



**Asia-Pacific
Economic Cooperation**

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Vietnamese Legal Framework on International Payment and Supply Chain Finance

Submitted by: Vietcombank



**Seminar on Use of International Instruments to
Strengthen Contract Enforcement in Supply Chain
Finance for Global Businesses Including Micro,
Small, and Medium Enterprises**

Nha Trang, Viet Nam

24-25 February 2017

APEC Summit 2017

Vietnamese Legal Framework on International payment and Supply chain finance

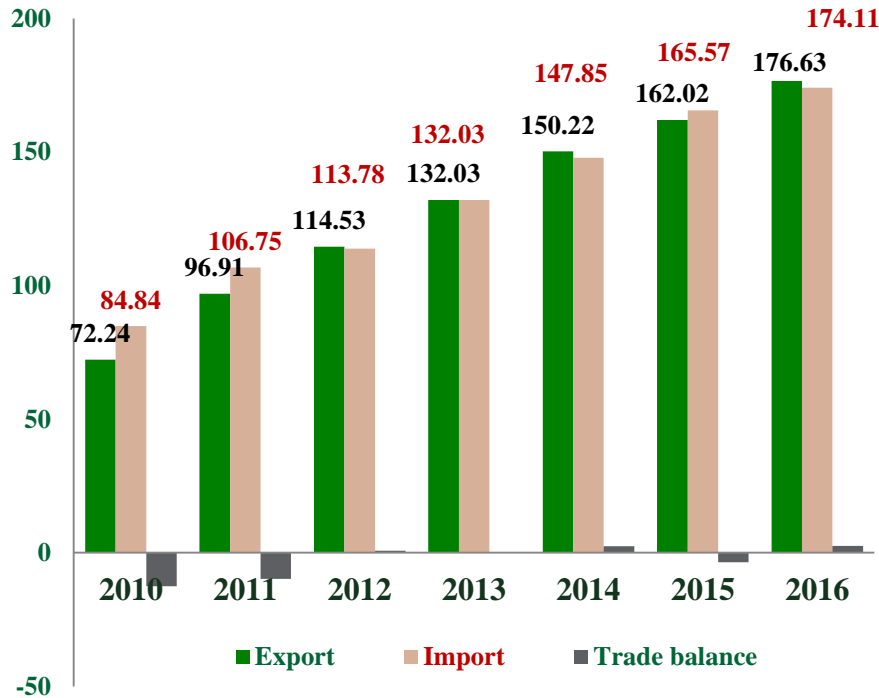
February 2017



- 1. Overview on International payment and Supply chain finance in Vietnam**

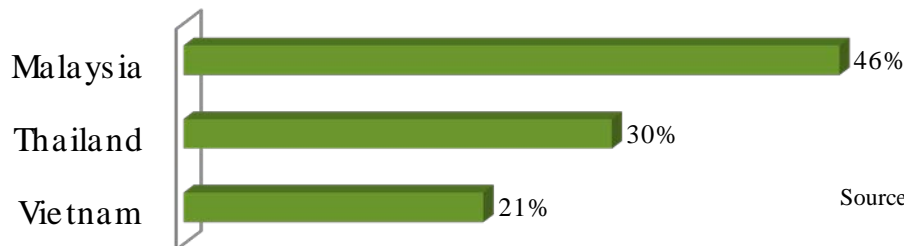
Overview on International payment and Supply chain finance in Vietnam

Import, Export and Trade balance (2010-2016)

