacity of teachers and educational administrators in line with modern and international vocational training practices and institutions.

Mr. Tran Anh Duc, Head of Investment & Trade Working Group

- Investment/Licensing:
 - Time-consuming licensing procedures: issues can be resolved with an efficient online application system. Furthermore, the adoption and acceptance of e-signatures (digital signatures) will lessen the administrative burden for companies.
 - New Law on Enterprises: The Government is kindly recommended to provide more guidance on the time-limit for capital contribution in kind and it should be clarified that a JSC can conduct a private placement after it has been approved by the General Meeting of Shareholders (“GMS”) instead of having to get approval from each and every shareholder.
 - New Law on Investment: It is recommended to remove this provision - new business lines that did not exist in the territory of Vietnam at the time the Law on Investment took effect - from the List of Conditional Business lines. Besides, it should be clarified that foreign-invested companies that made investment as domestic investors before 2021 will not be required to reduce their foreign ownership ratio to 50% by 2021 to meet the requirements to be considered domestic investors.
- Real Estate: Our members have been facing uncertainties and challenges in finding land and sites to invest in warehouses and fulfillment centers (FCs) to support the development of e-commerce.
- Digital economy: we believe that the Government will continue to promote and apply digital solutions to move towards smart cities and Industry 4.0, at the same time passing laws and policies to promote the same.

Response from Government: *Mr. Do Nhat Hoang, Director General of Foreign Investment Agency, MPI*

Regarding the business lines with the market access for foreign investors, MPI has drafted a guiding decree in which divide into 2 categories: 1/ business lines with no market access, 2 / business lines with conditional market access. The Draft has retained one condition that: business lines which are currently not in the list of conditional market access, but in the future when the NA/GoV regulate as “conditional” ones, they will be treated as conditional business lines at that time onwards.

Retrospective application will not be used for those which are already in the list.

Regarding the simplification of investment procedures, the Ministry has taken many steps to simplify the procedures, e.g. encourage the investment certificate authorities to make decision themselves rather than asking around – which may take lot of time. The investors may choose between submit paper by hard copies or via online. The Ministry allows investors to use digital signatures when submitting online application.

Mr. Tran Tuan Phong, Co-Head of Infrastructure Working Group

- Preserving investment capital in large projects under development by allowing the implementation of previous regulations: We suggest that Law on PPP shall only be applied to ongoing projects

where the investors and the Ministry of Industry and Trade signed the Principles Agreement of the project after the effective date of Law on PPP.

- Government Guarantee and Undertakings will still be necessary for large projects so that they can be bankable.
- Non-recourse lenders need a guarantee on foreign currency convertibility.
- The governing law is a foreign law that is known by many foreign banks and makes it easy for them to finance Vietnamese projects.
- A sample power purchase agreement with provisions acceptable to lenders will help investors commit to larger scale investments. The Infrastructure Working Group would like to recommend that large-scale liquefied petroleum gas projects be exempt from participating in the wholesale electricity market and be entitled to a fixed competitive tariff.
- Bank guarantee – land issue: Land use rights are important assets that a large-scale power project needs to use to secure the financing by international lenders. Besides, the Working Group would like to recommend that the Government adopt clear procedures and rates for rent or usage fees for the granting of land use rights, which are important for many gas to power projects.

Response from Government: *Mr. Nguyen Dang Truong, Director of Public Procurement Agency, Ministry of Planning and Investment*

Regarding the PPP Law, which has just been passed by the National Assembly and took effect on January 1, 2021, the Government has assigned the MPI and the Ministry of Finance to draft Decrees guiding the implementation of this law. Accordingly, the MPI has submitted to the Government a draft guiding the implementation of the PPP Law and the selection of PPP investors. The Ministry of Finance is currently finalizing the draft Decree on the financial mechanism for PPP projects.

Regarding the concerns of the Infrastructure team related to power - energy projects that have had investor selection results, Article 101 provides for transitional content that: *The projects that have already had investor selection results but have not carried out the negotiations after the law takes effect, based on the request for proposal (RFP), bidding dossiers, approved feasibility study reports, the parties conduct negotiations in accordance with the provisions of the PPP Law, maintaining the investment policy and approved feasibility study reports.* Accordingly, at the time of issuing the RFP, Vietnam's regulations on PPP have been integrated into the RFP, then the contractors within that RFP may continue to negotiate according to the content specified in the RFP. It is proposed that the parties negotiate and update the contents of the PPP Law that are not mentioned in the RFP, as the Law took effect from January 1, 2021 to ensure the comprehension of contract and avoid risks for the parties.

Regarding the content of foreign currency guarantee, the PPP Law has very specific provisions that investors coming to do business in Vietnam are guaranteed the right to purchase foreign currency at commercial banks. In case commercial banks cannot provide a guaranteed supply of foreign currency, the Government will direct the banks to prepare measures to sell foreign currency to investors for a maximum of 30% of the project's revenue after subtracting from the incurred expenses in Vietnam without any guarantee on the exchange rate.

Regarding the question related to the Law on Land: *If I am exempt from land rental, can I use the land use right as a mortgage?:* The current Law on Land stipulates very clearly that if an investor has been exempted from land use rental, he/she cannot use the land use right as a mortgage.

Regarding investors' desire to apply laws from legal developed countries in Vietnam, after doing survey, the Ministry has not found any country that allows investors to apply the laws of the host

country in their own country, except in exceptional cases. The UNCITRAL Model Legislative Provisions on PPP also recommends that host countries apply their own laws when enacting laws.

