

LAW 61 ON INVESTMENT

Dated 17 June 2020

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[Ha Noi, 17 June 2020]

LAW ON INVESTMENT

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly hereby issues the *Law on Investment*.

CHAPTER 1

General Provisions

Article 1 *Governing scope*

This Law regulates business investment activities in Vietnam and [offshore]¹ business investment activities from Vietnam to overseas countries.

Article 2 *Applicable entities*

This Law applies to investors and to agencies, organizations and individuals involved in business investment activities are subject to this Law.

Article 3 *Definitions*

In this Law, the following terms are construed as follows:

1. *Investment policy approval* means the competent/authorized State agency approves the objectives, location, scale, schedule and duration/term of project implementation; and the investor or form of investor selection and special mechanisms or policies (if any) in order to implement the investment project.
2. *Investment registration agency* ["IRA"] means the competent/authorized State agency to issue, amend and revoke investment registration certificates ["IRC"].
3. *National database on investment* means the collection of data on investment projects in the entire country connected to the system of databases of relevant agencies.
4. *Investment project* means a collection of proposals for the expenditure of medium or long-term capital in order to conduct business investment activities in a specific geographical area and for a specified duration.

¹ Allens footnote: Square brackets contain translator's comments only.

5. *Expanded investment project* means an investment project for development of a current investment project by way of expanding the scale, increasing the capacity, renewing technology, reducing environmental pollution or improving the environment.
6. *New investment project* means an investment project which is implemented for the first time or an investment project which is independent from a current investment project.
7. *Innovative [creative] start-up investment project* means an investment project to realize concepts based on exploitation of intellectual property, technology and new business models, and which has the ability to grow rapidly.
8. *Business investment* means an investor expends investment capital to conduct business activities.
9. *Business investment condition* means a condition which an individual or organization must satisfy when conducting business investment activities in a business industry or trade subject to conditions.
10. *Conditions for market approach applicable to foreign investors* means conditions which foreign investors must satisfy in order to invest in industries and trades on the list of industries and trades for which market approach applicable to foreign investors is restricted as prescribed in article 9.2 of this Law.
11. *Investment registration certificate ["IRC"]* means a written or electronic document recording information registered by an investor about an investment project.
12. *National information system on investment* means the professional information system for monitoring, assessing and analysing the status of nationwide investments to serve the work of State administration and to support investors to conduct business investment activities.
13. *Offshore investment activity* means an investor transfers investment capital from Vietnam to a foreign country, [and/or] uses profit received from such investment capital source to conduct business investment activities in the foreign country.
14. *Business co-operation contract* (hereinafter referred to as *BCC contract*) means a signed contract between investors in order to co-operate in business and to share profit or products without establishing an economic organization.
15. *Export processing zone* means an industrial zone which specializes in production of export goods and in provision of services for production of export goods and export activities.
16. *Industrial zone* means a zone with defined geographical boundaries which specializes in production of industrial goods and in provision of services for industrial production.
17. *Economic zone* means a zone which has defined geographical boundaries comprising various functional areas and which is established to implement the objectives of investment attraction, socio-economic development and protection of national defence and security.
18. *Investor* means an organization or individual conducting business investment activities comprising domestic investors, foreign investors and economic organizations with foreign investment capital.
19. *Foreign investor* means an individual with foreign nationality or an organization established in accordance with foreign law conducting business investment activities in Vietnam.
20. *Domestic investor* means an individual with Vietnamese nationality or an economic organization without a foreign investor being a member or shareholder.

21. *Economic organization* means an organization established and operating in accordance with the law of Vietnam comprising enterprises, co-operatives, unions of co-operatives and other organizations conducting business investment activities.
22. *Economic organization with foreign investment capital* means an economic organization with a foreign investor being a member or shareholder.
23. *Investment capital* means money and other assets in accordance with the civil law and international treaties of which the Socialist Republic of Vietnam is a member for the purpose of conducting business investment activities.

Article 4 *Application of the Law on Investment and relevant laws*

1. Business investment activities in the territory of Vietnam [must] comply with the Law on investment [this Law] and other relevant laws.
2. If there is any discrepancy between the provisions of this Law and those of another law issued before the effective date of this Law in relation to the industries and trades in which business investment is prohibited, or industries and trades in which business investment is conditional, then the provisions of the Law on investment [this Law] shall prevail.

Provisions in other laws on the names of industries and trades in which business investment is prohibited and of industries and trades in which business investment is conditional must comply with article 6 of and the Appendices to this Law.

3. If there is any discrepancy between the provisions of this Law and those of another law issued before the effective date of this Law in relation to the sequence and procedures for business investment and investment security [guarantee], then implementation shall accord with this Law except for the following cases:
 - (a) Investment, management and use of State investment capital in enterprises are implemented in accordance with the provisions of the *Law on Management and Use of State Capital Invested in Production and Business in Enterprises*;
 - (b) Authority, sequence and procedures for public investment and for management and use of public investment capital are implemented in accordance with the *Law on Public Investment*;
 - (c) Authority, sequence and procedures for investment and for implementing projects; the law governing project contracts; investment guarantees and the regime for management of State capital applied directly to investment projects in the form of public-private partnership [PPP] are implemented in accordance with the provisions of the *Law on Investment in the form of PPP*;
 - (d) Implementation of investment projects for construction, for residential housing and for urban zones are implemented in accordance with the provisions of the *Law on Construction*, the *Law on Residential Housing* and the *Law on Real Estate Business* after the competent agency has approved the investment policy or the amended investment policy in accordance with the provisions of this Law;
 - (dd) Authority, sequence, procedures and conditions for business investment implemented in accordance with the *Law on Credit Institutions*, the *Law on Insurance Business*, and the *Law on Petroleum*;

- (e) Authority, sequence, procedures and conditions for business investment and activities on the securities market implemented in accordance with the *Law on Securities*.
- 4. If a law issued after the effective date of this Law needs to stipulate a special provision on investment which is different from the provisions in this Law, then such former law must specify the contents to be implemented or not to be implemented pursuant to the provisions of this Law, and the contents to be implemented in accordance with the provisions of the former law.
- 5. With respect to contracts to which at least one party is a foreign investor or economic organization prescribed in article 23.1 of this Law, the parties may agree in the contract on the application of foreign laws or international investment practice if such agreement is not inconsistent with the law of Vietnam.

Article 5 *Policy on business investment*

- 1. Investors are entitled [permitted] to conduct business investment activities in industries and trades which are not prohibited by this Law. With respect to business investment industries and trades subject to conditions, investors must satisfy the business investment conditions as stipulated by law.
- 2. Investors are permitted to make at their own discretion decisions on and are solely responsible for business investment activities in accordance with this Law and other relevant laws; and are permitted to have access to and use credit and support funds and to use land and other resources in accordance with law.
- 3. Any business investment activity of an investor which causes harm or which creates a risk of causing harm to national defence and security shall be suspended, stopped or terminated.
- 4. The State recognizes and protects the ownership of assets, investment capital and income and other lawful rights and interests of investors.
- 5. The State provides equal treatment between investors; has policies to encourage and creates favourable conditions for investors to conduct business investment activities and sustainably develop economic industries.
- 6. The State respects and implements international treaties on investment of which the Socialist Republic of Vietnam is a member.

Article 6 *Industries and trades in which business investment is prohibited*

- 1. The following business investment activities are prohibited:
 - (a) Business in drugs as stipulated in Appendix 1 to this Law;
 - (b) Business in prohibited chemicals and minerals as stipulated in Appendix 2 to this Law;
 - (c) Business in specimens of wild fauna and flora exploited from nature as stipulated in Schedule 1 of the Convention on International Trade in Endangered Species; and specimens of forest animals and wild, rare and precious forest plants in Group 1 on the List of endangered, precious and rare forest plants and animals [fauna and flora] exploited from nature as stipulated in Appendix 3 to this Law;
 - (d) Business in prostitution;
 - (dd) Human trafficking; trading tissues, corpses, human organs or foetuses;

- (e) Business activities relating to asexual human reproduction;
 - (g) Trading firecrackers;
 - (h) Debt recovery business services.
2. Government regulations apply to the production or use of products prescribed in paragraphs (a), (b) and (c) of clause 1 of this article for analysis, testing, scientific research, medical care, production of pharmaceutical products, investigation of crimes, or protection of national defence and security.

