

LANH CAO DINH

# Legal Framework for Banking Activities in Digital Environment. A Case Study of Vietnam

## Abstract

The objective of the article is to analyze and evaluate the legal aspects of banking activities in the digital environment in Vietnam in three areas: i) the legal framework regulating electronic transactions in the banking sector; ii) the controlled testing mechanism for financial technology in the banking sector; and iii) the protection of personal data in banking activities. Based on these findings, the study also highlights certain implications for ensuring requirements for risk control, protection the interests of stakeholders, and business operations of banks in Vietnam.

**KEYWORDS:** Law, digital environment, banking activities, Vietnam

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## 1 | Introduction

Over the past decade, the strong development of the digital environment, notably technologies such as AI, IoT, Big Data, and blockchain, has completely transformed the ecosystem of the financial industry in general and the banking industry in particular. Banks have applied these new technologies to improve banking products, services, and operating processes<sup>[1]</sup>.

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<sup>1</sup> In the US, Bank of America has successfully deployed digital banking, fully automating services with Chatbot Erica to support customers on mobile

Additionally, the participation of companies operating in the field of information technology, known as Fintech businesses, has infused the market with innovative solutions. Fintech businesses provide services similar to those of traditional banks, but often more efficiently and uniquely through technology<sup>[2]</sup>. This technology can help banks improve efficiency, reduce costs, and create new value for customers<sup>[3]</sup>. Despite the many benefits, the application of technology also introduces certain risks to banking operations. According to research conducted by the Institute of International Finance (IIF) and E&Y Auditing Company across 33 countries and involving 88 major financial institutions, of the top 10 risks facing the banking industry over the next 5 years, 7 are related to digital transformation. The RSA report (2019) highlights seven key risk management areas currently affecting the banking industry: cyber attack risks, data management and privacy risks, process automation risks, digital risks related to people, risks related to business sustainability, risks related to cloud computing, and third-party liability risks<sup>[4]</sup>.

In the process of implementing digital transformation in banking, Vietnam is considered a country with great potential due to its young and dynamic digital infrastructure. According to the General Statistics 2023, the population has reached 100.3 million people, with 38.2 million people living in urban areas (38.1%) and 62.1 million people living in rural areas (61.9%). The country has an abundant labor force of about 52.5 million

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applications, establishing robot branches (Robo-branches), and mass installing tablet computers at branches so customers can proactively perform basic transactions without needing a teller. In China, China Construction Bank has successfully deployed fully automated banking with the Xiao Long robot to serve customers, including ATMs capable of opening new accounts and delivering foreign exchange transactions.

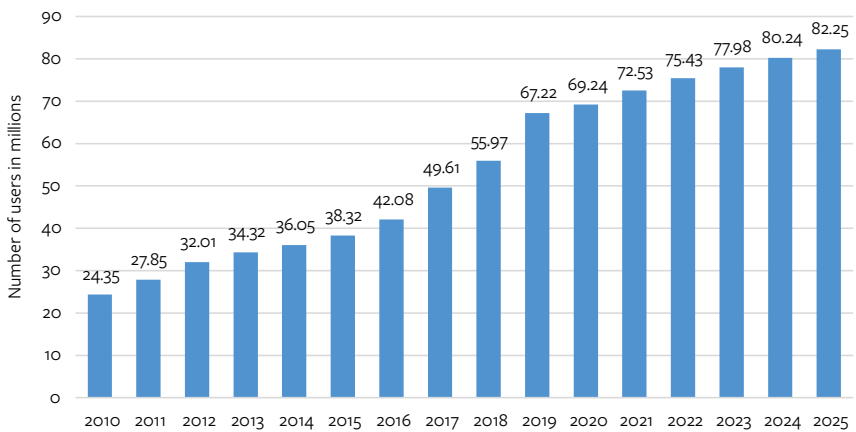
<sup>2</sup> Giorgio Barba Navaretti, Giacomo Calzolari, Alberto Franco Pozzolo, „Fintech and Banks: Friends or Foes?” *European Economy: Banks, Regulation, and the Real Sector*, No. 2 (2017). [https://european-economy.eu/wp-content/uploads/2018/01/EE\\_2.2017-2.pdf](https://european-economy.eu/wp-content/uploads/2018/01/EE_2.2017-2.pdf).

<sup>3</sup> Ernst and Young, *Capital Markets: Innovation and the FinTech Landscape* (2017). [https://assets.ey.com/content/dam/ey-sites/ey-com/en\\_gl/topics/emeia-financial-services/ey-capital-markets-innovation-and-the-fintech-landscape.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/emeia-financial-services/ey-capital-markets-innovation-and-the-fintech-landscape.pdf). [accessed: 20.05.2022].