However, according to Article 55 of the PPP Law, in the event that Vietnamese law has no specific provisions or no provisions, the parties to a PPP contract are entitled to agree on specific contents when negotiating and institutionalize them into the contract on the principle of not violating the basic principles of Vietnamese law, which will be clearly defined when negotiating specific terms in a particular project.

Regarding the content of investment under PPP or investment under independent power producers (IPP): The Law on Investment 2014 and 2020 do not have a definition of an IPP project. Therefore, choosing a form of investment that has not been regulated is more risky than an investment under the PPP Law or a pure private investment under the Law on Investment.

For other contents on guarantees and assurance, we would like to acknowledge and continue to improve the Decree guiding the Law on Investment.

Mr. Nirukt Sapru, Representative of Banking Working Group

BWG highly appreciates the outstanding policies of the State Bank in managing banking activities for the economy and society even during the period of social distancing at the peak of pandemic outbreak.

• **E-signature:**

In order to serve development needs, the Prime Minister has approved the National Financial Inclusion Strategy until 2025, with a vision to 2030 in Decision 149/QĐ-TTg dated January 22, 2020 to enhance access to financial products and services in a convenient, responsive, sustainable and cost-effective manner for all citizens and businesses. Accordingly, the legal framework should also be fine-tuned to meet the practical requirements for applying diverse solutions and technologies in banking services digitization.

There are several regulatory documents regarding e-signature in Vietnam, such as: Decision 630/QĐ-NHNN, the Law on Electronic Transactions 2005 only provides for secure electronic signatures (Article 22), however there is no specific guidance on application and other types of electronic signatures, Decree 130/2018/ND-CP only provides guidance on the condition of a digital signature being considered as a safe electronic signature, not yet on application and other types of digital signatures. The concerns on legal risks related to the recognition of electronic signatures in banking transactions are main challenges to the implementation of e-banking and digital banking in Vietnam. BWG respectfully propose the Government to direct the Ministry of Information & Communications to coordinate with the State Bank of Vietnam and authorize the SBV to issue specific guidance on e-signature, depending on the risk level of different types of banking transactions. Besides, the Law on Electronic Transactions also needs to be amended to provide further details on the legal value of data message.

• **Application of VAT on L/C:**

L/C is a payment instrument but hold the credit/guarantee product nature, thus not subject to VAT, which has been recognized by Vietnam and International Law.

We are of the opinion that the MOF's proposed retrospective tax collection and penalty for the previous 10 years, based on their view that L/C as a normal payment instrument but has not yet recognised its credit/guarantee product nature, is clearly unreasonable and do not conform with the existing Law on Credit Institution and VAT Tax Law, particularly in the context of COVID's

enormous impact on corporates, Vietnam economies and our Import/Export activities. We hope the Prime Minister provides guidance to MOF, together with SBV to resolve this issue in a way that can support banks and corporates to operate in a reasonable and transparent law and regulations environment.

Mr. Dominic Scriven, Head of VBF Capital Markets Working Group

Overview of the current capital market in Vietnam:

- 1) The market size is about USD 200 billion, equivalent to roughly 60% of GDP
- 2) Number of investors participating in the market through securities accounts: ~3 million accounts
- 3) Daily transaction value across markets: ~USD 1 billion
- 4) Cost of capital has been significantly improved; a typical example is that the State Treasury issues 30-year bonds with an interest rate of 3%/year.
- 5) The information disclosure mechanism has been improved with more transparent governance and higher quality businesses.

At the Forum today, the Capital Markets WG would like to present our recommendations as follows:

- 1) The State Bank of Vietnam (SBV) to facilitate the market members in terms of:
 - Mechanisms for custodian banks
 - Payment model under the central counterparty clearing house mechanism
 - Regulations related to capital of foreign investors
 - The role of commercial banks in the distribution of investment products
- 2) The Ministry of Planning & Investment (MPI) to:
 - Specify the foreign ownership ratio in the list of business lines not subject to foreign ownership restrictions.
 - Allow companies to decide on the foreign ownership ratio in their charter.
 - Define foreign invested Vietnamese businesses
- 3) The Ministry of Justice to: Regarding the Civil Code: Define stakeholders and reporting regimes of public companies.

Regarding the word “Challenges” in the Forum’s theme:

- 1) First of all, we congratulate the Government of Vietnam for being one of the few countries that has directed the review and strict control against the wildlife trade and farming as we are all clear about the link between these activities and disease transmission.
- 2) It is recommended that the Government study evidence-based and cost-efficient measures to assess and manage risks related to climate change whose consequences are clearly observed in the Central region and the Mekong Delta this year.
- 3) It is proposed that the Government study and develop incentives to encourage businesses to publicize their greenhouse gas (GHG) emissions. The Law on Environmental Protection 2020 introduces the concept of a carbon tax. Vietnam is not yet a big emitter of greenhouse gas with the volume of about 600 million tons of CO₂/year, accounting for about 0.5% of the world's total emissions. However, with the GHG trading price of ~USD 20 in foreign markets, which would be

equivalent to ~USD 20 billion. However, if calculated at the expected price of USD 100/ton of CO2 in the coming years, it will be ~USD 60 billion, or 20% of GDP.

