LEGAL ALERT

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New Regulations On Foreign Exchange Management In Relation To Investment Activities In Vietnam

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On 18 August 2026, Circular No. 38/2026/TT-NHNN issued by the State Bank of Vietnam on 31 July 2026 ("**Circular 38**") officially took effect, providing for foreign exchange management in relation to investment activities in Vietnam. Replacing Circular No. 06/2019/TT-NHNN on guidance on foreign exchange management for foreign direct investment in Vietnam and amending and supplementing Circular No. 03/2025/TT-NHNN on the opening and use of Vietnamese-dong accounts for conducting foreign indirect investment activities in Vietnam, Circular 38 supplements and further develops the foreign exchange transaction management framework to align with changes in Vietnam's investment regulations.

Circular 38 introduces a new concept for a foreign exchange management instrument, namely the foreign investment capital account in Vietnam, replacing and removing the terms "direct investment capital account" and "foreign direct investment capital account"[1]. This Circular provides guidance on the transfer of funds for capital contribution, particularly where a foreign investor has established a business organization before completing the procedures for issuance or amendment of the Investment Registration Certificate and has opened an investment capital account. It also supplements and clarifies the management of fund transfers for investment preparation activities, payments of the consideration for the transfer of capital and investment projects, as well as the currencies permitted for the valuation and payment of transfer transactions. In addition, Circular 38 introduces a new category of regulated entities, namely member enterprises in the International Financial Center in Vietnam conducting investment activities from the International Financial Center in Vietnam into the rest of Vietnam.[2]

The updates below focus on foreign exchange management regulations applicable to foreign investors who are organizations or individuals located outside the territory of Vietnam and conducting

[1] Article 18.5 of Circular No. 38/2026/TT-NHNN
[2] Article 2.6 of Circular No. 38/2026/TT-NHNN

investment activities in Vietnam. For member enterprises in the International Financial Center in Vietnam conducting investment activities from the International Financial Center in Vietnam into the rest of Vietnam, the corresponding regulations are generally applied in the same manner as those applicable to foreign investors, with the key difference being the flow of funds, as no funds are transferred from outside Vietnam into Vietnam in the course of such investment activities by member enterprises.[3]

I. Transfer of investment capital contributions into Vietnam[4]

a. Basis for capital contribution:

An investor may make capital contributions in foreign currency or Vietnamese dong on the basis of documents evidencing that the capital contribution is compliant with applicable laws, including the Enterprise Registration Certificate, Investment Registration Certificate, approval for capital contribution, purchase of shares or purchase of capital contributions, BCC, PPP contract, and other relevant documents (collectively, the "**capital contribution supporting documents**").

Notably, an investor may transfer funds into an investment capital account for the purpose of making a capital contribution, changing the contributed capital amount or changing the capital contribution ratio before the foreign-invested business organization completes the procedures for registration of an increase in its charter capital, change in its contributed capital amount or change in its capital contribution ratio in accordance with applicable laws. This is consistent with the regulations on the responsibility of an enterprise to carry out procedures for registration of changes to charter capital in the enterprise registration contents following a change in capital.

b. Conversion for determining total capital contribution value in case of capital contribution in foreign currency:

Where an investor makes capital contributions in multiple currencies as specified in the Capital contribution supporting documents, the investor may select one of the currencies used for the capital contribution as the reference currency for conversion and determination of the total value of the capital contribution. The selected currency must be used consistently throughout the entire capital contribution process. The total value of the capital contribution after conversion must not exceed the capital contribution amount specified in the capital contribution supporting documents. The applicable exchange rate shall be the exchange rate determined by the authorized bank where the investor opens its investment capital account at the time the relevant amount is credited to the investment capital account.

c. Method of capital contribution:

Any capital contribution made in cash by an investor must be effected by bank transfer to the investment capital account in foreign currency or Vietnamese dong.

II. Transfer of funds for investment preparation activities[5]

Before obtaining from the competent authority the Capital contribution supporting documents, a foreign investor is permitted to transfer funds from outside Vietnam into Vietnam or from a payment account opened with an authorized bank in Vietnam to pay lawful expenses incurred during the

[3] Article 5.1(b) of Circular No. 38/2026/TT-NHNN
[4] Article 4 of Circular No. 38/2026/TT-NHNN
[5] Article 5 of Circular No. 38/2026/TT-NHNN

investment preparation stage in Vietnam. Where the foreign investor elects to establish an economic organization before carrying out investment registration procedures, the foreign investor is also permitted to open an investment capital account before carrying out the procedures for issuance or amendment of the Investment Registration Certificate to make the payments referred to above.

After obtaining from the competent authority the Capital contribution supporting documents, the funds transferred into Vietnam for investment preparation activities may be handled in one of the following ways:

(a) Convert part or all of such funds into capital contributions;

(b) Convert part or all of such funds into a foreign loan of the foreign-invested economic organization. Where such funds are converted into a foreign loan, the foreign-invested business organization must comply with the applicable regulations on foreign borrowing and repayment of foreign debts; or

(c) Return to the foreign investor the funds transferred for investment preparation activities, after deducting lawful expenses related to investment preparation activities in Vietnam, where the Investment Registration Certificate is not issued or amended.

The above transfers of funds by the investor must be made upon presentation of valid documents and supporting records evidencing the amount transferred and the lawful expenses related to investment preparation activities in Vietnam, and must comply with regulations on foreign exchange management, investment, accounting and other relevant laws and regulations.

III. Transfer of funds for payment of transfer consideration[6]

Payment of the consideration for the transfer of shares or capital contributions in a foreign-invested economic organization shall be made as follows:

(a) No payment through an investment capital account is required for transactions between non-resident investors or between resident investors.

(b) Payment must be made through an investment capital account for transactions between a non-resident investor and a resident investor.

For payment of the consideration for the transfer of an investment project under a BCC or a PPP project, payment must be made through an investment capital account for transactions between a non-resident investor and a resident investor, as well as transactions between non-resident investors.

For petroleum contracts, payment of the consideration for the transfer of an investment project, or the transfer of participating interests, rights and obligations of contractors, must be made through an investment capital account for transactions between a non-resident investor and a resident investor.

[6] Article 10 of Circular No. 38/2026/TT-NHNN

IV. Currency for valuation and payment of transfer consideration[7]

The valuation and payment of the consideration for the transfer of capital or an investment project may be made in foreign currency for transactions between non-resident investors.

For transactions relating to petroleum contracts, the valuation and payment of the consideration for the transfer of an investment project, participating interests, rights and obligations of contractors under petroleum contracts may be made in foreign currency for transactions between non-resident investors or between a foreign investor and a resident investor.

Except for the transfer transactions in the petroleum sector referred to above, the valuation and payment of the consideration for the transfer of capital or an investment project must be made in Vietnamese dong for transactions between a resident investor and a non-resident investor or between resident investors.

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[7] Article 13 of Circular No. 38/2026/TT-NHNN

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