<sup>4</sup> IIF and Ernst and Young, *Resilient Banking: Capturing Opportunities and Managing Risks over the Long Term*, 11th Annual EY/IIF Global Bank Risk Management Survey, 2021. [https://assets.ey.com/content/dam/ey-sites/ey-com/en\\_gl/topics/banking-and-capital-markets/ey-iif-global-bank-risk-survey.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/banking-and-capital-markets/ey-iif-global-bank-risk-survey.pdf).

people, and the rate of smartphone users is steadily increasing (Table 1)<sup>[5]</sup>. This demographic quickly adopts new technology platforms, making them ideal customers for the banking industry and driving positive activities in transforming the current banking service configuration.

**Table 1: Internet users in Vietnam since 2010 and projected until 2025 (unit: Million people)**



Source: <https://www.statista.com/forecasts/1147008/internet-users-in-vietnam>

With the development of technology, Internet connectivity, and the increasing rate of people using smart mobile devices, banking services in Vietnam have undergone many changes. These changes include the digitalization of traditional banks through the transformation of specific business operations, such as innovations in mobile banking and online banking (internet banking), the application of electronic customer authentication (eKYC), payments through quick response codes (QR), and 24/7 support through virtual assistants or chatbots. In addition, digital transformation within banks' internal processes includes the reform of online real-time transaction systems, robotic process automation, artificial intelligence (AI) applications, and third-party data risk management<sup>[6]</sup>.

<sup>5</sup> General Statistics Office of Vietnam, Press Release on Population, Labor, Employment Situation for Q4 and 2023, December 2023. <https://www.gso.gov.vn/du-lieu-va-so-lieu-thong-ke/2023/12/thong-cao-bao-chi-ve-tinh-hinh-dan-so-la-o-dong-viec-lam-quy-iv-va-nam-2023/>. [accessed: 7.06.2024].

<sup>6</sup> Australian Government, Austrade, *Digital Banking in Vietnam: A Guide to Market* (2020), 6.

The rapid development of digital banking products and services has created challenges for Vietnam's legal framework to adapt to the digital transformation of banking activities. These challenges include: i) establishing a legal framework to regulate electronic transactions in the banking sector; ii) establishing a controlled testing mechanism for financial technology in the banking sector; and iii) protecting personal data in banking activities.

## 2 | Legal framework for banking activities in the digital environment in Vietnam

### 2.1. Legal framework regulating electronic transactions in the banking sector

Monetary and banking activities are fields with high compliance, so the legal framework plays an important and decisive role in the operation and development of banking products and services on the digital platform. The lack of a unified legal framework is one of the reasons that can slow down the bank's digitalization process. This necessitates the continuous supplementation and improvement of policies and management regulations to facilitate banking digital transformation activities. However, regulation can be a double-edged sword. Excessive regulation can stifle innovation, while insufficient regulation can be risky. While regulations can increase consumer confidence, they can also create many barriers for banking activities in the digital environment. Conversely, loose regulations can increase risks and illegal activities.

In Vietnam, the legal framework for digital transformation in banking activities was first established in 2007 when the Government issued Decree No. 35/2007/ND-CP on March 8, 2007, regarding electronic transactions in banking activities. This decree addressed the conditions for agencies, organizations, and individuals to participate in electronic transactions in banking activities, thereby paving the way for the digitization and digital transformation in banking operations.

There are two main strategies in Vietnam's approach to establishing a legal framework for electronic transactions in the banking sector:

1. **Developing a General Law on Electronic Transactions:** This involves creating overarching legislation that applies to electronic transactions broadly but does not include specific regulations tailored to the banking industry. Key laws in this category include the Civil Code 2015, the Electronic Transactions Law 2023<sup>[7]</sup>, the Cyber Security Law 2018, the Information Technology Law 2006, and the Civil Procedure Code 2015. These laws are supported by various guiding decrees and circulars.
2. **Developing Specific Regulations within Specialized Banking Laws:** This approach involves creating detailed regulations specifically for electronic transactions within the banking sector. For example, the Law on Credit Institutions 2023<sup>[8]</sup> stipulates that banking operations are to be conducted electronically according to the regulations set by the Governor of the State Bank, as well as other legal regulations on electronic banking transactions. Additionally, decrees and circulars define the scope of e-banking activities, risk management practices for e-banking, safety standards for information technology systems, security and safety regulations for e-banking activities, and bank guarantees. There are also specific regulations for various electronic banking services, such as the electronic opening of a payment account, the handling of cards and ATMs, the buying and selling of foreign currencies, and the granting of loans.<sup>[9]</sup>

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<sup>7</sup> Replacing the 2005 Electronic Transactions Law, the 2023 Electronic Transactions Law introduces many new provisions to create a favorable legal framework for transitioning activities from a physical environment to a digital one across all industries and sectors.