Mr. Frederick Burke, Representative of Tax & Customs Working Group

- Inadequacies in the implementation of the regulations regarding Export processing enterprises (“EPE”) according to Decree 82/2018/ND-CP

We request the Ministry of Finance to consider amending Decree 82 and related legal documents. Accordingly:

- Future treatment: For EPEs applying for a new investment license: The investment management authority coordinates with the Customs authority to issue investment registration certificate allowing the enterprises to apply the EPE status based on the plan of investment in production and export as well as the enterprises' commitment. EPEs will be responsible for complying with the requirements of legal documents on customs and import and export taxes applicable to non-tariff zones and EPEs. The authorities will apply the "post-check" mechanism to check the implementation/fulfillment of the prescribed requirements of the EPE and will apply the sanctioning mechanism for enterprises' violations.
- Treatment for enterprises whose investment has been licensed:
 - (i) For EPEs that have applied EPE status since its establishment and customs authorities have inspected the conditions to apply EPE status: No retrospective collection of tax would be made at the import stage in the period from the date of investment license being granted until the customs authorities perform inspection at the enterprises.
 - (ii) For EPEs not entitled to apply EPE status from its establishment until customs authorities certifies its EPE status:
 - ✓ Import tax paid at the import stage: shall be refunded in accordance with customs regulations.
 - ✓ VAT paid at the import stage and VAT incurred by the EPEs' domestic purchase of goods and services: Allowing the enterprises to declare input VAT incurred during the investment period on VAT return for investment project – Form no. 02/GTGT and refunding VAT for the investment period pursuant to prevailing regulations.

- Investment protection in case of changes by law

Respectfully request the Prime Minister to review the specialized legal provisions, creating conditions for foreign investors to continue carrying out business activities that have been licensed on the investment certificate until the expiration of the investment certificate, ensure the right spirit of investment protection, avoid wasting investment resources as well as build confidence of foreign investors in Vietnam.

- **Administrative penalties for violation in multiple customs declarations but were detected at the same time**

We would like to propose the National Assembly when amending the Law on Administrative Penalty to clearly state that the repeated administrative violations on the same behavior (for example, wrong HS code on the same item) will only be sanctioned based on the extenuating circumstances as proposed by the Ministry of Justice, as most violation on multiple declarations are unintentional repeated offences. Accordingly, the Decree on administrative penalty in the field of customs will also be amended in favour of enterprises.

Response from Government: Mr. Do Nhat Hoang, Director General of Foreign Investment Agency, MPI

Investment protection issues of NCT Tax & Customs: The Law on Investment and the guiding Decree reaffirm the retrospective principle: For licensed projects with investment incentives that have been licensed and stated in their investment certificates, investors will continue to be entitled to the incentives. However, it should be noted that the newly revised Law on Corporate Income Tax provides special incentives for special projects which only apply to new projects, but not retroactively to the previously granted ones.

Response from Government: Ms. Vu Thi Mai, Vice Minister, Ministry of Finance

In order to support businesses during the Covid-19 pandemic, the Ministry of Finance has actively researched, reported to the competent authorities and issued many support policies on taxes, fees, charges, and land rent. Specifically:

- Decree 41 on extending the deadline for payment of value-added tax, corporate income tax, and personal income tax
- Decree 57 on import tax rate reduction and tax credit on many items, removing obstacles for businesses and promoting the development of agriculture, mechanical engineering, supporting industries and automobile industry.
- Decree 109 on extending the deadline for paying excise tax on domestically assembled automobiles;
- Decision 22 on 15% reduction of land rent
- Resolution 107 on continuing tax exemption for agricultural land use tax until the end of 2025
- Resolution 116 on 30% reduction of payable corporate income tax for small and medium-sized businesses
- Resolution 954 on tax deductibles to reduce tax obligations
- Resolution 979 on 30% reduction of jet fuel tax
- And exemption from import tax for raw materials and supplies to produce supplies and materials for the prevention of the Covid-19 pandemic.
- Lead the review, research and promulgation of circulars on exemption and reduction of 31 fees and charges. The total tax exemption, reduction and extension package until the end of November is VND 100 trillion, and estimated VND 112 trillion for the whole year, of which the tax extension amount is VND 84 trillion; the tax exemption and reduction amount is VND 28 trillion.

The Ministry of Finance also reformed the business environment, improved national competitiveness, prioritized administrative procedure reforms to create favorable conditions, especially in the field of tax and customs. 100% of tax and customs agencies have applied electronic tax declaration. 99.3% of

businesses have made electronic tax declarations, nearly 100% of businesses have made electronic customs declarations. Over 97% of businesses support the electronic tax payment; over 90% of tax refund are made by electronic means.

In the customs sector, the Prime Minister directed the National Steering Committee on ASEAN Single Window established under the Prime Minister Decision 1899 (referred to shortly as Committee 1899) to integrate 202/250 specialized inspection procedures on the national/ASEAN single window portals, handling 3.2 million dossiers for 40 thousand businesses. For customs procedures, 90% of businesses have been provided with level 3 and level 4 public services (level 4 is fully electronic); for tax procedures, that number is over 50%, exceeding the Government's target of over 30%. Recently, an automated customs supervision and management system has been launched for airports and warehouses.

Currently, it has been connected electronically with some ASEAN countries, by signing and piloting connection with some countries such as Eurasian Economic Union, connecting quarantine documents with New Zealand, or connecting C/O with South Korea. During the pandemic, the Ministry of Finance issued a guiding circular on C/O, which has been welcomed by the business community.

The Ministry of Finance is committed to further supporting businesses and investors with further facilitation and reform in the coming time, and continuing to review, exempt and reduce fees in the first 6 months of 2021.

The Ministry of Finance is also reviewing and amending Decree 134 guiding the Law on import and export taxes to resolve bottlenecks, especially in production, export, processing to export and export processing businesses.

The Ministry of Finance has submitted to the Government for promulgation of the Decree 126 on the Law on Tax Administration, which stipulates the time to apply the method of Advance Pricing Agreement (APA).