Article 7 *Industries and trades in which business investment is conditional*

1. An industry or trade in which business investment is conditional means an industry or trade in which conduct of business investment activities must satisfy necessary conditions for reasons of national defence or security, social order or safety, social ethics or the health of the community.
2. Appendix 4² to this Law sets out the list of industries and trades in which business investment is conditional.
3. The business investment conditions applicable to the industries and trades prescribed in clause 2 of this article are stipulated in laws and resolutions of the National Assembly, ordinances and resolutions of the Standing Committee of the National Assembly, decrees of the Government and international treaties of which the Socialist Republic of Vietnam is a member. Ministries, ministerial equivalent agencies, people's councils or people's committees at all levels, and other agencies, organizations and individuals are not permitted to promulgate regulations on business investment conditions.
4. Business investment conditions must be stipulated consistent with the grounds prescribed in clause 1 of this article and must be public, transparent, objective and economic in terms of time and costs of compliance by investors.
5. A regulation on a business investment condition must contain the following contents:
- (a) Entities and scope of applying the business investment condition;
 - (b) Form of application of the business investment condition;
 - (c) Contents of the business investment condition;
 - (d) Application file, sequence and administrative procedures (if any) in order to comply with the business investment condition;
 - (dd) The State administrative agency or the agency which is authorized to resolve administrative procedures with respect to the business investment condition;
 - (e) Effective term of the licence, certificate, practising certificate or other written certification or approval (if any).
6. Business investment conditions are applicable in the following forms:
- (a) Licence;

² Allens footnote: Appendix 4 has been translated.

- (b) Certificate;
 - (c) Practising certificate;
 - (d) Written certification or approval/consent;
 - (dd) Other requirements which individuals and economic organizations must satisfy to conduct business investment activities without requiring written certification from competent agencies.
7. Industries and trades in which business investment is conditional and business investment conditions applicable to such industries and trades must be uploaded on the national portal for enterprise registration.
 8. The Government shall provide detailed regulations on publication and control of business investment conditions.

Article 8 *Amendment of and addition to industries and trades in which business investment is prohibited and list of industries and trades in which business investment is conditional, and business investment conditions*

1. Based on the socio-economic conditions and requirements for State administration in each period, the Government shall review the industries and trades in which business investment is prohibited and the list of industries and trades in which business investment is conditional and submit amendments and additions to articles 6 and 7 of and the Appendices to this Law to the National Assembly in accordance with summary procedures.
2. The amendment or addition of industries and trades in which business investment is conditional or business investment conditions must conform with clauses 1, 3, 4, 5 and 6 of article 7 of this Law.

Article 9 *Industries, trades and market approach conditions for foreign investors*

1. Foreign investors are subject to the same market approach conditions as apply to domestic investors except for the case prescribed in clause 2 of this article.
2. Based on laws and resolutions of the National Assembly, ordinances and resolutions of the Standing Committee of the National Assembly, decrees and international treaties of which the Socialist Republic of Vietnam is a member, the Government shall announce a List of industries and trades for which market approach is restricted for foreign investors, comprising:
 - (a) Industries and trades for which there has not yet been market approach;
 - (b) Industries and trades for which market approach is conditional.
3. Market approach conditions applicable to foreign investors as stipulated in the List of industries and trades for which market approach is restricted for foreign investors comprise:
 - (a) Ratio of ownership of charter capital of foreign investors in economic organizations;
 - (b) Forms of investment;
 - (c) Scope of investment operation;
 - (d) Capacity of investors and other parties participating in the investment activity;

(dd) Other conditions pursuant to laws and resolutions of the National Assembly, ordinances and resolutions of the Standing Committee of the National Assembly, decrees of the Government and international treaties of which the Socialist Republic of Vietnam is a member.

4. The Government shall provide detailed regulations on this article.

CHAPTER 2

Investment Guarantees

Article 10 *Guarantee of ownership of assets*

1. Lawful assets of investors shall not be nationalized nor confiscated by administrative measures.
2. If the State compulsorily acquires or requisitions an asset of an investor for reasons of national defence and security, in the national interest, in emergency circumstances or for prevention of or fighting a natural calamity, then the investor shall be compensated or paid in accordance with the law on compulsory acquisition and requisition of assets and other relevant laws.

Article 11 *Guarantees relating to business investment activities*

1. The State shall not force investors to perform the following requirements:
 - (a) To give priority to the purchase or use of domestic goods or services; or to purchase or use goods from a domestic producer or services from a domestic service provider;
 - (b) To export goods or services at a fixed percentage; to restrict the quantity, value or type of goods or services which may be exported or of goods which may be produced domestically or services which may be provided domestically;
 - (c) To import goods at the same quantity and value as goods exported, or to compulsorily self-balance foreign currency from sources obtained from exported goods in order to satisfy their import requirements;
 - (d) To achieve localization ratios in goods produced domestically;
 - (dd) To achieve a stipulated [given] level or value in their research and development [R&D] activities in Vietnam;
 - (e) To supply goods or provide services in a particular location, whether in Vietnam or overseas;
 - (g) To establish the head office at a location upon request of the competent State agency.
2. Based on conditions for socio-economic development and the requirements for attracting investment in each period, the Prime Minister of the Government shall make a decision applying forms of guarantee of the State for implementation of investment projects within the authority of the National Assembly or of the Prime Minister to provide the investment policy approval and other important investment projects for development of infrastructure.

The Government shall provide detailed regulations on this clause.

Article 12 *Guarantee of right to remit assets of foreign investors overseas*

After a foreign investor has fully discharged its financial obligations to the State of Vietnam in accordance with law, it is permitted to remit overseas the following assets:

1. Invested capital and proceeds from liquidation of its investment.
2. Its income derived from business investment activities.
3. Other monies and assets lawfully owned by the investor.

Article 13 *Business investment guarantees in event of changes in law*

1. Where a new legal instrument which is promulgated provides new or greater investment incentives, the investor is entitled to enjoy the investment incentives in accordance with the new legal instrument for the remaining duration for which the investment project is entitled to incentives, except for special investment incentives applicable to investment projects in the cases prescribed in article 20.5(a) of this Law.
2. Where a new legal instrument which is promulgated provides lower investment incentives than those which the investor has previously enjoyed, the investor shall continue to be entitled to the investment incentives in accordance with the previous regulations for the remaining duration for which the investment project is entitled to incentives.
3. The provisions of clause 2 above do not apply to a change in the provisions of a legal instrument for reasons of national defence and security, social order and safety, social morals, the health of the community or environmental protection.
4. Where the investor is not permitted to continue to enjoy the investment incentives as prescribed in clause 3 of this article, [the investor] shall be considered for resolution by any one or more of the following measures:
 - (a) Deduct actual loss and damage suffered by the investor from taxable income;
 - (b) Change the operational objectives of the investment project;
 - (c) Support the investor to remedy loss and damage.
5. Regarding the measures for investment guarantees prescribed in clause 4 of this article, the investor must provide a written request within three (3) years after the effective date of the new legal instrument.

Article 14 *Resolution of disputes in business investment activities*

1. Any dispute relating to business investment activities in Vietnam shall be resolved through negotiation and conciliation. Where the negotiation or conciliation fails, the dispute shall be resolved by arbitration or a court in accordance with clauses 2, 3 and 4 of this article.
2. Any dispute between a domestic investor with an economic organization with foreign investment capital, or between a domestic investor or economic organization with foreign investment capital with a competent State agency relating to business investment activities in the territory of Vietnam shall be resolved by a Vietnamese arbitration agencies or a Vietnamese court, except for the cases prescribed in clause 3 of this article.

3. Any dispute between investors when at least one party is a foreign investor or economic organization with foreign investment capital prescribed in sub-clauses (a), (b) and (c) of article 23.1 of this Law shall be resolved by one of the following agencies and organizations:
 - (a) Vietnamese court;
 - (b) Vietnamese arbitration body;
 - (c) Foreign arbitration body;
 - (d) International arbitration body;
 - (dd) Arbitration tribunal established in accordance with the agreement of the disputing parties.
4. Any dispute between a foreign investor and a competent State agency relating to business investment activities in the territory of Vietnam shall be resolved by a Vietnamese arbitration agency or Vietnamese court, unless otherwise agreed under a contract or otherwise stipulated in international treaties of which the Socialist Republic of Vietnam is a member.