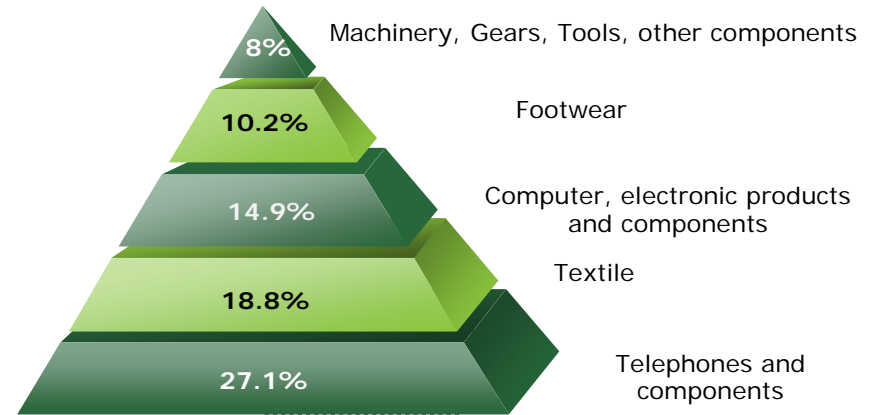


Source: Vietnam Customs

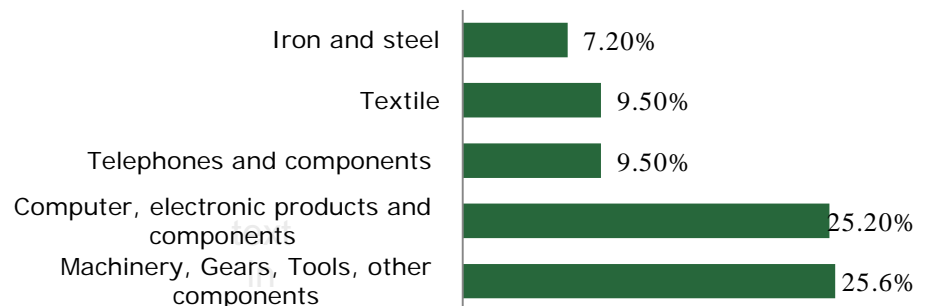
Participation of Vietnamese corporations in global supply chain



Top Exports of 2016



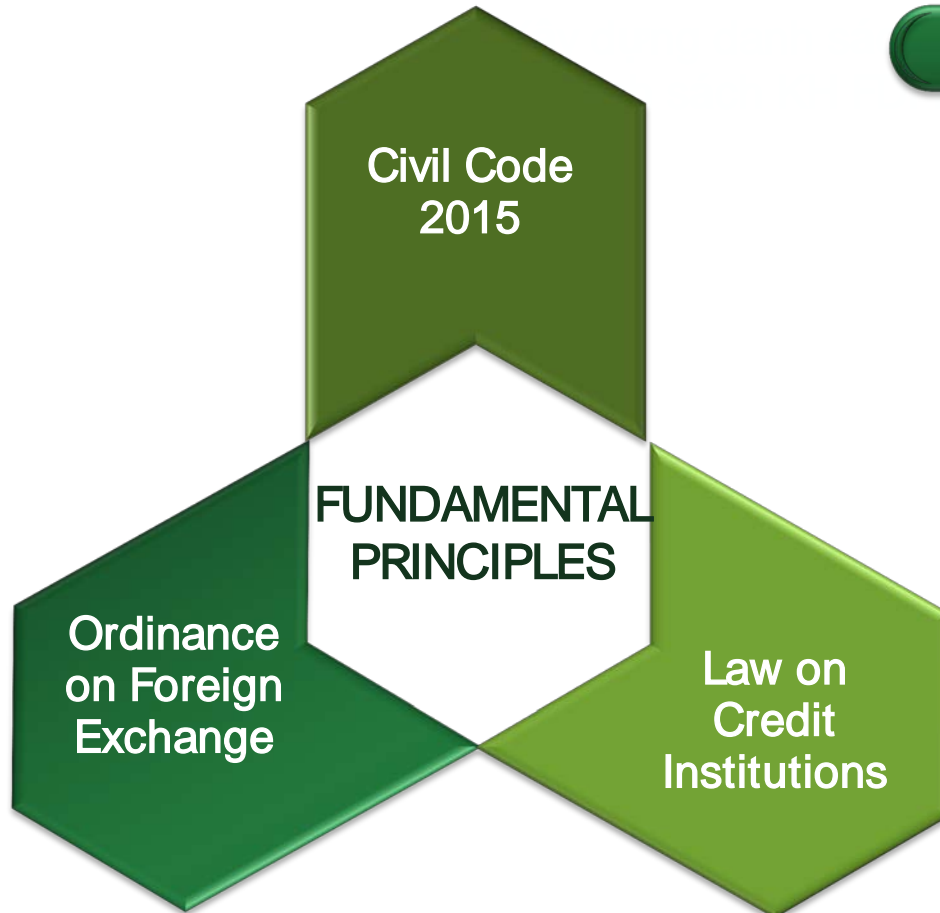
Top Imports of 2016



Source: International Conference on Supply Chain Finance in Vietnam (27/10/2016)

