



LEGAL UPDATE

PROPOSED CHANGES TO IMPROVE INVESTMENT CLIMATE IN VIETNAM

The outline of the draft law amending and supplementing several articles of the Law on Investment (**LoI**) and the Law on Enterprises (**LoE**) has been published for public comments. The amendments are expected to be adopted and come into effect in 2019.

It is predicted that the scope of changes will not detrimentally affect an investment project. Noteworthy is that the time to fulfil the capital contribution requirements likely to be lengthened considerably.

The proposed changes are expected to create a more favourable investment climate; attracting more inward investments and encouraging more outward investments.

Below we set out some of the most notable proposed changes.

1. Grandfathering clause introduced

Currently, investment *incentives* granted to an approved investment project will continue to apply in the case the law is amended, and the changes would adversely affect the investment incentives¹. The Outline proposes to expand the scope so that changes in the law would *not* adversely affect investment conditions granted, as specified in the investment registration certificate issued prior to the change. The aim of the extension is to ensure compliance with Vietnam's WTO commitments, including non-retroactive amendments to investment conditions.

2. Conditional business sectors²

In 2017, about 25 business lines have been removed from the conditional sector list. The Outline proposes to remove another 21 business lines, such as arbitration services, logistical services, debt trading services, and urban planning development services. However, two sectors are proposed

to be added: fishing vessel registration and forestry planning consultancy.

3. Offshore investment

The requirement to obtain an IRC for offshore investment activities is likely to disappear. Investors will be required to proceed with the registration of offshore investment capital transfers with the relevant Forex-control authorities.

4. Personal data of legal representatives

Currently, a large number of personal data of the legal representative of a company must be submitted in the registration stage of an enterprise. It is proposed that information such as permanent residential address, nationality, number of identity card or passport no longer needs to be provided nor do relevant documents need to be submitted. It also means that related changes do not need to be registered.

5. Capital contribution: 36 months

One of the most remarkable proposed changes is that the timeline for capital contribution, will be extended. Currently the timeline is 90 days from the date of issuance of the enterprise registration certificate. It is proposed to increase to 36 months. With the current timeline, enterprises may face difficulties in contributing capital as it is relatively short and it can be time consuming to open a bank account in Vietnam.

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¹ Incentives such as tax incentives and land use right incentives.

² A conditional sector is a sector for which a (foreign) investor needs to meet additional requirements before approval can be obtained.