<sup>8</sup> Replacing the 2005 Law on Credit Institutions.

<sup>9</sup> Circular No. 39/2014/TT-NHNN dated December 11, 2014 guiding payment intermediary services; Circular No. 46/2014/TT-NHNN dated December 31, 2014 guiding non-cash payment services; Circular No. 16/2020/TT-NHNN dated December 4, 2020 amending and supplementing a number of articles of Circular No. 23/2014/TT-NHNN dated August 19, 2014 on instructions for opening and using accounts payments at payment service providers; Circular No. 10/2020/TT-NHNN dated November 2, 2020 amending and supplementing a number of articles of Circular No. 28/2015/TT-NHNN dated December 18, 2015 of the State Bank of Vietnam regulating on the management and use of digital signatures, digital certificates and digital signature authentication services of the State Bank; Circular 17/2021/TT-NHNN dated November 16, 2021 amending and supplementing a number of articles of Circular 19/2016/TT-NHNN dated June 30, 2016 of the State Bank on bank card operations; Circular No. 11/2022/TT-NHNN dated September 30, 2022 regulating bank guarantees.

A review of the legal framework for electronic transactions in the banking sector in Vietnam shows that: First, Vietnam initially tightened the legal framework for services such as accounts opening and phone transactions. In recent years, however, regulations have been adjusted in a more open direction to attract more users. For example, the digital payment segment has been developing for many years, but it was not until 2020 that legal documents for this activity were issued through Circular No. 16/2020/TT-NHNN dated December 4, 2020, by the State Bank, which amended and supplemented several articles of Circular No. 23/2014/TT-NHNN dated August 19, 2014, on instructions for opening and using payment accounts with payment service providers. Additionally, Circular No. 09/2020/TT-NHNN dated October 21, 2020, by the State Bank regulates the security of information systems in banking operations.

It can be observed that Vietnam has a tendency to supervise and introduce tightened regulations to stabilise the payment market initially. Once activities are established, the country begins to regulate in a way that attracts customers to further develop the market. Therefore, Vietnam is a country that does not develop explosively in the early stages but accelerates in the later stages.

Second, the legal environment for electronic payments in Vietnam is still incomplete and inconsistent<sup>[10]</sup>. The introduction of electronic payment policies has not made significant breakthroughs and has not been fully legalized. Many regulations are inadequate and have not kept pace with the rapid development of science and technology and the digitalization process. For example, there is still no official legal framework for the management of cryptocurrencies, yet the cryptocurrency market continues to operate in Vietnam<sup>[11]</sup>. Current peer-to-peer lending activities lack a complete legal and technical foundation, leading to many potential risks. There is no specific legal framework for the use, sharing, and storage

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<sup>10</sup> Regulations on digital transformation in banking activities are dispersed across various circulars and decrees, primarily focusing on the development of payment channels such as account opening and conducting transactions via mobile devices.

<sup>11</sup> Vietnam is one of the top 5 countries accessing digital currency websites and platforms. See: European Central Bank (ECB), *Crypto-Assets: Implications for Financial Stability, Monetary Policy, and Payments and Market Infrastructures*, 7 May 2019. <https://hdl.handle.net/10419/207609>. [accessed: 7.06.2024]; David Abel, „Vietnam Forms Group for Digital Currency Policy Research”, 17 May 2020. <https://coingeek.com/vietnam-forms-group-for-digital-currency-policy-research/>. [accessed: 7.06.2024].

of cloud computing and blockchain data, nor is there a legal framework for entirely new digital products.

Developing new products and services without a clear legal framework will lead to significant adverse impacts on product development and digital banking operations because the lack of certainty in regulations hinders investment attraction. Furthermore, legal regulations on litigation, intellectual property, and criminal law do not cover the scope of transaction activities via digital platforms, causing many risks to banking activities and the rights of parties involved in transactions, and creating opportunities for digital crime to increase.

In short, in a field as broad and sensitive to monetary security as banking, the setting and applying of legal regulations inevitably requires caution. While this caution is extremely necessary, it also causes delays in the issuance of administrative documents by the organizations and individuals in the drafting unit and the agencies that must provide input, such as the Ministry of Justice, the Ministry of Information and Communications, and the Ministry of Public Security. As a result, legal regulations struggle to keep up with changes in social life, which is an inherent weakness of the Vietnamese legal system. This slows down the digitization process. Therefore, it is essential to continuously supplement and improve the system of policies and management regulations in the banking industry to facilitate digital transformation activities.