The Ministry of Finance submitted to the Government a scheme on specialized inspection in September 2020 with the desire to completely and extensively reform, reduce time and costs in import and export for businesses, and create an open and favorable business environment. Currently, this scheme is in the final stage for the Prime Minister to consider and promulgate.

Response from Government: *Mr. Le Xuan Dinh – Vice Minister, Ministry of Science and Technology*

During the Covid-19 pandemic, the Government has closely directed to create the most favorable corridor for businesses to approach and master the application of new and core technology of Industry 4.0. Some of the achievements are as follows:

- On December 16, 2020, the Prime Minister issued Decision 2117 on the list of prioritized technologies for research, development and application to actively embrace the Industry 4.0.
- On September 28, 2020, the Ministry of Science and Technology issued Circular 04 amending Circular 32/2011 of the Minister of Science and Technology on defining the criteria for high-tech application projects, investment project to manufacture high-tech products, and appraising applications for a certificate of high-tech application activities, newly established businesses from

investment projects on production of high-tech products, and high-tech businesses. The objective is to amend the criteria for high-tech application and investment projects producing high-tech products in accordance with real situation, to meet the requirements of investment attraction, especially for with large-impact projects and important national projects.

- Additionally, the Ministry of Science and Technology is assigned to submit to the Government for promulgation decisions and regulations on criteria for determining high-tech businesses, the list of high technology prioritized for development and the list of hi-tech products encouraged to be developed.
- Before the COVID-19 pandemic, the Prime Minister directed the Ministry of Science and Technology to coordinate with relevant ministries and sectors to study and amend Decision No. 18/2019, which is expected to be submitted in 2021, regulating the import of used machinery, equipment and technical lines in the direction of simplifying the requirements and procedures for importing used machinery, equipment and technical lines into Vietnam for the activities of attracting investment to Vietnam.

One of the key points for the next development stage is the innovation capacity of businesses in Vietnam. We would like to call for more attention from associations and businesses in increasing research for the development of businesses in Vietnam, especially in forming R&D centers to improve the technological capacity and innovation of businesses.

Mr. Kenneth Atkinson, Head of Tourism Working Group

Vietnam's revenues from tourism in the first ten months fell significant year-on-year. In the first ten months, the number of domestic tourists fell nearly by 50% to below 40 million travelers. Vietnam received 3.8 million foreign visitors in the first ten months of the year, down almost 70% year-on-year.

Our immediate recommendations to assist in sustaining the sector and helping staff and to mitigate the socio-economic impact are: For the Government, to create a fund through the banking system, whereby companies in the sector can borrow, with no security, up to an amount equal to their contribution to social and medical insurance and their total tax payments in 2019 that could ensure the legitimacy of business.

We have long promoted the concept of visa facilitation and we believe this as an opportunity really to implement a more visitor friendly visa policy even if it were only for a trial period of 2 years to help Vietnam maintain a competitive position in the regional market.

Our recommendations would be:

- Expanding the list of visa-exempt countries to all EU countries, Australia, New Zealand, US, Canada and key Asian inbound markets countries that are not currently visa free;
- Extending the visa exemption period from 15 to 30 days. Currently trips are cut short to only 14 days when many long-haul visitors would like to come longer;
- Providing short-stay visa exemption for the time of the event for business travelers and pre-registered groups and delegates entering Vietnam to specifically attend meetings, incentives, conferences and events;
- Create a 3 month long stay visa for certain outbound markets, such as Europe targeting high-income seniors who would come "over winter".

We cannot emphasize enough the importance of travel and tourism to Vietnam's economy. It is imperative that we have a plan to promote Vietnam in anticipation of the borders re-opening and not waiting until this border actually does open. We recommend:

- Vietnam create a 24-36 months Marketing and Promotion Masterplan to lead Vietnam's recovery from the COVID-19 pandemics, with allocated budget.
- A minimum commitment from the Government with US\$ 10 million which could be supplemented through a partnership with the private sector.
- To focus promotion on target markets with a high and stable number of visitors who tend to stay for a longer period, visit regularly and spend more when travelling in Vietnam;

BOOTING PARTICIPATION OF LOCAL BUSINESSES IN THE VALUE CHAIN

Mr. Choi Joo Ho, President of Samsung Complex Vietnam

Samsung Vietnam has produced about 60% Samsung smartphones for global sale. According to market surveys, Samsung is firmly maintaining the global number one position with 22% of market sale. Vietnam has also emerged as the world's 2nd biggest smartphone exporter as a result of Samsung's successful exporting to about 128 countries.

How could Samsung do that?

We have very constructive and effective supply chain with hundreds of vendors supplying not only high-tech components but also food, transportation and secret services. We gave many chances for Vietnamese companies to join our supply chain.

Vietnam - the second home of Samsung

We care for our home by making effort for the development of Vietnam. Supporting the development of Vietnam's supporting industry is a proof. Since 2014 until now, we regularly organize exhibitions to seek potential partners. Out of 1161 companies that we approach, 240 were evaluated potential.

In order to improve the competitiveness of Vietnamese enterprises, we have supported 167 businesses in training, processing improvement and factory restructuring in the aim of reducing percentage of defective products, save production costs. At the beginning of the program implementations, Samsung sent group manufacturing experts from Korea to Vietnam, directly working at local companies. The support period of these expert group in enterprises is 12 weeks Vietnamese companies are very happy to receive practical support from experts and share their production capacity has increased significantly up to 90% in just a short time.