CHAPTER 3

Investment Incentives and Support

Article 15 *Forms and objects for application of investment incentives*

1. Forms of [application of] investment incentives comprise:
 - (a) Corporate income tax [CIT] incentives, comprising application of a lower rate of CIT than the normal tax rate for a definite period or for the whole duration of implementation of the investment project; and exemption from and reduction of tax and other incentives in accordance with the law on CIT;
 - (b) Exemption from import duty on goods imported to form fixed assets; or on raw materials, supplies and components imported for production in accordance with the law on import and export duties;
 - (c) Exemption from and reduction of land rent, land use fees and land use tax;
 - (d) Accelerated depreciation and increase in the amount of deductible expenses when calculating taxable income.
2. Objects entitled to investment incentives comprise:
 - (a) Investment projects in the preferential investment industries and trades prescribed in article 16.1 of this Law;
 - (b) Investment projects located in preferential investment geographical areas prescribed in article 16.2 of this Law;
 - (c) Investment projects with a scale of capital being 6,000 billion dong or more of which at least 6,000 billion dong is disbursed in a period of three years from the date of issuance of the IRC or investment policy approval, and at the same time having either of the following criteria: a

minimum total turnover of 10,000 billion dong per year in no later than three years from the year in which [such projects] have turnover or employing more than 3,000 employees;

- (d) Investment projects for construction of social residential housing; investment projects located in rural areas and employing 500 employees or more; and investment projects employing disabled people in accordance with [as defined in] the law on the disabled;
 - (dd) High-tech enterprises, and scientific and technological [S&T] enterprises or organizations; projects with transfer of technologies on the List of technologies encouraged to be transferred in accordance with the law on technology transfer; technology incubators and S&T enterprise incubators in accordance with the law on high-tech or the law on science and technology; and enterprises producing or supplying technology, equipment, products and services serving the requirements for environmental protection as stipulated in the law on protection of the environment;
 - (e) Innovative start-up investment projects, innovative renovation centres and S&D centres;
 - (g) Investment in commercial operation of a small and medium-sized enterprise [SME] product distribution chain; investment in commercial operation of a technical facility for supporting SMEs and SME incubators; and investment in commercial operation of a co-working space for supporting innovative start-up SMEs in accordance with the law on support of small and medium-sized enterprises;
3. Investment incentives apply to new investment projects and expanded investment projects.
 4. Specific levels of incentives in respect of each type of investment incentives apply in accordance with the laws on taxation and accounting and the law on land.
 5. The investment incentives applicable to the objects prescribed in sub-clauses (b), (c) and (d) of clause 2 of this article do not apply to:
 - (a) Investment projects for exploitation [mining] of minerals;
 - (b) Investment projects for production and/or trading in goods or services subject to special sales tax stipulated by the *Law on Special Sales Tax*, except for manufacture of automobiles, aircraft and yachts;
 - (c) Investment projects for construction of commercial residential housing in accordance with the law on residential housing.
 6. Investment incentives are applicable for a duration [specific period] on the basis of the results of implementation of the investor's project. Investors must satisfy the conditions for entitlement to incentives stipulated by law throughout the duration of entitlement to such investment incentives.
 7. Investment projects which satisfy conditions to entitlement at different levels of investment incentive, including the investment incentives prescribed in article 20 of this Law, shall enjoy the highest investment incentive level.
 8. The Government shall provide detailed regulations on this article.

Article 16 *Preferential investment industries, trades and geographical areas*

1. Preferential investment industries and trades comprise:

- (a) High-tech activities, industrial products which support high-tech; research and development activities; production of products formed from the results of science and technology [S&T] in accordance with the law on S&T;
- (b) Production of new materials, new energy, clean energy or renewable energy; production of products with an added value of 30% or more, and energy-saving products;
- (c) Production of electronics, prioritized mechanical products, agricultural machinery, automobiles, automobile parts; and shipbuilding;
- (d) Production of products on the List of supportive industrial products for which development is prioritized;
- (dd) Production of products of information technology, software and digital content [products];
- (e) Breeding, growing and processing agricultural, forestry and aquaculture products; afforestation and protection of forests; salt production; fishing and fishing logistics, creation of plant and animal varieties and production of products of biological technology;
- (g) Collection, processing, reprocessing or reuse of refuse/waste;
- (h) Investment in development and operation, and management of infrastructure facilities; and development of public transportation in urban areas;
- (i) Pre-school education; general education; vocational education; and university education;
- (k) Medical consultation and treatment; production of medicines, raw materials for production and storage of medicines; and scientific research in relation to technology of preparation or biological technology for production of new medicines; production of medical equipment;
- (l) Investment in facilities for training and competition of sports or physical practice for disabled people or for professional sportsmen; and protection and promotion of the value of cultural heritage;
- (m) Investment in centres for geriatrics, psychiatry or treatment of patients exposed to Agent Orange, and centres for care of the old, disabled, orphans or street children without support;
- (n) People's credit funds and micro-financial institutions;
- (o) Production of goods or supply of services which create or participate in a value chain or industry linkage cluster.

2. Preferential investment geographical areas comprise:

- (a) Areas with difficult socio-economic conditions, and areas with especially difficult socio-economic conditions;
- (b) Industrial zones, export processing zones, high-tech zones, and economic zones.

3. Based on the preferential investment industries and trades and geographical areas prescribed in clauses 1 and 2 of this article, the Government shall issue and make amendments and additions to the list of preferential investment industries and trades and the list of preferential investment geographical areas, and determine specially preferential investment industries and trades on the list of preferential investment industries and trades.

Article 17 *Procedures for application of investment incentives*

Based on the objects prescribed in article 15.2 of this Law, the written investment policy approval (if any), the investment registration certificate [IRC] (if any) and other relevant laws, investors shall themselves determine their investment incentives and perform the procedures for entitlement to investment incentives at the tax authority, financial authority, customs office or other competent agency corresponding to each type of investment incentive.

Article 18 *Forms of investment support*

1. Forms of investment support comprise:
 - (a) Support for development of systems of technical infrastructure and social infrastructure inside and outside the fence of investment projects;
 - (b) Support for training and development of human resources;
 - (c) Credit support;
 - (d) Support to have access to production or business sites, or to relocate a production or business establishment in accordance with the decision of the State agency;
 - (dd) Support for science, technology or technology transfer;
 - (e) Support for market development and provision of information;
 - (g) Support for research and development.
2. Based on the socio-economic development orientation and the ability to balance the State budget in each period, the Government shall provide detailed regulations on the forms of investment support prescribed in clause 1 of this article in the case of high-tech enterprises, science and technology [S&T] enterprises, S&T organizations, and enterprises investing in agriculture and the rural sector, investing in education, disseminating the law, and [in the case of] other eligible entities.

Article 19 *Support for development of infrastructure systems in industrial zones, export processing zones, high-tech zones and economic zones*

1. Based on the master plan/s decided or approved pursuant to the law on planning, ministries, ministerial equivalent agencies and provincial people's committees shall formulate plans for investment and development and organize construction of technical and social infrastructure systems outside the fence of industrial zones, export processing zones, high-tech zones and functional sections of economic zones.
2. The State shall provide part of the investment capital for development from the State budget and preferential credit funds for synchronous development of technical and social infrastructure systems inside and outside the fence of industrial zones in areas with difficult socio-economic conditions or with especially difficult socio-economic conditions.
3. The State shall provide part of the investment capital for development from the State budget, and preferential credit funds, and apply other methods of raising capital in order to construct technical and social infrastructure systems in economic zones and high-tech zones.

Article 20 *Special investment incentives and support*

1. The Government shall decide to apply levels of special investment incentives and support with a view to encouraging development of a number of investment projects with large socio-economic impact.
2. Investment projects with large socio-economic impact as prescribed in clause 1 of this article comprise:
 - (a) Investment projects for new establishment (including expansion of such newly established projects) of research and development (R&D) centres and creative renovation centres with the total investment capital of 3,000 billion dong or more and disbursing at least 1,000 billion dong within three (3) years as from the date of issuance of the investment registration certificate [IRC] or investment policy approval; and national creative renovation centres established pursuant to a decision of the Prime Minister of the Government;
 - (b) Investment projects in specially preferential investment industries and trades with the amount of investment capital of 30,000 billion dong or more, disbursing at least 10,000 billion dong within three (3) years as from the date of issuance of the IRC or investment policy approval;
3. The level and duration of application of special investment incentives shall be implemented in accordance with the provisions of the *Law on Corporate Income Tax* and the law on land.
4. Special investment support shall be provided in the forms stipulated in article 18.1 of this Law.
5. Special investment incentives and support as prescribed in this article shall not apply in the following cases:
 - (a) An investment project for which the investment certificate, the IRC or investment policy decision was issued prior to the effective date of this Law;
 - (b) Investment projects prescribed in article 15.5 of this Law.
6. The Government shall make a submission to the National Assembly for decision on application of investment incentives which are different from those stipulated in this Law and other laws in a case where it is necessary to encourage development of an investment project with special importance or a special administrative-economic unit.
7. The Government shall provide detailed regulations on this article.

CHAPTER 4

Investment Activities in Vietnam

SECTION 1

Investment Forms

Article 21 *Investment forms*

1. Investment for establishment of an economic organization.
2. Investment in the form of capital contribution, purchase of shares, or purchase of a capital contribution portion.

3. Implementation of an investment project.
4. Investment on the basis of a BCC contract.
5. New investment forms and forms of economic organizations as stipulated by the Government.

Article 22 *Investment for establishment of economic organization*

1. Investors may establish an economic organization in accordance with the following provisions:
 - (a) Domestic investors may establish an economic organization in accordance with the law on enterprises and the law corresponding to each type of economic organization;
 - (b) Foreign investors establishing an economic organization must satisfy the conditions on market approach applicable to foreign investors prescribed in article 9 of this Law;
 - (c) Before establishing an economic organization, a foreign investor must have an investment project and carry out the procedures for issuance or amendment of an IRC, except for establishment of a small or medium sized creative start-up enterprise or creation of a creative start-up investment fund in accordance with the law on support for small and medium sized enterprises.
2. From the date of issuance of the enterprise registration certificate [ERC] or any other document with equivalent validity, the economic organization established by a foreign investor shall implement the investment project in accordance with the provisions of the IRC.