## **2.2. Development of a controlled testing mechanism for financial technology in the banking sector**

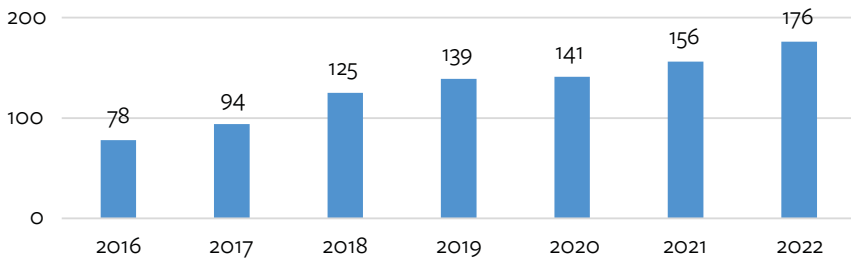
With the rapid development of the digital environment, emerging technologies such as AI, IoT, Big Data Analytics, blockchain, and open APIs have completely transformed the ecosystem of the financial industry in general and the banking industry in particular. Fintech has created many positive changes in the financial sector, but it also faces difficulties and challenges in management and supervision, such as the risk of money laundering and terrorist financing (AML/CFT), ensuring network security, protecting user data, and safeguarding the rights of consumers and investors. To respond to these issues, countries have introduced regulations for new products, models, and the application of technology in the financial sector.

Although financial technology is currently developing rapidly, no country can claim to have a sufficient legal system in this field as of yet.

According to the World Bank (2020), the levels or measures in accessing Fintech are divided into: 1) Wait and See; 2) Test and Learn; 3) Development Management Tools (Innovation Facilitators); and 4) New Regulatory Reform. In the policy options for approaching Fintech management, many developed countries around the world are at levels 3 and 4, with a large concentration at level 3.

In Vietnam, the number of Fintech businesses has also increased rapidly, from 78 companies at the end of 2016 to about 176 companies at the end of 2022 (Table 2). This indicates that Fintech has been developing as an important financial institution in Vietnam.

**Table 2: Number of Fintech companies in Vietnam from 2016 to 2022**



Source: <https://www.statista.com/forecasts/1147008/internet-users-in-vietnam>

Fintech businesses operate in various fields such as payment, peer-to-peer lending (P2P lending), credit scoring, and personal financial management. Most of these areas currently lack comprehensive legal frameworks or specific regulations<sup>[12]</sup>, which can lead to risks and negative consequences in terms of fair competition, financial stability, protection of consumer rights, and cybersecurity<sup>[13]</sup>.

The management of financial technology services in Vietnam has been gradually adjusted to encourage development. The Government issued

<sup>12</sup> Draft Report, *Decree Regulating the Controlled Testing Mechanism in the Banking Sector*, 4. [https://vibonline.com.vn/du\\_thao/du-thao-nghi-Dinh-quy-dinh-ve-co-cover-thu-nghiem-co-kiem-soat-in-linh-vuc-ngan-hang](https://vibonline.com.vn/du_thao/du-thao-nghi-Dinh-quy-dinh-ve-co-cover-thu-nghiem-co-kiem-soat-in-linh-vuc-ngan-hang). [accessed: 6.03.2024].

<sup>13</sup> For example, in the P2P lending activities that have recently emerged in Vietnam, some companies operating under the guise of the P2P lending model exploit people's lack of knowledge and understanding to deceive and mislead them. These companies make false statements, promising high profits and interest rates, to defraud and appropriate people's capital for investment in this lending model.



Decision No. 316/QĐ-TTg, dated March 9, 2021, approving the pilot implementation of using telecommunications accounts to pay for goods and services of small value (under 10 million VND/month). Additionally, the Governor of the State Bank issued Circular No. 16/2020/TT-NHNN, dated December 4, 2020, amending Circular No. 23/2014/TT-NHNN, which allows the experimental application of identification technology (e-KYC) to open payment accounts with small transaction volumes (under 100 million VND/month). Moreover, Circular No. 06/2023/TT-NHNN, dated June 28, 2023, permits banks to conduct lending activities electronically for small value loans (under 100 million VND).

In order to prevent money laundering and terrorist financing, the State Bank of Vietnam has issued Circular No. 09/2023/TT-NHNN dated July 28, 2023, which guides the implementation of certain articles of the Law on Prevention and Control of Anti-Money Laundering. Accordingly, financial institutions must collect and report information to the State Bank of Vietnam using electronic data for electronic money transfer transactions. This includes domestic transactions with a value of 500 million VND or more (about 20,000 USD) and international transactions with a value of 1,000 USD or more<sup>[14]</sup>.

These developments indicate that Vietnam has taken more proactive steps to manage and support Fintech sector. Transitioning from a „wait and see” approach to a „test and learn” approach, the 15th National Assembly issued the Law on Credit Institutions No. 32/2024/QH15, dated January 18, 2024, which stipulates a controlled testing mechanism in the banking sector<sup>[15]</sup>.