2. Vietnamese Legal framework on International payment and Supply chain finance

Vietnamese legal framework on International payment and Supply chain finance



Governing law

- International payment is defined as **civil relationship involving foreigner** and subject to Vietnamese law.
- In case any provision of a **International Agreement** to which the Socialist Republic of Vietnam is a signatory is different from domestic law, the provision of such Agreement shall prevail.
- The parties can apply **International customs and practices** if such practices are not against fundamental principles of Vietnamese laws.
- Contracting parties may agree on **foreign law** as the governing law.

Vietnamese legal framework on International payment and Supply chain finance

Article 4 – Law on Credit Institutions



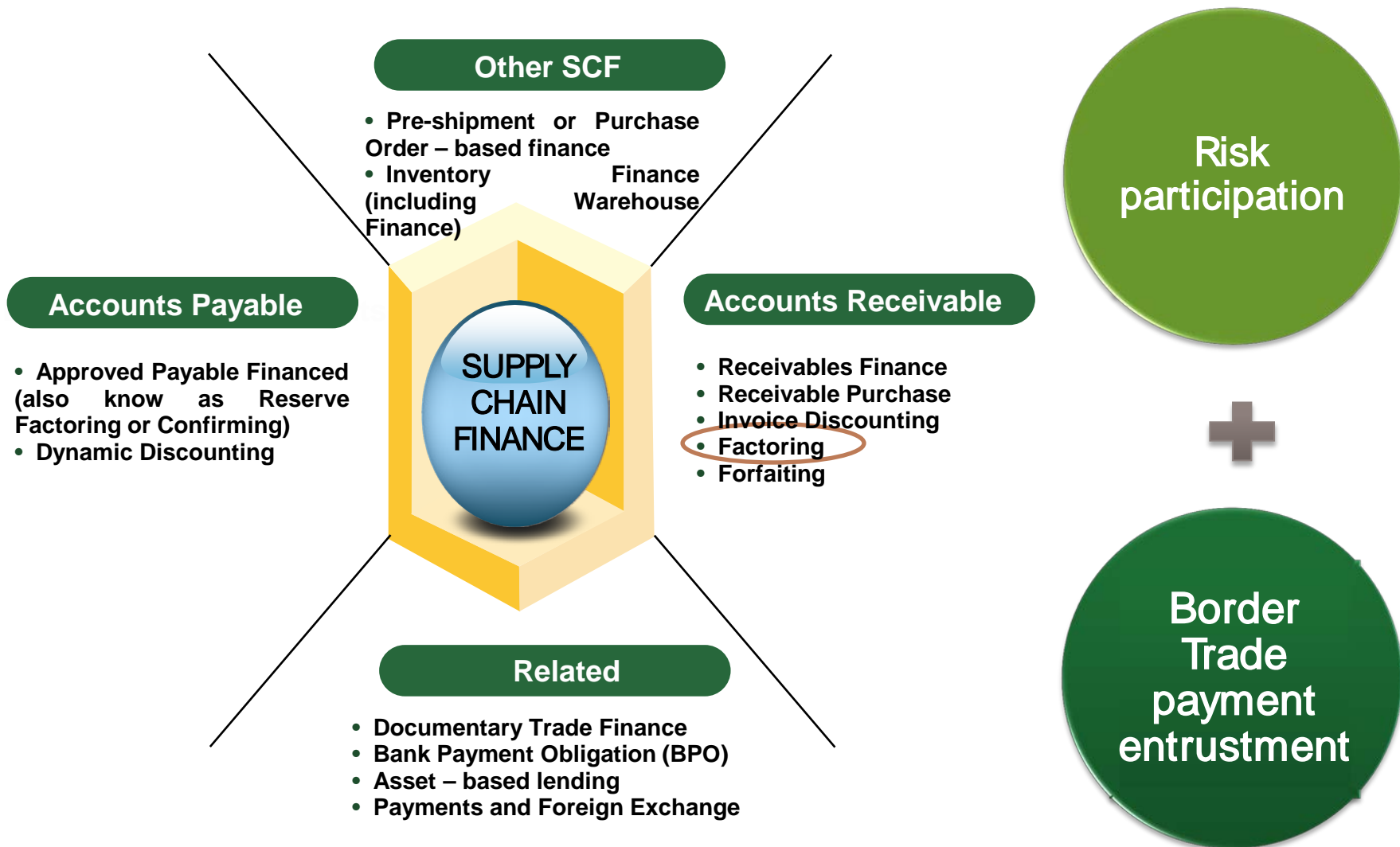
14. **Credit** extension means an agreement allowing an organization or individual to use a sum of money or a commitment allowing the use of a sum of money on the repayment principle by such professional operations as **lending, discount, financial leasing, factoring, bank guarantee and other credit extension operations.**