Article 23 *Implementation of investment activities by economic organizations with foreign investment capital*

1. An economic organization must satisfy the conditions and carry out investment procedures in accordance with regulations applicable to foreign investors upon investment for establishment of another economic organization; investment in the form of capital contribution or purchase of shares or purchase of a capital contribution portion in another economic organization; or investment on the basis of a BCC contract if such economic organization falls into any one of the following cases:
 - (a) More than 50% of its charter capital is held by a foreign investor(s), or a partnership has a majority of partners being foreign individuals in the case of an economic organization being a partnership;
 - (b) More than 50% of its charter capital is held by an economic organization(s) prescribed in sub-clause (a) above;
 - (c) More than 50% of its charter capital is held by a foreign investor(s) and an economic organization(s) prescribed in sub-clause (a) above.
2. Economic organizations other than those prescribed in sub-clauses (a), (b) and (c) of clause 1 above shall satisfy the conditions and carry out the investment procedures in accordance with regulations applicable to domestic investors upon investment for establishment of another economic organization; investment in the form of capital contribution or purchase of shares or a capital contribution portion in another economic organization; or investment on the basis of a BCC contract.

3. Any economic organization with foreign investment capital which has been established in Vietnam and has a new investment project may carry out the procedures for implementation of such investment project without being required to establish a new economic organization.
4. The Government shall provide detailed regulations on the sequence and procedures for investment for establishment of economic organizations and implementation of investment activities by foreign investors and economic organizations with foreign investment capital.

Article 24 *Investment in the form of capital contribution or purchase of shares or purchase of capital contribution portions*

1. Investors have the right to contribute capital, purchase shares and purchase capital contribution portions in economic organizations.
2. The capital contribution, purchase of shares or purchase of capital contribution portions by a foreign investor must satisfy the following provisions and conditions:
 - (a) [The foreign investor must satisfy] the market approach conditions applicable to foreign investors as prescribed in article 9 of this Law;
 - (b) [The foreign investor must] ensure national defence and security as prescribed in this Law;
 - (c) [The foreign investor must comply with] the provisions of the law on land regarding the conditions for receiving land use rights and conditions for using land in islands and in border and coastal communes, wards and towns.

Article 25 *Forms of capital contribution or purchase of shares or purchase of capital contribution portions*

1. An investor may make capital contribution to an economic organization in the following forms:
 - (a) Purchase of shares on the initial public offering or of additional shares issued by shareholding companies;
 - (b) Capital contribution to limited liability companies [LLC] or partnerships;
 - (c) Capital contribution to other economic organizations not covered by sub-clauses (a) and (b) above.
2. An investor may purchase shares or capital contribution portions in an economic organization in the following forms:
 - (a) Purchase of shares in a shareholding company from such company or its shareholders;
 - (b) Purchase of a portion of capital contribution of members of a limited liability company to become a member of such LLC;
 - (c) Purchase of a capital contribution portion of a capital contributing member of a partnership to become a capital contributing member of such partnership;
 - (d) Purchase of a capital contribution portion of members of other economic organizations not covered by sub-clauses (a), (b) and (c) above.

Article 26 *Procedures for investment in the form of capital contribution or purchase of shares or purchase of capital contribution portions*

1. An investor contributing capital or purchasing shareholding or purchasing a capital contribution portion in an economic organization must satisfy the conditions and conduct procedures for change of members and/or shareholders in accordance with the regulations corresponding to each type of economic organization.
2. A foreign investor shall conduct procedures to register its capital contribution to, purchase of shareholding or purchase of a capital contribution portion in an economic organization prior to the change of members or shareholders if it belongs to one of the following cases:
 - (a) The capital contribution or purchase of shareholding or purchase of a capital contribution portion by the foreign investor results in an increase in foreign investor ownership in the economic organization [or] doing business in the market approach industry or trade subject to conditions applicable to foreign investors;
 - (b) The capital contribution or purchase of shareholding or capital contribution portion results in the foreign investor/s [and/or] economic organization/s as prescribed in sub-clauses (a), (b) and (c) of article 23.1 of this Law holding more than 50% of the charter capital of the economic organization in the following cases: increasing the ratio of charter capital ownership of foreign investors from 50% or below 50% to more than 50%, or increasing the charter capital ownership of foreign investors who already owned more than 50% of the charter capital in the economic organization;
 - (c) The foreign investor contributes capital to or purchases shareholding or purchases a capital contribution portion in an economic organization which has a land use right certificate for land on an island or on a coastal or border commune, ward or town or in another area which affects national defence and security.
3. An investor not in the cases prescribed in clauses 2 above shall conduct procedures for change of shareholders or members in accordance with relevant laws when the investor contributed capital or purchased shareholding or purchased a capital contribution portion in the economic organization. If the investor has the need to register such capital contribution or purchase of shareholding or purchase of the capital contribution portion in the economic organization, the investor shall comply with clause 2 above.
4. The Government shall provide detailed regulations on the application file, sequence and procedures for contributing capital to or purchasing shareholding or purchasing capital contribution portions in economic organizations stipulated in this article.

Article 27 *Investment in the form of business co-operation contract (BCC)*

1. A BCC contract signed between domestic investors shall be performed in accordance with the civil law.
2. A BCC contract signed between a domestic investor and a foreign investor or between foreign investors requires the procedures for issuance of an IRC to be carried out in accordance with article 38 of this Law.
3. The parties to a BCC contract shall establish a co-ordinating board to perform the BCC contract. The functions, duties and powers of the co-ordinating board shall be as agreed by the parties.

Article 28 *Contents of BCC contract*

1. A BCC contract must contain the following basic items:
 - (a) Names, addresses, and authorized representatives of the parties to the contract; and the transaction address or address of the location at which the project is to be implemented;
 - (b) Objectives and scope of business investment activities;
 - (c) Contributions by the parties to the contract, and distribution of business investment results between the parties;
 - (d) Schedule and duration of implementation of the contract;
 - (dd) Rights and obligations of the parties to the contract;
 - (e) Amendment, assignment and termination of the contract;
 - (g) Liability for breach of the contract and method of dispute resolution.
2. During performance of the BCC contract, the parties to the contract may reach agreement on use of assets formed from business co-operation for establishment of an enterprise in accordance with the law on enterprises.
3. The parties to the BCC contract are entitled to reach agreement on other items which are not contrary to law.

SECTION 2

Investment Policy Approval and Investor Selection

Article 29 *Selection of investor for implementation of investment project*

1. The investor selection is conducted by any one of the following methods:
 - (a) Auction of the land use right in accordance with the law on land;
 - (b) Tendering for selection of an investor in accordance with the law on tendering;
 - (c) Approval of an investor as prescribed in clauses 3 and 4 of this article.
2. The selection of an investor for implementation of an investment project as prescribed in sub-clauses (a) and (b) of clause 1 above is conducted after the investment policy is approved, except where the project is not subject to [not in the category requiring] investment policy approval.
3. If an auction of the land use right is held but only one person registers to participate in the auction or if the auction is unsuccessful in accordance with the law on land or if tendering to select an investor is held but only one investor registers [to participate] in accordance with the law on tendering, then the competent agency shall conduct procedures to approve an investor if such investor satisfies the conditions prescribed in relevant law.
4. With respect to an investment project requiring investment policy approval, the competent agency shall approve the investment policy and concurrently approve an investor not via an auction or tendering in the following cases:

- (a) The investor has the land use right, except for the case of [land] resumption by the State for purposes of national defence and security or the State resumes the land for socio-economic development in the national or community interest in accordance with the law on land;
- (b) The investor receives an assignment of, capital contribution portion or lease of an agricultural land use right to implement an investment project for non-agricultural production or business and [the land] is not subject to land resumption by the State in accordance with the law on land;
- (c) The investor implements the investment project in an industrial zone or high-tech zone;
- (d) Other cases not subject to an auction or tendering in accordance with law.

5. The Government shall provide detailed regulations on this article.

Article 30 *Authority of the National Assembly to provide investment policy approval*

The National Assembly provides investment policy approval for the following investment projects:

- 1. Investment projects with a great effect on the environment or with a potentially serious effect on the environment, including:
 - (a) Nuclear power plants;
 - (b) Investment projects with a requirement for conversion of the land use purpose of special use forest land, of upstream protective forest or of border protection forest of 50 hectares or more; or of protective forest as a windbreak, shelter from flying sand or breakwater/protection from sea encroachment of 500 hectares or more; or productive forest of 1,000 hectares or more.
- 2. Investment projects with a requirement for conversion of the land use purpose for wet rice cultivation on two harvests in an area of 500 hectares or more.
- 3. Investment projects with a requirement for relocation and resettlement of 20,000 people or more in mountainous areas or 50,000 people or more in other areas.
- 4. Investment projects which require application of a special mechanism or policy which needs to be decided by the National Assembly.