The drafting of the Decree on a controlled testing mechanism in the banking sector has been initiated by the State Bank since 2021, going through seven draft versions with many consultations, but it has not yet been promulgated. In the latest draft, published on March 7, 2024, for comments, only the testing of three solutions is allowed: (1) credit scoring; (2) sharing data via open application programming interface (Open API); and (3) peer-to-peer lending (P2P lending). The testing period for Fintech solutions is a maximum of two years, depending on each specific solution

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<sup>14</sup> Circular No. 09/2023/TT-NHNN, Art. 9 (July 28, 2023), issued by the State Bank, guiding the implementation of a number of articles of the Law on Prevention and Combat of Money Laundering, 2022.

<sup>15</sup> The pilot mechanism is one of the most preferred policy tools and approaches employed by many countries to accelerate innovation, enhance competition, and improve efficiency in the banking and finance industry by allowing the testing of Fintech solutions with real transactions in a controlled environment, limited in scope, scale, and testing time.

and field, starting from the time the State Bank grants a Certificate of Participation in the Testing Mechanism.

The existence of an incomplete legal framework for Fintech management has become a significant barrier to the development of Fintech in Vietnam, causing apprehension among individuals, start-up organizations, investors (both domestic and foreign), and the public. The limitations and inadequacies in the legal framework for Fintech in Vietnam are understandable, given that the testing mechanism is a new, complex, and unprecedented policy approach in Vietnam. Therefore, reviewing the legal regulations for promulgating the Decree needs to be done carefully, with coordination and agreement between relevant ministries and branches before submitting it to the Government for official promulgation.

It can be said that Vietnam is under pressure to establish a new legal framework that balances two goals: first, to promote innovation; and second, to create a fair competitive environment, ensure financial market stability, minimize risks, and protect customers.

### 2.3. Protect personal data in banking activities

When using financial services, consumers often face challenges ranging from the complexity of financial products and services, access costs, and unfamiliarity with legal contracts, to new types of technological financial services<sup>[16]</sup>. These challenges can lead to risks such as loss of security, privacy, and data confidentiality. The Organization for Economic Cooperation and Development (OECD) highlights several serious issues related to consumer protection, including: loss of security, privacy, and data confidentiality; inappropriate or excessive use of digital records to identify potential customers and exclude unwanted customer groups; quick access to expensive short-term credit or speculative products; and several other activities that promote deviant behavior<sup>[17]</sup>.

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<sup>16</sup> World Bank, *Good Practices for Financial Consumer Protection*, 2017 ed. (Washington, DC: World Bank, 2017). <https://hdl.handle.net/10986/28996>.

<sup>17</sup> OECD, *G20/OECD Policy Guidance on Financial Consumer Protection Approaches in the Digital Age*, Financial Consumer Protection 17 (Paris: OECD, 2018). <https://www.oecd.org/financial/education/G20-OECD-Policy-Guidance-Financial-Consumer-Protection-Digital-Age-2018.pdf>.

The rapid growth of the Internet, along with the increasing incidence of illegal collection, processing, and disclosure of personal data, has created an urgent need for a specific and clear legal framework to protect personal data.

To meet this requirement, the 1981 Council of Europe Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data<sup>[18]</sup> and the OECD Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data<sup>[19]</sup> provide a number of specific rules for the collection and processing of personal data. The principles of data protection in these two documents are essentially the same, differing only in degree. Both require that personal information: i) be collected only in a fair and lawful manner; ii) be used only for the original purpose for which it was collected; iii) be complete, adequate and not excessive in relation to that purpose; iv) be kept accurate and up to date; and v) be discarded after its intended purpose has been fulfilled. These documents have had a profound influence on the development and application of personal data protection laws around the world, beyond European and OECD member countries<sup>[20]</sup>.

Faced with the need to protect the right to privacy, many regions and countries have strengthened their legal frameworks on this issue. The most prominent of these is the European Union's General Data Protection Regulation (GDPR) of April 27, 2016, which has been in effect for all member states since May 25, 2018. Many countries in Europe have enacted laws on personal information protection based on the provisions of the GDPR. In ASEAN, Malaysia issued the Personal Data Protection Act in 2010, Singapore issued the Personal Data Protection Act in 2012 and the Personal Data Protection Regulations in 2014, and Thailand issued its first law on personal data protection, the Personal Data Protection Act, in 2019, which became effective on May 27, 2020.

In Northeast Asia, Japan first enacted the Personal Information Protection Law in 2003 but made significant amendments in 2016 to align with many provisions of the GDPR. Korea first enacted the Personal Information Protection Law in 2011 and has continuously amended and supplemented

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<sup>18</sup> Convention on the Protection of Individuals with regard to the Automatic Processing of Personal Data Convention, ETS No. 108 (Strasbourg, 1981).