15. **Provision of services of via-account payment** means the provision of payment instruments; provision of services of payment by **check, payment order, payment authorization, collection, collection authorization, bank card, letter of credit and other payment services for clients via their accounts.**

17. **Factoring** means a form of extension of credit to a goods seller or buyer through redeeming receivable or payable amounts arising from the purchase or sale of goods or provision of services under a contract on goods purchase or sale or service provision while reserving the right to claim such amounts.

19. **Discount** means purchasing on a definite term, or purchasing while **reserving the right to claim**, negotiable instruments and other valuable papers of beneficiaries prior to their due date.

Trade activities that are not covered by Vietnamese law



Conflict of Vietnamese law with international practices on International payment and Supply chain finance

1. DISCOUNT/NEGOTIATE

Article 4 - Law on Credit Institutions 2010

19. **Discount** means purchasing on a definite term, or purchasing while **reserving the right to claim**, negotiable instruments and other valuable papers of beneficiaries prior to their due date.

VS

Article 18 – UCP 600

A. Provided that the stipulated documents are presented to the confirming bank or to any other nominated bank and that they constitute a complying presentation, the confirming bank must:

i. honour,.....

ii. **Negotiate, without recourse**, if the credit is available by negotiation with the confirming bank.



Discount without recourse ?

Conflict of Vietnamese law with international practices on International payment and Supply chain finance

2. STANDBY LETTER OF CREDIT

Article 4 - Law on Credit Institutions 2010

14. **Credit** extension means an agreement allowing an organization or individual to use a sum of money or a commitment allowing the use of a sum of money on the repayment principle by such professional operations as lending, discount, financial leasing, factoring, **bank guarantee** and other credit extension operations.

Governed by Circular 07/2015/TT-NHNN dated 25/06/2015 on Bank guarantees and other related regulations

VS

15. **Provision of services of via-account** payment means the provision of payment instruments; provision of services of payment by check, payment order, payment authorization, collection, collection authorization, bank card, **letter of credit** and other payment services for clients via their accounts.

Governed by International customs and practices



Standby letter of credit is considered as bank guarantee or letter of credit ?

Conflict of Vietnamese law with international practices on International payment and Supply chain finance

3. FACTORING

According to FCI

Definitions

Factoring is **1 of the following services**:

- Account receivables management;
- Collection of receivables;
- Protection against Buyer's default
- Account receivables financing

Decision 1096/ 2004/ QD-NHNN

Factoring is a form of **credit extension** by credit institution to the Seller

Law on Credit Institutions

Factoring is a form of **credit extension** by credit institution to the Seller or the Buyer