Recently, Samsung Vietnam cooperated with the Ministry of Industry and Trade to support Vietnamese businesses in Hai Duong and Bac Ninh provinces to improve the manufacturing process and complete the standards in supplying products and components, thereby helping enterprise improve their competitiveness and be able to participate in the global supply chains.

However, we realize that if only base on the support of Korean experts, the number of Vietnamese businesses benefiting will be very modest. Therefore, we have collaborated with the Ministry of

Industry and Trade to train Vietnamese consultants working closely with Korean experts to have a snowball effect. We trained 207 consultants from 2018 to 2019.

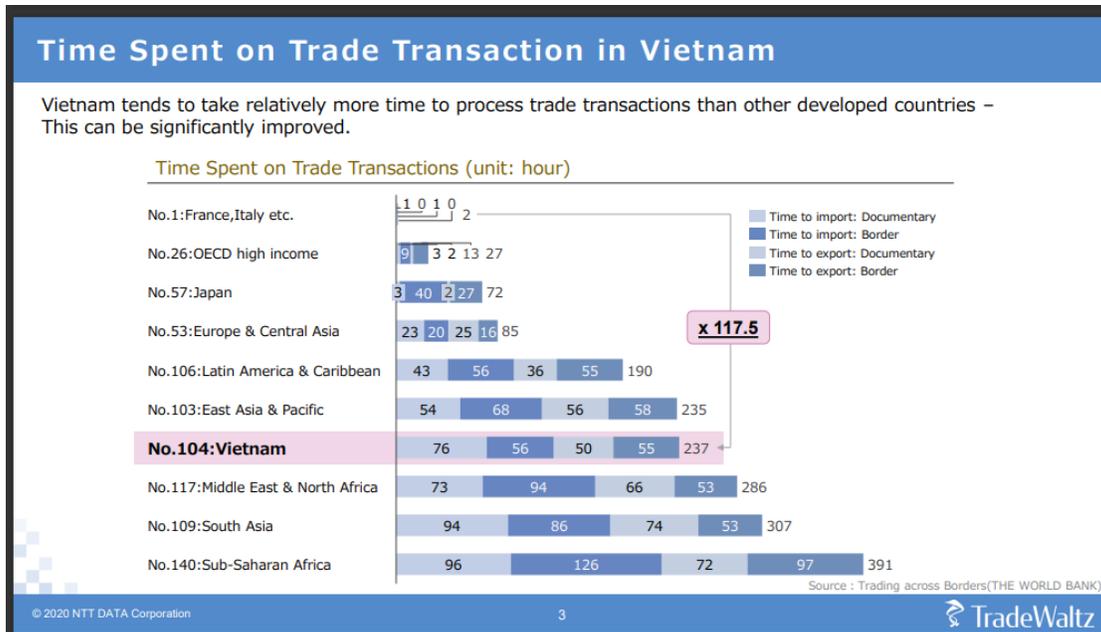
After the training course in Vietnam, we have shortlisted 28 master consultants and send them to South Korea for four-week advance training. The main content equips high level management training skill, benchmarking selected small and medium enterprises in Pocheon and Gumi as well as Samsung factories.

With endless efforts, up to now the number of Vietnamese enterprises cooperating with Samsung has increased year by year. In 2018, there are 627 Vietnamese enterprises; in 2019, these numbers has increased to 679; and it is expected by end of this year, there will be 725 enterprises in our supply chain.

Samsung will continue to accompany the government and contribute more effort for the development of Vietnam in general and supporting industry in particular.

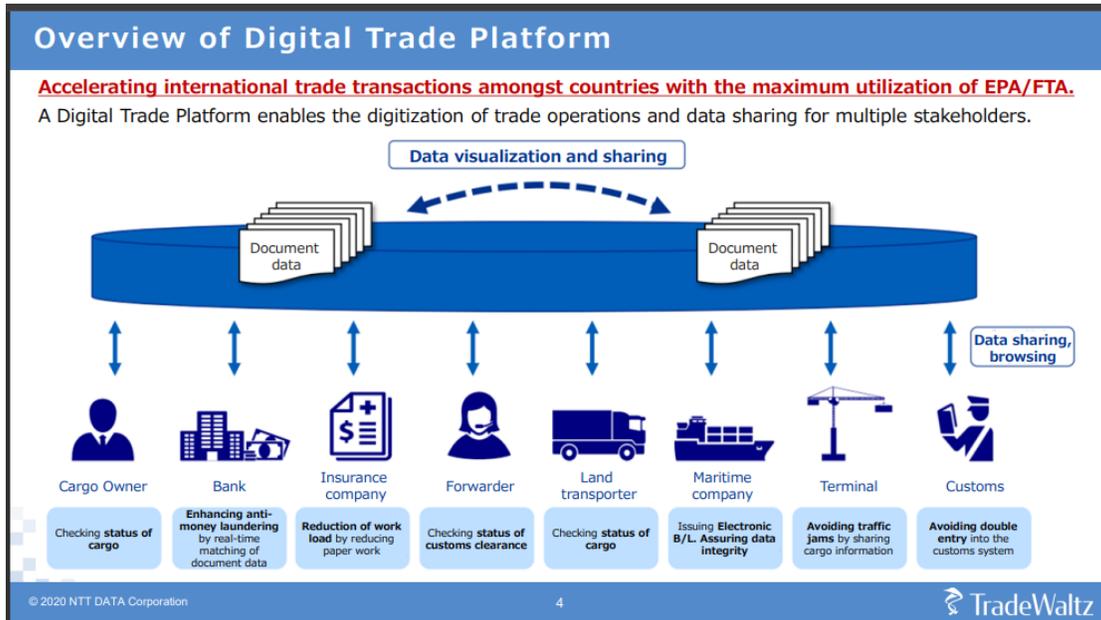
Mr. Tetsu Funayama – President & General Manager of Mitsubishi Corporation