<sup>19</sup> OECD, *Guidelines governing the Protection of Privacy and Transborder Data Flows of Personal Data* (Paris, 1981).

<sup>20</sup> Vu Cong Giao, Le Tran Nhu Tuyen, „Protection of rights to personal data in international law, laws in some countries and reference values for Vietnam” *Journal of Legislative Studies*, No. 9 (2020). <http://lapphap.vn/Pages/tintuc/tinchitiet.aspx?tintucid=210546>. [accessed: 22.06.2020].

it in 2013, 2014, 2015, 2017, and most recently in February 2020 to support the development of Korea's digital economy. However, each region and country has different approaches to protecting private data. Vietnam is no exception.

In Vietnam, consumers who use online banking services also face many risks. These risks include the risk of novelty for customers, due to their unfamiliarity with products, services, and suppliers, leading to vulnerability to exploitation and abuse (for example, due to a lack of understanding and misuse of products, customers may fall into debt); agency-related risks, as new providers may offer services not subject to the consumer protection provisions applicable to banks; and risks associated with digital technology, which may cause service interruptions, data loss, and privacy or security breaches due to digital data transmission and storage. The Ministry of Public Security has reported that the personal data of more than two-thirds of Vietnam's population is being stored, posted, shared, and collected in cyberspace in many different forms and levels of detail<sup>[21]</sup>.

According to the results of the author's research on customers' understanding of online banking services<sup>[22]</sup>, it can be seen that customers are not aware of the protection of personal data, and often post it publicly or reveal it in various processes. This includes transferring, storing, and exchanging data for business activities or due to inadequate protection measures, which leads to appropriation and public disclosure, which is common in cyberspace. For instance, when asked, „Have you ever lost personal information or encountered information security risks when using online banking services?” the survey results revealed the following responses:

- 312 people answered “Never” representing 40.78% of the total respondents.
- 265 people answered “Rarely”, or 34.64%.

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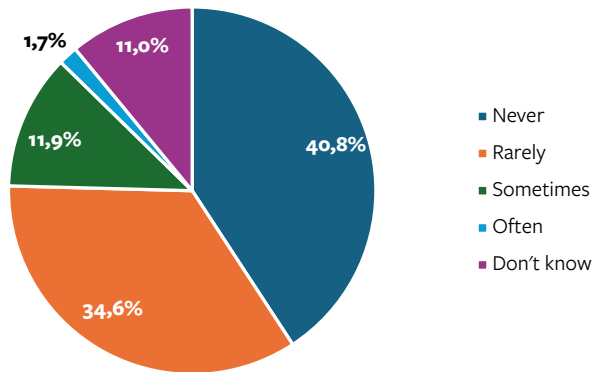
<sup>21</sup> Minh Thanh, *Nearly 1,300 GB of personal data illegally collected, traded*. <https://quochoi.vn/tintuc/pages/tin-hoat-dong-cua-quoc-hoi.aspx?ItemID=67343>. [accessed: 9.08.2022].

<sup>22</sup> The author employed a survey questionnaire and conducted an online survey using Google Form. The survey content included supporting material aimed at enhancing the reliability of the scale throughout the survey process, as evidenced by opinion polls for banks' customers. With 765 participants in the survey, 611 were women, constituting 79.87%; 152 were men, constituting 19.87%; and 2 individuals identified with other genders, making up 0.26%. The collected data were processed using specialized software such as Excel and SPSS.

- 91 people answered “Sometimes”, representing 11.90%.
- 13 people answered “Often” for 1.70%.
- 84 people answered “Don’t know” for 10.98%.

### Have you ever lost personal information or encountered information security risks when using online banking services?

765 responses



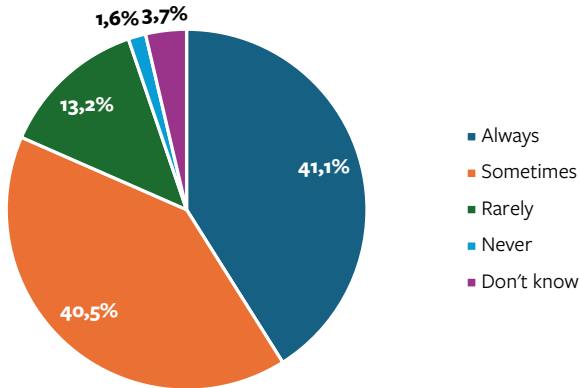
Source: Author's survey results in 2024

In response to the question “Have you recognized and proactively implemented measures to protect your personal information when using online banking services?”

- 314 respondents answered “Always”, representing 41.05% of the total respondents.
- 310 people answered “Sometimes”, representing 40.52%.
- 101 people answered “Rarely” accounting for 13.20%.
- 12 people answered “Never” accounting for 1.57%.
- 28 people answered “Don’t know” for 3.66%.