Article 31 *Authority of the Prime Minister of the Government to provide investment policy approval*

Except for the projects stipulated in article 30 of this Law, the Prime Minister provides investment policy approval for the following investment projects:

- 1. Investment projects regardless of capital sources in any one of the following cases:
 - (a) Investment projects with a requirement for relocation and settlement of 10,000 people or more in mountainous areas and 20,000 people in other areas;
 - (b) Investment projects for new construction of: airfields and airports; landing runways of airfields and airports; international passenger terminals; cargo terminals of airfields and airports with a capacity of 1 million more tonnes per year;
 - (c) New investment projects for passenger aviation transport business;

- (d) Investment projects for new construction of ports and wharves of specialized seaports; investment in new construction of ports and wharves with a scale of investment capital of 2,300 billion dong or more within the category of Grade 1 seaports;
 - (dd) Investment projects for processing of petroleum;
 - (e) Investment projects which include business of betting and casinos, excluding business in electronic games with prizes reserved for foreigners;
 - (g) Projects for construction of residential housing (for sale, lease or hire purchase), urban areas with a land use scale of 50 or more hectares or below 50 hectares but with a population of 15,000 or more people in such urban area; or with a land use scale of 100 or more hectares or below 100 hectares but with a population of 10,000 or more people in the non-urban area; or investment projects regardless of the size of the land area or population but within the scope of protection of relics recognized by the competent level being national and special level national heritage;
 - (h) Investment projects for construction and commercial operation of infrastructure in industrial zones and export processing zones.
2. Investment projects of foreign investors in the following sectors: business of telecommunications services with network infrastructure; afforestation; publication, press.
 3. Investment projects which at the same time fall within the authority of two or more provincial people's committees to provide the investment policy approval.
 4. Other investment projects subject to the authority of the Prime Minister of the Government to provide investment policy approval or to make an investment decision as stipulated by law.

Article 32 *Authority of provincial people's committees to provide investment policy approval*

1. Except for the investment projects prescribed in articles 30 and 31 of this Law, provincial people's committees provide investment policy approval for the following investment projects:
 - (a) Investment projects requesting the State to allocate or lease land not via an auction or tendering for or on receipt of an assignment [of a land use right], and investment projects requesting permission to convert land use purpose, except for cases of land allocation, land lease or permission to convert land use purpose by family households or individuals not within the category requiring approval from the provincial people's committee as prescribed by [pursuant to] the law on land;
 - (b) Investment projects for construction of residential housing (for sale, lease or hire purchase), and urban zones in the following cases: investment projects with a land use scale below 50 hectares and with a population below 15,000 people in the urban area; or on a scale of land use below 100 hectares and with a population below 10,000 people in a non-urban area; or investment projects regardless of land scale and population but within a restricted development area or within an historical inner area (determined in accordance with urban master planning projects) of a special category urban area;
 - (c) Investment projects for construction and commercial operation of golf courses;

- (d) Investment projects of foreign investors and of economic organizations with foreign investment capital implemented on islands or on border or coastal communes, wards or towns and in other areas affecting national defence and security.
2. With respect to the investment projects prescribed in sub-clauses (a), (b) and (d) of clause 1 above and implemented in an industrial zone, export processing zone, high-tech zone or economic zone in conformity with the master plan approved by the competent level, the management board of such industrial zone, export processing zone, high-tech zone or economic zone shall provide the investment policy approval.
 3. The Government shall provide detailed regulations on this article.

Article 33 *File for and contents of appraisal of a request for investment policy approval*

1. A file requesting investment policy approval for an investment project proposed by an investor comprises:
 - (a) Written application for implementation of the investment project, including a commitment to bear all expenses and risks if the project is not approved;
 - (b) Document regarding the legal status of the investor;
 - (c) Document(s) proving the financial capability of the investor including at least one of the following documents: financial statements for the last two years of the investor; undertaking of the parent company to provide financial support; undertaking of a financial institution to provide financial support; guarantee for the financial capability of the investor; [or] other document proving financial capability of the investor;
 - (d) Proposal for the investment project comprising the following main items: investor or method of investor selection, investment objectives, investment scale, investment capital and plan for raising capital, location, duration, investment schedule, information about the current status of land use at the location for implementation of the project and proposal for a need for land use (if any), need for labour, proposal for investment incentives, impact and socio-economic efficiency of the project, and preliminary assessment of environmental impact (if any) in accordance with the law on environmental protection.

If the law on construction requires formulation of a pre-feasibility study report, the investor may submit the pre-feasibility study report instead of a proposal for the investment project;
 - (dd) Where the project does not require the State to allocate or lease out land or to permit conversion of the land use purpose, a copy of the document regarding the land use right or other document identifying the right to use the location for implementation of the investment project is required to be submitted;
 - (e) Contents of the explanatory statement on the technology to be used in the investment project in the case of projects which require evaluation and collection of opinions on technology in accordance with the law on technology transfer;
 - (g) BCC contract in the case of investment projects on the basis of a BCC contract;
 - (h) Other documents relating to the investment project, and requirements on the eligibility and capability of the investor in accordance with law (if any).

2. A file for investment policy approval for an investment project prepared by a competent State agency comprises:
 - (a) Submission for investment policy approval;
 - (b) Proposal for the investment project comprising the following main items: investment objectives, investment scale, investment capital, location, duration, investment schedule, impact and socio-economic efficiency of the project; information about the current status of land use at the location for implementation of the project, conditions for land resumption in the case of projects subject to land resumption and proposed need for land use (if any); preliminary assessment of environmental impact (if any) in accordance with the law on protection of the environment; proposed method of investor selection and conditions applicable to the investor (if any); and special regimes and policies (if any).

If the law on construction requires formulation of a pre-feasibility study report, the competent State agency may use the pre-feasibility study report instead of the proposal for the investment project.

3. Contents of appraisal of the request for investment policy approval comprise:
 - (a) Assessment of the conformity of the investment project with national level master planning, and regional planning, provincial planning, urban planning and special economic-administrative unit planning (if any);
 - (b) Assessment of the land use requirements;
 - (c) Preliminary assessment of the socio-economic efficiency of the project; and preliminary assessment of environmental impact (if any) in accordance with the law on protection of the environment;
 - (d) Assessment of investment incentives and conditions for entitlement to same (if any);
 - (dd) Evaluation of the technology to be used in the investment project in the case of a project subject to appraisal or collection of opinions on technology in accordance with the law on technology transfer;
 - (e) Assessment of conformity of the investment project with urban development objectives and orientation, and residential housing development programs and plans; preliminary plan for phasing of investment to ensure the requirements on synchronism; preliminary structure of residential housing products and part of the land fund reserved for social residential housing development; preliminary plan for investment in construction and management of urban infrastructure inside and outside the project fence in the case of projects for construction of residential houses and urban areas.
4. Contents of appraisal of the request for investment policy approval [for a project] and at the same time for investor approval comprise:
 - (a) Contents of appraisal prescribed in clause 3 of this article;
 - (b) Ability to satisfy the conditions for land allocation or land lease in the case of land allocation or land lease not via auction of the land use right or tendering for investor selection; ability to satisfy the conditions for conversion of the land use purpose in the case of a project requiring conversion of the land use right;

- (c) Assessment of satisfaction of the market approach conditions applicable to foreign investors (if any);
 - (d) Other conditions applicable to the investor in accordance with relevant laws.
5. The Government shall provide detailed regulations on this article.

Article 34 *Sequence and procedures for investment policy approval by the National Assembly*

1. The file prescribed in clauses 1 and 2 of article 33 of this Law is submitted to the Ministry of Planning and Investment [MPI].
2. MPI then, within fifteen (15) days from the date of receipt of the complete file, reports same to the Prime Minister for establishment of a State appraisal council.
3. The State appraisal council then, within ninety (90) days from the date of its establishment, organizes appraisal of the file and prepares an appraisal report including the items prescribed in article 33 of this Law for submission to the Government.
4. No later than sixty (60) days before the opening date of a session of the National Assembly, the Government prepares the file requesting investment policy approval and sends it to the agency of the National Assembly presiding over verification/assessment.
5. The file requesting investment policy approval comprises:
 - (a) Submission of the Government.
 - (b) File prescribed in clause 1 of this article.
 - (c) Appraisal report of the State appraisal council.
 - (d) Other relevant documents.
6. The contents of verification of the request for investment policy approval comprise:
 - (a) Satisfaction of the criteria for determining that the investment project is subject to the authority of the National Assembly to provide investment policy approval;
 - (b) Necessity for implementing the investment project;
 - (c) Conformity of the investment project with the national level master planning and strategy, the regional planning, provincial planning, urban planning and special eco-administrative units planning (if any);
 - (d) Objectives, scale, location, duration, implementation schedule of the investment project, need for land use; plan for site clearance, relocation and resettlement; options for selection of the main technology, and solution for environmental protection;
 - (dd) Total investment capital and capital sources;
 - (e) Assessment of socio-economic efficiency, and guarantee of national defence, security and sustainable development of the investment project;

- (g) Special mechanism or policy; incentives, investment support and conditions for application thereof (if any).
- 7. The Government and relevant agencies, organizations or individuals are responsible to provide complete information and documents serving verification/assessment; and to explain issues in the contents of the investment project upon request by the agency of the National Assembly presiding over verification.
- 8. The National Assembly shall consider and pass a resolution [approving] the investment policy, comprising the items prescribed in article 3.1 of this Law.
- 9. The Government shall provide detailed regulations on the sequence and procedures for appraisal [of investment projects files] by the State appraisal council.