TradeWaltz is digital platform that simplifies and increases efficiency of trade activities. If Vietnam applies this platform in improving commercial transaction efficiency thanks to digital, in no doubt the products of Vietnam can easily join the global value chain. This platform will make a great contribution to enhancing the presence of Vietnamese products in the global free trade framework, typically the CPTPP and EVFTA, which has been the main topic of VBF in recent years. I would like to clearly explain the information intelligence and consistency factors as follows:



Slide #3

According to World Bank data, in Vietnam, on average, a commercial transaction takes up to 240 transaction hours, of which 130 hours are for handling paperwork. Commercial transactions have been dominated by paper-based operations all along. It can be seen that there are many opportunities for efficiency improvement associated with this activity. Vietnam's commercial activities still take a lot longer time than that of the most advanced countries in this sector, such as France and Italy. As the time spent on the transaction, the cost also increases.



Slide #4

This is an overview of digital platforms. Digitizing paper-based operations and facilitating cross-stakeholder exchanges can maximize the impact of multilateral economic partnership agreement and free trade agreements.

The importance of data governance in promoting digitalization.

Data Governance for the Digital Economy

Digitalization can bring new developments to ASEAN economies, but the benefits of Digitalization alone cannot be reaped.

Digitalization facilitates the monopoly of IT giants multinational corporations. Digital markets are monopolized by them, barriers to entry are erected, and the "digital divide" between North and South grows.

In order to overcome the "digital divide", **it is important to establish the "data ownership" for "data localization"**, which regulates the processing and storage of the collected and accumulated data, the starting point of digitalization, within the home country and the free flow of data to other countries.

Regional pooling of data will be more beneficial for the countries, especially for developing countries, than the existing 'free flow of data' which allows the big techfirms to take the data outside the country for free.

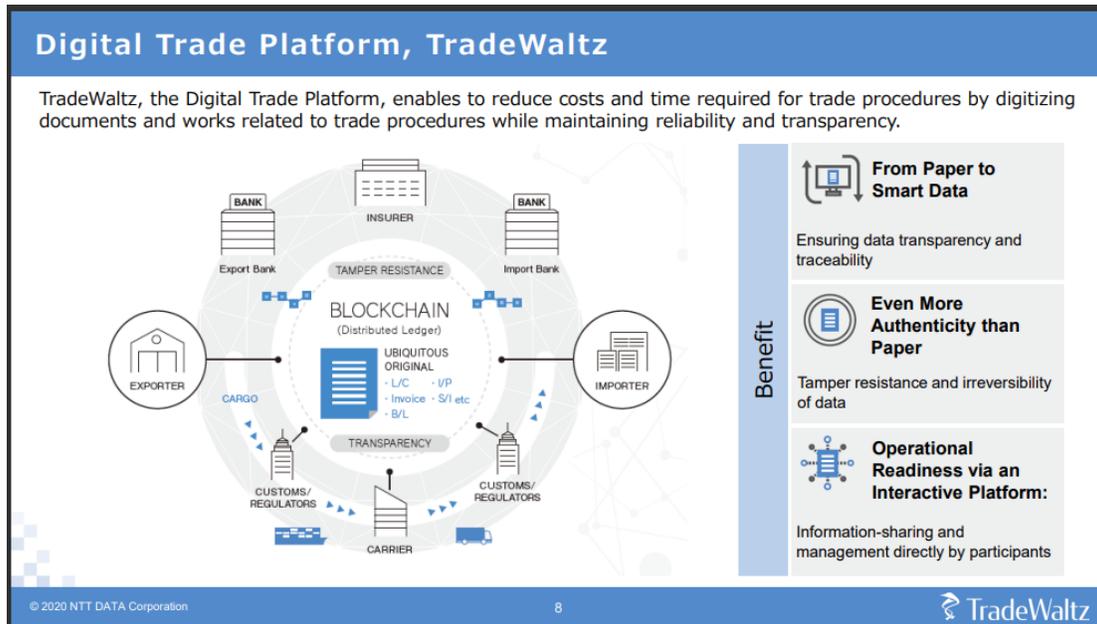
The progress made by advanced countries on digitization and regional digital integration implies that the North-South digital divide may widen in the future if developing countries do not make extensive efforts at the national as well as regional level to progress on digitization.

UNCTAD (2017), South-South Digital Cooperation for Industrialization: A Regional Integration Agenda, United Nations, New York and Geneva.

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Slide #6

Given the increasingly developed digitization, the importance and usefulness of data are concerning issues, but if this data is not secured and managed properly, there will be the problem of information disparity. It is important to reduce the information gap, build a unified platform, and establish a data governance system in each country. In the long run, it is essential to build an open platform to promote the establishment of data governance in each country.



Slide #8

TradeWaltz is a digital platform that uses the latest blockchain, which ensures reliability in commercial transactions, eliminates time wasted in handling paper-based business procedures. Japanese companies (in the fields of commerce, finance, insurance and transportation) have made efforts to develop and concretize this project under the supervision of the Japanese Government; the project is expected to come in to commercialization in Japan in 2021.

According to the diagram on the left: The commercial transactions is the process when manufacturers, trading companies, import and export, etc. perform separate roles, and goods are transported between countries through waybills and documents. Applying TradeWaltz to the above process will bring 3 benefits: (1) Commercial transaction information is converted into intelligent data (2) Credibility and reliability are significantly increased compared to paper-based transactions (3) Transaction process is unified.