## Have you recognized and proactively implemented measures to protect your personal information when using online banking services?

765 responses



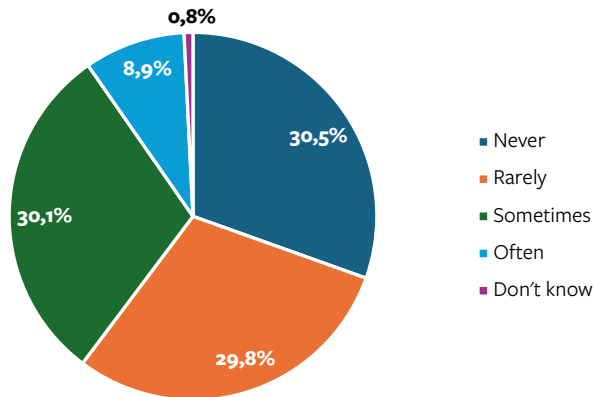
Source: Author's survey results in 2024

For the question, “Have you ever shared personal information or bank account information via email, text message, or call?”, the survey results were as follows:

- 233 people answered “Never”, representing 30.46% of the total number of respondents.
- 228 people answered “Rarely”, representing 29.80%.
- 230 people answered “Sometimes”, or 30.07%.
- 68 people answered “Often” or 8.89%.
- 6 people answered “Don't know” for 0.78%.

## Have you ever lost personal information or encountered information security risks when using online banking services?

765 responses



Source: Author's survey results in 2024

Therefore, the issue of improving people's financial knowledge is urgent. In Vietnam's legal context, the protection of personal data or personal information is approached under the norms of privacy protection norms and is scattered across many different laws. The 2013 Constitution—the document with the highest legal value—recognizes the protection of privacy by listing the protection of private life, personal secrets, and family secrets, and the right to protect one's honor and reputation<sup>[23]</sup>. Many laws institutionalize protection regulations in different areas, such as the following:

- The 2015 Civil Code defines the rights to private life, personal secrets, and family secrets in civil relations<sup>[24]</sup>;
- The 2015 Penal Code establishes the crime of violating the confidentiality or security of another person's correspondence, telephone, telegram, or other form of private information exchange<sup>[25]</sup>;
- The Law on Cyber Information Security 2015 dedicates a chapter to protecting personal information<sup>[26]</sup>;

<sup>23</sup> Constitution of Vietnam, Art. 21 (2013).

<sup>24</sup> Civil Code of Vietnam, 2015, Art. 38.

<sup>25</sup> Penal Code of Vietnam, 2015, Art. 59.

<sup>26</sup> Law on Cyber Information Security of Vietnam, 2015, Art.16-20

- The Cyber Security Law 2018 requires businesses providing cyberspace services in Vietnam to directly notify users if their data is violated, damaged, or lost<sup>[27]</sup>;
- The Law on Consumer Rights Protection 2023 regulates the protection, collection, use, and safety of consumer information<sup>[28]</sup>; it also outlines the responsibilities of business organizations and individuals toward consumers in cyberspace transactions<sup>[29]</sup>, and resolving disputes between consumers and business organizations and individuals<sup>[30]</sup>;
- The Law on Credit Institutions 2023 regulates the confidentiality of customer account and transaction information;
- Decree No. 13/2023/ND-CP dated April 17, 2023, of the Government on personal data protection provides more detailed regulations on data protection and cybersecurity obligations for processing personal data; Regulations on sanctions and handling responsibilities related to protecting customer information of credit institutions are also clearly shown in Decree No. 88/2019/ND-CP dated November 14, 2019, of the Government on sanctioning administrative violations in the field of currency and banking.

These regulations require agencies, organizations, and individuals that handle personal information to be responsible for ensuring the network information security of the information they process and to develop and publicly announce policies for handling and protecting the personal information of their organizations and individuals.

In analysing the legal regulations related to the protection of personal data in banking activities, this study shows that Vietnam's current legal system has established the initial legal basis for the protection of personal data and the right to privacy. Vietnam has also consulted and learned from the European Union in protecting personal data when developing Decree No. 13/2023/ND-CP<sup>[31]</sup>. For example, Article 3 of Decree No. 13/2023/ND-CP

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<sup>27</sup> Cyber Security Law, 2018, Art. 41, cl. 1, pt. c. This regulation is similar to the requirements set forth in the European Union's GDPR.

<sup>28</sup> Law on Consumer Rights Protection of Vietnam, 2023, Art.15-20.

<sup>29</sup> Law on Consumer Rights Protection of Vietnam, 2023, Art.39-40.

<sup>30</sup> Law on Consumer Rights Protection of Vietnam, 2023, ch. V.