Article 35 *Sequence and procedures for investment policy approval by the Prime Minister of the Government*

- 1. The file prescribed in clauses 1 and 2 of article 33 of this Law is submitted to MPI.
- 2. MPI shall then, within three (3) working days from the date of receipt of the complete file, forward the file to the relevant State agencies to obtain their opinions on the items of appraisal prescribed in article 33 of this Law.
- 3. An agency which is asked for an opinion shall, within fifteen (15) days from the date of receipt of the file for its opinion, provide its appraisal opinion on the items under its State management to MPI.
- 4. MPI shall then, within forty (40) days from the date of receipt of the file, organize appraisal of the file and prepare an appraisal report comprising the items prescribed in article 33 of this Law and submit such report to the Prime Minister of the Government for investment policy approval.
- 5. The Prime Minister of the Government shall consider and provide the investment policy approval, including the items prescribed in article 3.1 of this Law.
- 6. With respect to an investment project prescribed in article 31.3 of this Law, the Prime Minister of the Government shall appoint an investment registration agency [IRA] of a province or city under central authority to issue an investment registration certificate [IRC] for the entire project.
- 7. The Government shall provide detailed regulations on the sequence and procedures for appraisal of investment projects for which the Prime Minister provides investment policy approval.

Article 36 *Sequence and procedures for investment policy approval by provincial people's committees*

- 1. The file prescribed in clauses 1 and 2 of article 33 of this Law is submitted to the investment registration agency [IRA].

The IRA then, within thirty five (35) days from the date of receipt of the file, must notify the results to the investor.
- 2. The IRA shall, within three (3) business days from the date of receipt of the complete file, forward the file to the relevant State agencies to obtain their appraisal opinions on the items prescribed in article 33 of this Law.
- 3. An agency which is asked for an opinion shall, within fifteen (15) days from the date of receipt of the file, provide its appraisal opinion on the items under its State management to the IRA.

4. The IRA then, within twenty five (25) days from the date of receipt of the file, shall prepare an appraisal report with the contents prescribed in article 33 of this Law and submit same to the provincial people's committee.
5. The provincial people's committee then, within seven (7) business days from the date of receipt of the file and the appraisal report, shall provide the investment policy approval, and must provide a written notice specifying the reason(s) in the case of refusal.
6. The investment policy approval of the provincial people's committee comprises the items prescribed in article 3.1 of this Law.

SECTION 3

Procedures for Issuance, Amendment and Revocation of Investment Registration Certificate [IRC]

Article 37 *Cases in which procedures for issuance of IRC are carried out*

1. The cases which require the procedures for issuance of an investment registration certificate [IRC] to be carried out comprise:
 - (a) Investment projects of foreign investors;
 - (b) Investment projects of economic organizations prescribed in article 23.1 of this Law.
2. The cases which do not require the procedures for issuance of an IRC to be carried out comprise:
 - (a) Investment projects of domestic investors;
 - (b) Investment projects of economic organizations prescribed in article 23.2 of this Law;
 - (c) Investment in the form of capital contribution to or purchase of shares or purchase of a capital contribution portion in an economic organization.
3. With respect to investment projects prescribed in articles 30, 31 and 32 of this Law, the domestic investors and economic organizations prescribed in article 23.2 of this Law shall commence implementation of the investment project after provision of investment policy approval.
4. Where there is a need for an IRC to be issued for an investment project prescribed in sub-clauses (a) and (b) of clause 2 of this article, the investor shall carry out the procedures prescribed in article 38 of this Law for issuance of an IRC.

Article 38 *Procedures for issuance of investment registration certificate [IRC]*

1. The IRA shall issue IRCs for investment projects in the category requiring investment policy approval as prescribed in articles 30, 31 and 32 of this Law within the following deadlines:
 - (a) Five (5) business days after receipt of the written investment policy approval and at the same time, the investor approval in the case of projects in the category requiring an IRC to be issued;
 - (b) Fifteen (15) days after receipt of a request for issuance of an IRC from an investor in the case of projects not prescribed in sub-clause (a) above.

2. With respect to investment projects in the category which do not require investment policy approval as prescribed in articles 30, 31 and 32 of this Law, investors shall be issued with an IRC upon satisfaction of the following conditions:
 - (a) The investment project is not in an industry or trade in which business investment is prohibited;
 - (b) There is a location for implementation of the investment project;
 - (c) The investment project complies with the planning prescribed in article 33.3(a) of this Law;
 - (d) [The project] complies with the investment rate per unit of land area and with the number (if any) of workers employed;
 - (dd) The market approach conditions applicable to a foreign investor are satisfied.
3. The Government shall provide detailed regulations on the conditions, application file, sequence and procedures for issuance of an IRC.

Article 39 *Authority to issue, amend and revoke IRC*

1. The management board of an industrial zone, export processing zone, high-tech zone or economic zone issues, amends and revokes IRCs in respect of investment projects in such industrial zone, export processing zone, high-tech zone or economic zone, except in the cases prescribed in clause 3 below.
2. Departments of Planning and Investment [DPI] issue, amend and revoke IRCs in respect of investment projects outside industrial zones, export processing zones, high-tech zones and economic zones, except in the cases prescribed in clause 3 below.
3. The investment registration agency [IRA] of the locality where the project is to be implemented or of the locality in which the operating office of the investor is located or proposed to be located for implementation of the investment project issues, amends or revokes IRCs in respect of the following investment projects:
 - (a) An investment project implemented in two or more provincial level administrative units;
 - (b) An investment project implemented both inside and outside [the fence of] an industrial zone, export processing zone, high-tech zone or economic zone;
 - (c) An investment project in an industrial zone, export processing zone, high-tech zone or economic zone for which a management board has not yet been established or the project is not within the State administrative scope of such management board.
4. The agency receiving investment project files is the agency authorized to issue the IRC, except in the cases prescribed in articles 34 and 35 of this Law.

Article 40 *Contents of IRC*

1. Name of the investment project;
2. The investor;
3. Investment project code;

4. Location of implementation of the investment project; and land area to be used;
5. Objectives and scale of the investment project;
6. Investment capital of the investment project (comprising capital contribution of the investor and loans raised);
7. Operational duration of the investment project;
8. Schedule of implementation of the investment project comprising:
 - (a) Schedule of capital contribution and raising capital sources;
 - (b) Schedule of realization of main operational objectives of the investment project, and in the case of investment projects to be divided into various phases, the schedule of implementation in each phase must be specified;
9. Forms of [application of] Incentives or investment support and bases [and] conditions for application thereof (if any);
10. Conditions (if any) applicable to the investor implementing the project.

Article 41 *Amendment of investment project*

1. During the process of implementing an investment project, an investor has the right to amend the objectives and transfer a part of or the entire investment project, merge projects or divide or separate one project into a number of projects, use the land use right or assets on the land which is part of the investment project to contribute capital to establish an enterprise [or] to conduct business cooperation and [to amend] other contents, but any such activities must comply with provisions of law.
2. The investor shall conduct procedures to amend the IRC if amendment of the investment project changes the contents of the IRC.
3. An investor implementing an investment project for which investment policy approval has been provided must conduct procedures for approval of the amendment to the investment policy in any one of the following cases:
 - (a) The objectives set out in the written investment policy approval are changed; or objectives requiring investment policy approval are added;
 - (b) The land use area is changed by more than 10% or more than 30 hectares or there is a change of investment location;
 - (c) The total investment capital is changed by 20% or more, which changes the scale of the investment project;
 - (d) The implementation schedule of the investment project is extended and the total duration of investment in the project is more than twelve (12) months beyond the implementation schedule of the investment project set out in the written initial written investment policy approval;
 - (dd) The operational duration of the investment project is amended;