[Ref] Operational Efficiency and Cost Reduction (PoC in Japan)			
Industries	Procedures		Operational Efficiency/Cost Reduction
Cargo owners	C/O application	>60%	Time saving for creating document by pulling data of I/V
	Apply for negotiation of documentary bill	>60%	Time saving for confirming the integrity of documents by check function
Banks	Negotiate documentary bill	>60%	Time saving for confirming the integrity of documents by check function
	Deliver documentary bill	30 to 60%	Time saving for delivering documents to customers
		30 to 60%	Cost saving for managing original documents
Insurance Companies	Issue insurance policy	>60%	Time saving for creating I/P by pulling data of L/C
		>60%	Cost saving for delivering and managing documents by paperless and collection cost when revising I/P
Carriers/Logistic Companies	Issue SWB (B/L)	>60%	Reduction of B/L operation by paperless of SWB(B/L)

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Slide #11

Showing test results when parties engage in commerce using the TradeWaltz platform to verify efficiency improvements including cost savings. It can be seen that the efficiency in banking transactions, insurance and transportation companies has improved by more than 60%. To further promote the inclusion of Vietnamese products in the global value chain, applying TradeWaltz is an initiative to simplify and improve the efficiency of commercial transactions. We look forward to contributing to increasing the participation of Vietnamese companies and the further appearance of Vietnamese products in the global value chain. To do that, it is necessary to involve many organizations including private companies in various fields, governmental agencies such as tax and customs agencies.

Mr. Nguyen Duc Thuan, Chairman of the Vietnam Leather, Footwear & Handbag/ Chairman of TBS Group

The fashion industry has been deep-rooted in the global chain for over 30 years now. Since its establishment, the industry has always been a commodity contributing to a turnover of over USD 1 billion, solves many difficult problems in terms of employment, labor and labor productivity. Up to now, the industry has had more than 10,000 businesses with import-export turnover of nearly USD 60 billion in 2020, creating jobs for over 5 million workers, and maintaining a trade surplus of over 50%.

With the strategic plan oriented by the Ministry of Industry and Trade and directed by the Government, by 2025, Vietnam's fashion industry must achieve sales of over USD 100 billion and create jobs for nearly 8 million workers.

Taking advantage of VBF, I call on the international business community to invest in strategic planning on under-invested regions to take advantage of the abundant labor force working in low-productivity sectors like the Mekong River Delta with over 20 million workers; and in the provinces currently calling for investment in many projects with incentive mechanisms and policies, which are suitable for the Government's strategy of phasing out agriculture without leaving hometown. To do this, we recommend as follows:

- In the Law on Investment, it is proposed to have special incentives for remote areas, especially to move workers who have moved to urban areas back to rural areas. Recruit and transform over 35-40% of agricultural workers, if another 5% of the labor force are moved to the industry sector, the overall labor productivity of Vietnamese people will increase considerably. Currently, the labor productivity of a worker in the fashion industry in Vietnam is VND 400-500 million/person on average. The average labor productivity of Vietnam has just reached over VND 70 million.
- MPI needs to improve the deposit in investment contracts. Some businesses need to pay the deposit when committing to invest, but this deposit does not earn interest, which heavily affects their capital source.
- The Ministry of Labor, Invalids and Social Affairs needs to build an integrated vocational module in line with the digital management process, other than the vocational module previously developed by the General Department of Labor.
- The Ministry of Finance and the General Department of Vietnam Customs need to radically respond to the Association's proposals: (1) Outsourced and sub-outsourced businesses – not yet done. (2) Post-inspection process: We would like to thank the Ministry of Finance for being very flexible during the recent pandemic period. Because the supply chain is interrupted, many businesses have to take the code of one order to produce for another order. Therefore, many businesses are concerned about the post-inspection stage. They do not commit commercial fraud but have violated administrative procedures, which are seriously penalized in the post-inspection stage.

CLOSING REMARK

Mrs. Carolyn Turk, Country Director, World Bank

The first area I would highlight from the discussion is the need to accelerate the adoption of new technology and digital technology in particular. What we observe on Vietnam's growth path is that the component of growth that is derived from adoption of technological change and innovation is slowing down. The comments around the table today have suggested that there is space for acceleration and that acceleration will demand a combination of factors. Of course, there's many investments that will be made on the private sector side, but in order for that to happen, there's a need for public sector investment in some of the infrastructures that underpin digital transformation. There is also a need for regulatory change to support the introduction of some of the new technologies and digital technologies in particular, and there's a need to explore some of the governance issues around data and the adoption of digital technologies.

The second area that we would like to work with the government more in the future is the need to decarbonize the growth path of Vietnam. At the moment, considerable amount of the electricity is produced from a coal base. We would like to strongly support those who have urged move away from coal-based electricity generation to adoption of renewable technologies. We will be very happy to

work with the government in ensuring that the kind of public sector investments that are necessary to make this work well can happen as quickly and as efficiently as possible, as well as the shifts in the regulatory framework that will be needed to make the environment attractive to private sector investors in the energy in the energy space.

Another point made by interventions at around the table is a need for greater environmental standards. More broadly, I think the American Chamber of Commerce highlighted the need for strong investments in solid waste management in water treatment. We actually believe that there is still space for a partnership between the private sector and the public sector in making sure that all of the water supply in in Vietnam is clean and that waste including plastics are managed appropriately in the interests of future competitiveness of the economy.