Classification

- **With recourse**
- **Without recourse**

- **With recourse**
- **Without recourse**

With recourse

Assignment

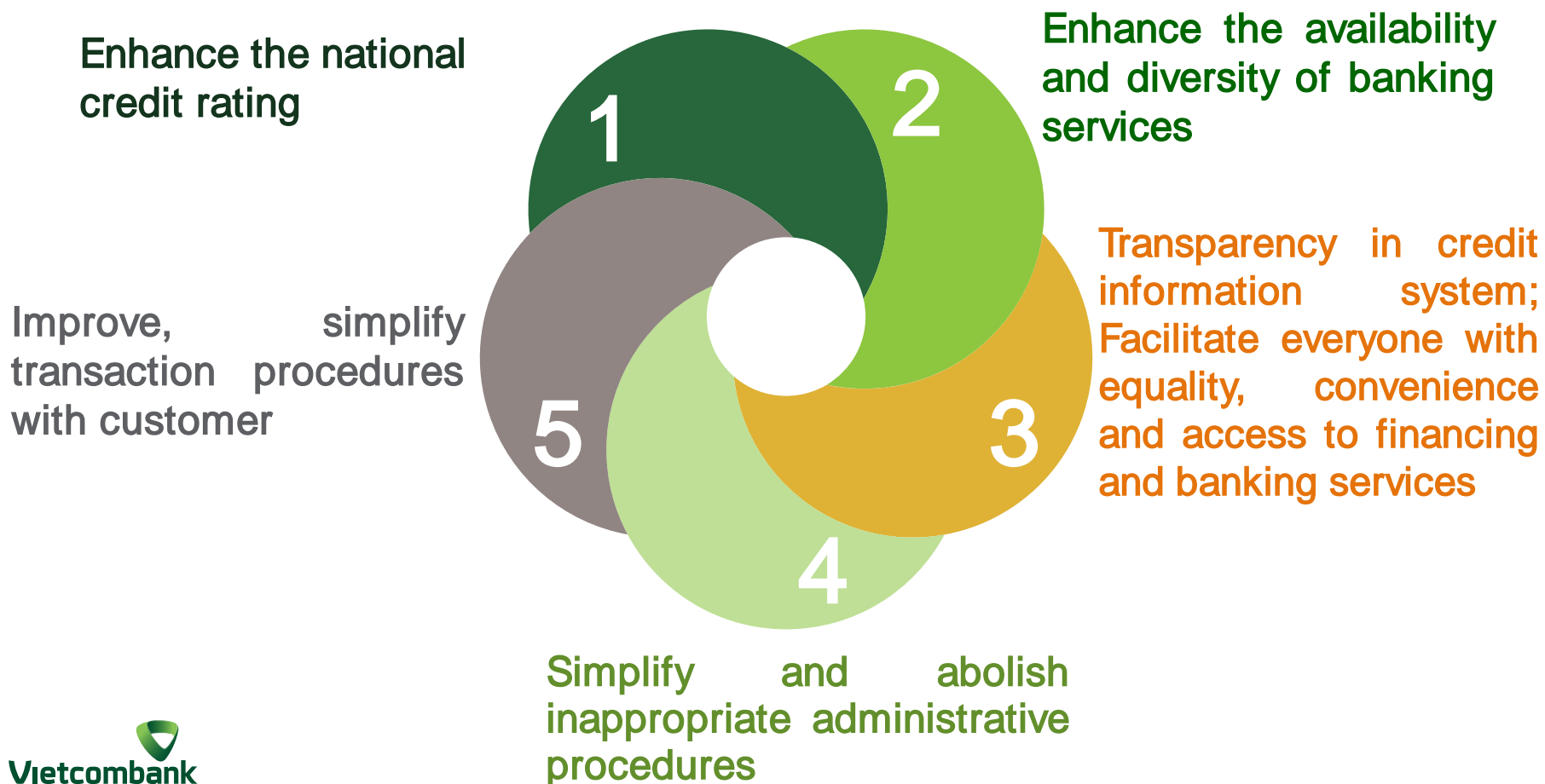
- Upon the assignment of account receivables, Factors shall be entitled to all rights and benefits of such account receivables
- Import Factors collect payment from Buyer under their names

Import Factors collect payment from Buyers in accordance with the **authorization** of Export Factors