- (e) The technology which was appraised and on which opinions were collected during the process of investment policy approval is changed;
 - (g) There is a change of the investor of the investment project as set out in the initial written investment policy approval [provided] at the same time as the investor was approved prior to exploitation or operation of the project, or there is a change of conditions (if any) applicable to the investor/s.
4. For an investment project within the category requiring investment policy approval, the investor is not permitted to extend the implementation schedule of the investment project beyond 24 months as compared to the implementation schedule prescribed in the initial written investment policy approval, except in any one of the following cases:
- (a) To remedy the consequences of an event of force majeure in accordance with the civil law and the law on land;
 - (b) The implementation schedule of the investment project is extended due to late allocation or lease of land or late permission to convert land use purpose provided by the State;
 - (c) The implementation schedule of the investment project is changed pursuant to a request of the State administrative agency or due to late conduct of administrative procedures by a State agency;
 - (d) The investment project is amended as a result of a State agency changing master planning;
 - (dd) The objectives set out in the investment policy approval are changed; or objectives requiring investment policy approval are added;
 - (e) The total investment capital is increased by 20% or more, which changes the scale of the investment project.
5. The State agency authorized to provide investment policy approval has the authority to approve the amendment of the investment policy.
- If a request to amend an investment project results in such project falling within the authority of a higher level to provide investment policy approval, then such higher level has authority to approve the amendment to the investment policy in accordance with the provisions of this article.
6. The sequence and procedures for amendment of the investment policy are implemented in accordance with the corresponding provisions in articles 34, 35 and 36 of this Law with respect to the amended items.
7. If a request for amendment of the investment project causes the investment project to fall within the category requiring investment policy approval, then the investor must carry out the procedures for investment policy approval prior to making such amendment.
8. The Government shall provide detailed regulations on this article.

SECTION 4

Implementation of Investment Projects

Article 42 *Principles for implementation of investment project*

1. With respect to a project requiring investment policy approval, the investor is responsible to carry out the procedures to obtain investment policy approval before implementing the investment project.
2. With respect to a project requiring issuance of an IRC, the investor is responsible to carry out the procedures for issuance of the IRC before implementing the investment project.
3. Investors are responsible to comply with this Law and the laws on planning, land, environment, construction, labour and fire prevention and fighting; [other] relevant laws, the written investment policy approval (if any) and the investment registration certificate (if any) during implementation of their investment projects.

Article 43 *Guarantee [or security] for implementation of investment project*

1. An investor must provide an escrow deposit or have a bank guarantee regarding the obligation to provide an escrow deposit as the security for performance of an investment project requesting the State to allocate or lease out land or permit conversion of the land use purpose, except for the following cases:
 - (a) The investor wins an auction of the land use right in order to implement an investment project for which the State allocates land with collection of land use fees or leases land with collection of one-off (lump sum) payment of rent for the whole term of the lease;
 - (b) The investor wins tendering for implementation of an investment project using land;
 - (c) The State allocates or leases land to the investor on the basis of receipt of assignment of an investment project for which an escrow deposit has already been provided or for which the capital contribution or raising of capital has been completed in accordance with the schedule set out in the written IRC or investment policy approval;
 - (d) The State allocates or leases land to the investor for implementation of an investment project on the basis of receipt of assignment of the land use right and assets attached to land from another land user.
2. Based on the scale, nature and implementation schedule of each project, the rate of escrow deposit as the security for performance of the project is one (1) to three (3) per cent of investment capital of the specific project. Where a project consists of multiple investment phases, the amount of escrow deposit shall be paid and returned in accordance with each phase of implementation of the investment project, except in cases in which the escrow deposit is non-refundable.
3. The Government shall provide detailed regulations on this article.

Article 44 *Operational duration of investment projects*

1. The operational duration of an investment project in an economic zone shall not exceed seventy (70) years.
2. The operational duration of an investment project outside economic zones shall not exceed fifty (50) years. The duration of investment projects implemented in areas with difficult socio-economic conditions or areas with especially difficult socio-economic conditions or of projects with large investment capital but capital recovery is slow may be longer but shall not exceed seventy (70) years.
3. With respect to investment projects to which the State allocates or leases land, but the handover of the land to the investor is late, the time for which the State is late in handing over the land to the

investor shall be excluded from the operational duration and/or schedule for implementation of the investment project.

4. If on expiry of the operational duration of an investment project the investor needs to continue implementing the investment project and satisfies the conditions prescribed by law, consideration shall be given to extending the operational duration of the investment project but not beyond the maximum prescribed in clauses 1 and 2 above, except for the following investment projects:
 - (a) Investment projects using outdated technology or potentially causing environmental pollution, or resource-intensive projects.
 - (b) Investment projects in which the investor must transfer assets without refund/compensation to the State of Vietnam or the Vietnamese side.
5. The Government shall provide detailed regulations on this article.

Article 45 *Determination of value of investment capital; inspection of value of investment capital, and inspection of machinery, equipment and technological line*

1. Investors are responsible to ensure the quality of machinery, equipment and technological lines for implementation of an investment project in accordance with law.
2. The investor shall self-determine the value of the investment capital of the investment project after the project is put into [commissioned for] exploitation and operation.
3. Where necessary in order to ensure State management of science and technology or to provide a basis for tax assessment, the competent State administrative agency may require independent inspection of the value of the investment capital and/or quality and value of machinery, equipment and technological line after the investment project is put into exploitation and operation.
4. The investor must bear any expenses for inspection if the results of inspection cause an increase in the tax obligations with respect [payable] to the State.
5. The Government shall provide detailed regulations on this article.

Article 46 *Assignment of investment projects*

1. An investor is entitled to assign all or part of the investment project to another investor upon satisfaction of the following conditions:
 - (a) The investment project or the part of the investment project which is assigned has not had its operation terminated in accordance with clauses 1 or 2 of article 48 of this Law;
 - (b) The foreign investor receiving the assignment of the investment project or part of the investment project must satisfy the conditions prescribed in article 24.2 of this Law;
 - (c) There is compliance with the conditions prescribed in the law on land in the case of assignment of an investment project associated with assignment of the land use right [and/or] assets attached to land;
 - (d) There is compliance with the conditions prescribed in the laws on residential housing and on real estate business in the case of assignment of a residential housing project or real estate business project;

- (dd) There is compliance with the conditions prescribed in the written investment policy approval and/or the IRC or in accordance with other relevant laws (if any);
 - (e) When the investment project is assigned, in addition to compliance with this article, a State owned enterprise is responsible to comply with the law on management and use of State capital invested in production and business in enterprises before making any amendment of the investment project.
2. If the conditions for assignment prescribed in clause 1 of this article are satisfied, the investor shall carry out procedures for assigning the entire investment project or a part of it as follows:
- (a) In the case of an investment project for which the investor has received approval in accordance with article 29 of this Law and the investment project has been issued with an investment registration certificate, the investor shall conduct procedures to amend the investment project in accordance with the provisions in article 41 of this Law;
 - (b) In the case of an investment project not within the case prescribed in sub-clause (a) above, assignment of the investment project or transfer of ownership of assets to the investor receiving the assignment of the investment project shall be implemented in accordance with the civil law, the law on enterprises, the law on real estate business and other provisions of relevant laws.

Article 47 *Suspension of operation of investment project*

1. An investor which suspends the operation of its investment project must provide written notice to the IRA. In the case of suspension of the operation of an investment project due to force majeure, the State shall allow the investor to be exempt from land rent [or] shall reduce land use fees during the period of suspension of the operation in order to remedy the consequences caused by the force majeure event.
2. The State administrative agency for investment shall make a decision suspending all or part of the operation of an investment project in the following circumstances:
- (a) To protect monuments, heritage, antiques or national treasures in accordance with the *Law on Cultural Heritage*;
 - (b) To remedy a breach of the law on environmental protection upon request of the State administrative agency for environment;
 - (c) To take measures to ensure labour safety upon request of the State administrative agency for labour;
 - (d) Pursuant to a judgement or decision of a court or a verdict of an arbitrator;
 - (dd) The investor fails to correctly implement the contents of the investment policy approval or IRC and has been dealt with for an administrative offence but continues to commit the offence.
3. The Prime Minister of the Government shall make a decision suspending or suspending part of the operation of an investment project if implementation of the investment project harms or is at risk of harming national defence and security, upon request from the Ministry of Planning and Investment [MPI].
4. The Government shall provide detailed regulations on this article.