Mr. Hong Sun, Co-Chairman, VBF Consortium

At the Forum today, the business community has listened to close instructions from the Deputy Prime Minister and highly positive responses from representatives of ministries and agencies. On behalf of the VBF Consortium, we would like to thank the Government for spending time to listen and share the concerns of the business community. VBF hopes that in the coming time, we will continue to receive the attention of the Government and commit to accompany the Government in overcoming the negative impacts of COVID-19, facilitate the investment environment contributing to the sustainable economic growth of Vietnam.

This is a very favorable time for Vietnam to attract foreign investment. Foreign investors in general and Korean investors in particular are currently very interested in investing in Vietnam. On behalf of the foreign business community, especially the member associations of VBF, we commit to continue accompanying the Government and people of Vietnam and expand investment in Vietnam.

Mr. Nguyen Chi Dung, Minister - Ministry of Planning and Investment

I would like to summarize the content of the three discussions today as follows:

- Regarding the improvement of business investment environment and business development: Despite the Government's great efforts in creating a stable and solid business environment and encouraging the entrepreneurial spirit of the business community, there are still shortcomings requiring the Government to work on and put more substantive and synchronous efforts to achieve higher goals. In recent years, many reform policies and measures have been developed, amended and perfected by the Government in accordance with the new context. In particular, in the past 2019-2020, the Government has submitted to the National Assembly for promulgation many laws to further improve institutions related to investment, business and trade, such as the amended Law on Investment, the amended Law on Enterprises, the Law on Planning, the Law on Bidding, the Law on PPP, the amended Labor Code, the amended Land Law, etc. These laws have many new elements and are more practical to be responsive to actual situation and good international practices, thereby resolving bottlenecks for businesses during their operation, channeling resources for investment, and attracting investments from the domestic private sector and foreign invested sector.
- Regarding power and energy: Especially give the priority to renewable power for national electricity and reduce coal power. As for the proposal to consider investment in nuclear power, the Ministry would like to acknowledge this idea, but it needs to be further studied and discussed

in the near future. Increase the use of natural gas as the basic and most suitable load for renewable energy, develop a favorable legal environment to attract private investment in clean energy production, use energy efficiently, build a legal environment and support small-scale, off-grid clean energy production, which is a valid issue to be raised.

- Regarding infrastructure: It is necessary to continue to develop a more effective PPP investment mechanism to enhance investment attraction for infrastructure.
- Some issues about the draft PPP law: Guarantee issue, risk sharing, investor selection, etc.
- Regarding taxes - customs: There are still some shortcomings in the application of local policies and regulations, not really creating favorable and level playing field for domestic and foreign investors. The scope of post-clearance audits remains overlapping. The issue of value-added tax on goods delivered outside Vietnam, or problems in trade activities of foreign-invested businesses, and conditions to be recognized as export processing businesses remains unclear.
- Regarding education and training Vietnam needs to fundamentally and comprehensively reform higher education to bring education in line with the Industry 4.0. National human resource development focuses on lifelong learning & soft skills enhancement, technology skills, communication skills, and code of conduct for all students.
- Regarding tourism: It is necessary to diversify Vietnam's destination lists to develop the future tourism workforce and retrain former workers.
- We would like to acknowledge your concerns and advices in issues on labor, commercial investment policies, land, e-Government, e-commerce, cash payment reduction, etc. During the discussion, representatives of ministries and agencies have provided specific and detailed responses, thereby clarifying the concerns of the parties, signaling the needs for closer cooperation between the Government and the business community, especially the foreign-invested sector, to improve efficiency in attracting investment.

I also appreciate the contributions and sharing of speakers from big groups such as Samsung, Mitsubishi, Leather, Footwear & Handbag Association. These are the key discussions, improvements and commitments of FDI businesses to support domestic businesses, so that they can participate more deeply in the global value chain, promote Vietnam's supporting industries and private sector, especially the small and medium-sized businesses. This is also a major policy of the Government in the coming period on attracting foreign investment.

Taking advantage of this occasion, we suggest that you research and develop support programs for start-ups and entrepreneurs in Vietnam to participate in those value chains, not just support the currently active businesses. For example: staff and experts who are working for the corporation, acquiring technologies and management experience, can be supported to separate and establish new businesses. They are able to immediately meet the requirements to join the value chains.

The Government commits to continue to maintain, exchange and connect innovation ecosystems and also establish incentive mechanisms and policies to promote innovation, combine with policies, mobilize all resources to support startups.

In order to create a driven force for Vietnam's upcoming development phase, in the 5-year plan and 10-year strategy, there are two new issues that have been included in the motivated strategic

breakthrough: (1) Science, technology, innovation (2) Vietnamese people. As for issue (1), the Government, the Party and the State have adopted many policies such as Resolution 52 of the Politburo and the national digital transformation strategy approved by the Prime Minister. Particularly, the MPI has two relevant programs: (1) Develop a National Innovation Hub in Hoa Lac Hi-Tech Park and (2) The Digital Transformation Support Program funded by USAID, which will support 800,000 Vietnamese businesses to access the digital transformation in the next 5 years. We also recommend that the FDI business community support and accompany the Ministry to carry out this meaningful activity.

In particular, today the Deputy Prime Minister Pham Binh Minh has delivered directions, and major orientations and tasks that ministries, agencies and businesses need to continue to implement in the coming time. The MPI will synthesize the opinions of the business community and the directions of the Deputy Prime Minister, then closely coordinate with ministries, agencies and localities to effectively respond to the above-mentioned recommendations and submit them to the competent authorities to amend policies and improve the business and investment environment.

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