3. Solutions to enhance International payment and Supply chain finance in Vietnam

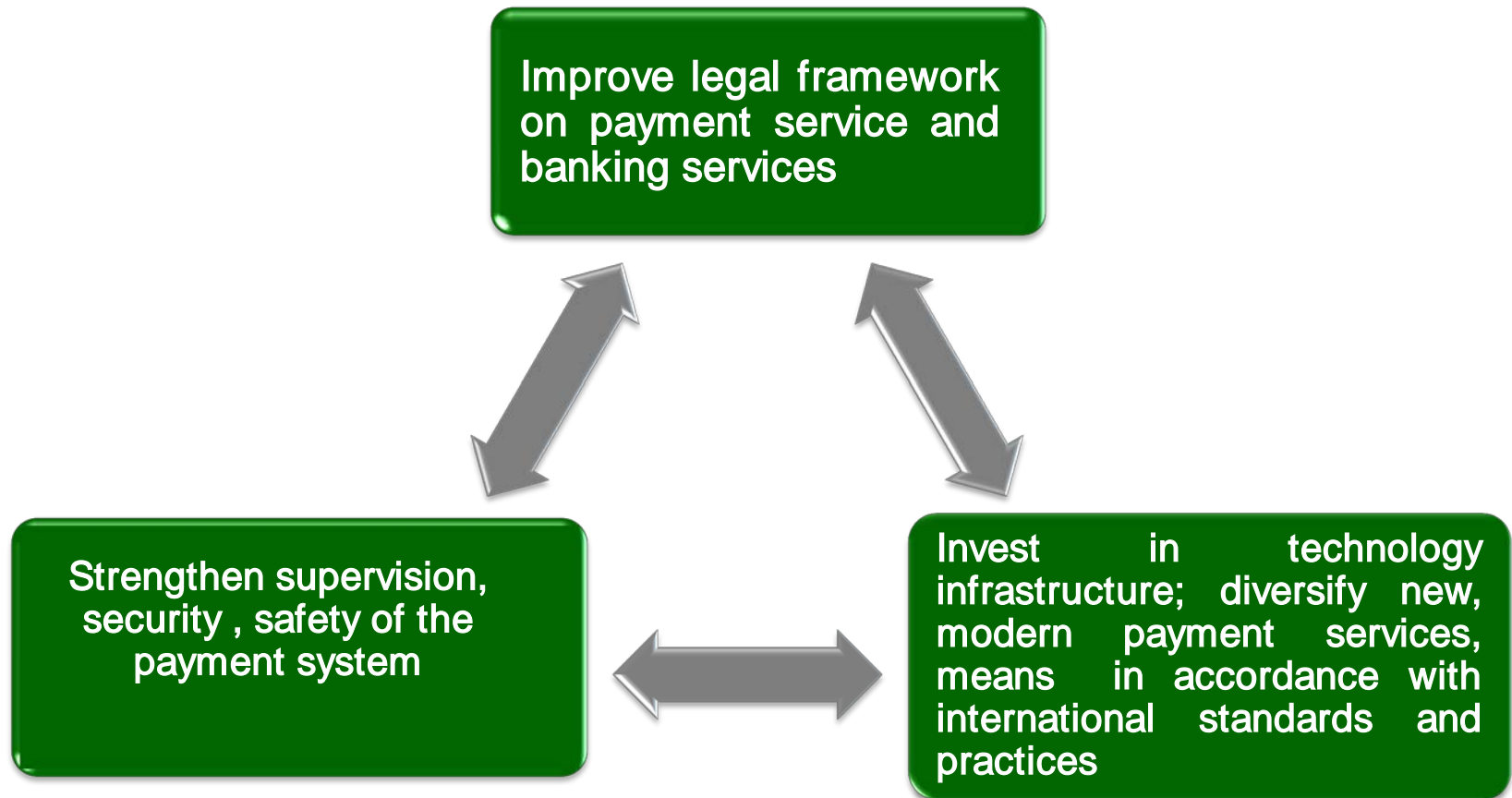
Changes in policies of the State Bank of Vietnam in banking activities

Decision 1355/QD-NHNN dated 28/06/2016 of the Governor of the State Bank of Vietnam publishing the action plan of Banking sector to improve the business environment, enhance national competitiveness, support and develop enterprises in the period of 2016-2017, guiding toward 2020



Solutions of the State Bank of Vietnam to enhance International payment and Supply chain finance

Decision 1355/QD-NHNN dated 28/06/2016 of the Governor of the State Bank of Vietnam publishing the action plan of Banking sector to improve the business environment, enhance national competitiveness, support and develop enterprises in the period of 2016-2017, guiding toward 2020



Solutions of banks to enhance International payment and Supply chain finance in Vietnam

Propose to the SBV to newly issue, amend, supplement regulations regarding International Payment in accordance with actual and global business activities.

Simplify service provision, review and streamline internal procedures



Research and develop new products to catch up with global trend, in compliance with customary and banking practice (For example: BPO, Factoring, Supply chain finance...)

Improve its business model to be dynamic, modern with the application of IT, technology modernization, online transaction performance to cut cost and time

Transparency in publishing procedures, forms relating to its products/services on its website



THANK YOU!