<sup>31</sup> (1) Personal data must be processed in accordance with the law; (2) Data subjects should be informed about activities related to the processing of their personal data, unless otherwise mandated by law; (3) Personal data should only



sets out eight principles of personal data protection. These principles are quite similar to those set out in Article 5 of the GDPR.

However, regulations protecting personal data rights in Vietnam are still scattered across many different legal documents<sup>[32]</sup>, leading to overlap, lack of consistency, and difficulty in applying the law. Furthermore, the fines in Vietnamese law for violations of the obligation to protect customer information that do not reach the level of criminal prosecution are too light compared to the level of harm and consequences of such violations. These fines also do not meet the requirements for fighting and preventing violations of the law in this field, as violations are usually very difficult to detect and handle<sup>[33]</sup>.

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be processed for the purposes registered by the relevant entities (such as Personal Data Controllers, Processors, or Third Parties), as declared in documents related to personal data processing; (4) Personal data collected should be appropriate and limited to the scope and purpose for which it is processed. It may not be bought or sold in any form, unless permitted by law; (5) Personal data should be regularly updated and supplemented to align with the processing purpose; (6) Personal data should be protected and secured during processing, including protection against violations of regulations on personal data protection and prevention of fraud, loss, destruction, or damage through the use of technical measures; (7) Personal data should only be stored for a duration consistent with the purpose of data processing, unless specified otherwise by law; (8) The entities responsible for personal data processing (Data Controller, Controller and Processor) bear the responsibility of adhering to data processing principles and demonstrating compliance with them.

<sup>32</sup> According to statistics from the Ministry of Public Security, there are a total of 68 legal documents directly related to personal data protection, including: Constitution, 4 codes, 39 laws, 1 ordinance, 18 resolutions, 4 decisions, 4 circulars and joint circulars, 1 decision of the Minister (See: Trong Quynh, “Need to soon issue a legal document on personal data protection” accessed February 9, 2023, <https://quochoi.vn/tintuc/Pages/tin-hoat-dong-cua-quoc-hoi.aspx?ItemID=72933>).

<sup>33</sup> For breaches of the obligation to safeguard customer information that do not warrant criminal prosecution, the primary sanctions include warnings, fines, and possible suspension, along with specified time limits and remedial actions. Notably, the highest fine levied is 100 million VND (approximately 4,000 Euro) for offenses such as theft or collusion in stealing customer card information. Similarly, fines of up to 40 million VND (about 1,600 Euro) may be imposed for actions like improperly disclosing customer information from credit institutions and foreign bank branches, as outlined in Decree No. 88/2019/ND-CP issued by the Government. In contrast, under GDPR, fines can reach up to 20 million Euro (equivalent to approximately 500 billion VND), underscoring the stringent penalties imposed by European regulations for breaches of data protection standards.

## 3 | Conclusion and policy implications

The rapid development of information technology and the 4.0 industrial revolution have impacted and changed all aspects of socio-economic life, including the banking industry. Digital transformation is an opportunity for the Vietnamese banking system to improve service quality, competitiveness, and access to international markets. Implementing digital transformation in banking is no longer a matter of choice but will shape the future. From a practical perspective, digital transformation in the Vietnamese banking industry is taking place in accordance with current trends. However, it must also be acknowledged that the pace of transformation has not yet caught up with the global pace. To solve this problem, regulatory agencies need to balance openness to experimentation and innovation with certainty about the legal framework to protect users, system safety, and security. They must comply with international commitments on anti-money laundering and clearly define the legal responsibilities of relevant parties. Without openness, new services can hardly develop. Conversely, without certainty about risk control and a clear legal framework, legitimate providers may be unwilling to invest resources in developing and maintaining services, and customers may not trust service providers.

## Bibliography

- Abel David, „Vietnam Forms Group for Digital Currency Policy Research”, 17 May 2020. <https://coingeek.com/vietnam-forms-group-for-digital-currency-policy-research/>.
- Barba Navaretti Giorgio, Giacomo Calzolari, Alberto Franco Pozzolo, „Fintech and Banks: Friends or Foes?” *European Economy: Banks, Regulation, and the Real Sector*, No. 2 (2017). [https://european-economy.eu/wp-content/uploads/2018/01/EE\\_2.2017-2.pdf](https://european-economy.eu/wp-content/uploads/2018/01/EE_2.2017-2.pdf).
- Quynh Trong, *Need to soon issue a legal document on personal data protection*. <https://quochoi.vn/tintuc/Pages/tin-hoat-dong-cua-quoc-hoi.aspx?ItemID=72933>.
- Thanh Minh, *Nearly 1,300 GB of personal data illegally collected, traded*. <https://quochoi.vn/tintuc/pages/tin-hoat-dong-cua-quoc-hoi.aspx?ItemID=67343>.