Article 48 *Termination of operation of investment project*

1. An investor shall terminate its investment activities and/or investment project in the following cases:
 - (a) Where the investor [itself] makes the decision terminating the operation of the investment project;
 - (b) On the conditions for termination of operation prescribed in the contract or charter of the enterprise;
 - (c) Upon expiry of the operational duration of the investment project.
2. The IRA shall terminate [all] or terminate part of the operation of an investment project in the following cases:
 - (a) The investment project is one of the cases prescribed in clauses 2 and 3 of article 47 of this Law but the investor is unable to remedy the conditions [resulting in] suspension of operation;
 - (b) The investor is no longer permitted to use the investment site and fails to carry out the procedures for change of the investment site within six (6) months after the date on which [the investor] is no longer permitted to use the investment site, except in the case prescribed in sub-clause (d) below;
 - (c) The operation of the investment project has been stopped and on expiry of twelve (12) months from such date, the IRA is unable to contact the investor or its lawful representative;
 - (d) Land used for the investment project is resumed for the reason that land is not used or the land use is behind the schedule in accordance with the law on land;
 - (dd) The investor has failed to provide the escrow deposit or bank guarantee regarding the obligation to provide an escrow deposit as required by law if the project is subject to such escrow deposit to ensure project performance;
 - (e) The investor conducted the investment activities on the basis of a fraudulent civil transaction in accordance with [as stipulated in] civil law;
 - (g) Pursuant to a judgement or decision of a court or a verdict of an arbitrator.
3. With respect to a project requiring investment policy approval, the IRA shall terminate the operation of the investment project after obtaining the opinion of the agency which provided the investment policy approval.
4. The investor shall itself liquidate the investment project in accordance with the law on liquidation of assets upon termination of operation of the investment project, except in the case prescribed in clause 5 of this article.
5. The law on land and other relevant laws shall apply to dealing with the land use right and assets on the land upon termination of operation of the investment project.
6. The IRA shall make a decision revoking an IRC if the operation of the investment project is terminated in accordance with clause 2 of this article, except for the case of termination of part of the operation of the investment project.

7. The Government shall provide detailed regulations on the sequence and procedures for termination of operation of investment projects as prescribed in this article.

Article 49 *Establishment of an operating office of foreign investor to BCC contract*

1. A foreign investor to a BCC contract may establish an operating office in Vietnam to implement the contract. The foreign investor to the BCC contract shall decide the location of the operating office depending on the requirements for contract performance.
2. The operating office of a foreign investor to a BCC contract shall have a seal, may open accounts, recruit employees, sign contracts and conduct business activities within the scope of the rights and obligations stipulated in the BCC contract and the registration certificate for establishment of the operating office.
3. The foreign investor to the BCC contract shall submit a registration file for establishment of an operating office to the investment registration agency [IRA] of the locality in which the proposed operating office is to be located.
4. The registration file for establishment of an operating office shall comprise:
 - (a) Written registration for establishment of an operating office containing the following items: the name and address of the representative office (if any) of the foreign investor to the BCC contract in Vietnam; the name and address of the operating office; contents, duration and scope of activities of the operating office; full name, residential address, and [serial number of] the people's identity card or citizen's card or passport of the head of the operating office.
 - (b) The decision of the foreign investor to the BCC contract on establishment of an operating office;
 - (c) Copy decision on appointment of the head of the operating office;
 - (d) Copy BCC contract.
5. The IRA shall, within fifteen (15) days from the date of receipt of the file prescribed in clause 4 of this article, issue an operation registration certificate of the operating office to the foreign investor to the BCC contract.

Article 50 *Termination of operation of the operating office of foreign investor to BCC contract*

1. A foreign investor shall, within seven (7) business days from the date of the decision terminating the operation of its operating office, send a file notifying the IRA in the locality where the operating office is located.
2. The file notifying termination of the operation of an operating office [comprises]:
 - (a) The decision terminating operation of the operating office in the case of early termination of the operation of the operating office;
 - (b) List of creditors and amount of debts which have been paid;
 - (c) List of the employees and their rights and interests which have been resolved;
 - (d) Certification of the tax authority on completion of tax obligations;

- (dd) Certification of the social security agency on completion of obligations in relation to social insurance;
 - (e) The operation registration certificate of the operating office;
 - (g) Copy IRC;
 - (h) Copy BCC contract.
3. The IRA shall, within fifteen (15) days from the date of receipt of the file prescribed in clause 2 of this article, issue a decision revoking the operation registration certificate of the operating office.

CHAPTER 5

Offshore Investment Activities

SECTION 1

General Provisions

Article 51 *Principles for implementation of offshore investment activities*

1. The State encourages offshore investment in order to exploit, develop and expand the market; to increase the export potential of goods and services, to earn foreign currency, to access modern technology, to improve the ability of administration and provide additional resources to socio-economic development of the country.
2. Investors conducting offshore investment activities must comply with this Law, other relevant laws, the law of the investment recipient country or territory (hereinafter referred to as the *investment recipient country*) and relevant international treaties; and are themselves responsible for the efficiency of offshore investment activities.

Article 52 *Offshore investment forms*

1. Investors shall conduct offshore investment activities in the following forms:
 - (a) Establishment of an economic organization in accordance with the law of the investment recipient country;
 - (b) Investment on the basis of an offshore contract;
 - (c) Capital contribution, purchase of shares or purchase of a capital contribution portion in an offshore economic organization to participate in management of such economic organization;
 - (d) Purchase or sale of securities or other valuable papers or investment via securities investment funds or other intermediary financial institutions in a foreign country;
 - (dd) Other investment forms in accordance with the law of the investment recipient country.

2. The Government shall provide detailed regulations on implementation of the investment forms prescribed in clause 1(d) of this article.

Article 53 *Industries and trades prohibited for offshore investment*

1. The industries and trades prescribed in article 6 of this Law [namely in which business investment is prohibited] and in relevant international treaties.
2. Industries and trades with technology and products in the category prohibited from export by the law on management of foreign trade.
3. Other industries and trades [in which offshore investment is prohibited] stipulated in the law of investment recipient countries.

Article 54 *Industries and trades for which offshore investment is conditional*

1. Industries and trades for which offshore investment is conditional:
 - (a) Banking;
 - (b) Insurance;
 - (c) Securities;
 - (d) Press, radio and television;
 - (dd) Real estate business.
2. The conditions for offshore investment in the industries and trades prescribed in clause 1 above are stipulated in laws and resolutions of the National Assembly, ordinances and resolutions of the Standing Committee of the National Assembly, decrees of the Government, and international treaties on investment of which the Socialist Republic of Vietnam is a member.

Article 55 *Capital sources for offshore investment*

1. The investor is responsible for making capital contribution and raising other sources of capital to conduct offshore investment activities.
2. Borrowing loans in foreign currency and transferring investment capital in foreign currency must comply with the conditions and procedures stipulated in the laws on banking, credit institutions and foreign exchange control.
3. Based on the objectives of the monetary policy and the policy on foreign exchange control in each period, the State Bank of Vietnam regulates credit institutions and foreign bank branches in Vietnam lending in foreign currency to investors in accordance with clause 2 above in order to undertake offshore investment activities.

SECTION 2

Procedures for Providing Offshore Investment Policy Approval and Making Offshore Investment Decisions

Article 56 *Authority to provide offshore investment policy approval*

1. The National Assembly provides offshore investment policy approval for the following investment projects:
 - (a) Investment projects with offshore investment capital of 20,000 billion Dong or more;
 - (b) Investment projects which require application of a special mechanism or policy which needs to be decided by the National Assembly.
2. Except for the investment projects prescribed in clause 1 of this article, the Prime Minister of the Government provides offshore investment policy approval for the following investment projects.
 - (a) Investment projects in the banking, insurance, securities, press, broadcasting, television and telecommunications sector having offshore investment capital of 400 billion Dong or more;
 - (b) Investment projects not covered by paragraph (a) of this clause and having offshore investment capital of 800 billion Dong or more.
3. Investment projects not falling into the cases prescribed in clauses 1 and 2 of this article shall not require offshore investment policy approval.

Article 57 *File, sequence and procedures for offshore investment policy approval by the National Assembly*

1. The investor lodges the file for an offshore investment project with the Ministry of Planning and Investment [MPI], the file to comprise:
 - (a) Written registration for offshore investment;
 - (b) Data on the legal entity status of the investor;
 - (c) Proposal for the investment project comprising the following main items: form, objectives, scale, and investment location, a preliminary determination of the amount of investment capital, plan on raising capital, and structure of capital sources; schedule for project implementation, investment phases (if any); and preliminary analysis of the effectiveness of investment in the project;
 - (d) Data proving the financial capability of the investor comprising at least one (1) of the following: financial statements for the last two years of the investor; undertaking of the parent company to provide financial support; undertaking of a financial institution to provide financial support; guarantee for the financial capability of the investor; [or] other documents proving the financial capability of the investor;
 - (dd) Undertaking to itself balance sources of foreign currency or written undertaking of an authorized credit institution to arrange foreign currency for the investor;
 - (e) Letter of the agency representing the owner which approves the investor to conduct offshore investment activities, and report on internal appraisal of the offshore investment proposal from of the State owned enterprise as prescribed in article 59.1 of this Law or decision on offshore investment as prescribed in article 59.2 of this Law;

- (g) With respect to offshore investment projects in the industries and trades prescribed in article 54.1 of this Law, the investor shall submit a letter from the competent State agency on satisfaction of the conditions for offshore investment in accordance with relevant law (if any).
2. MPI shall, within five (5) business days from the date of receipt of the complete file, make a submission to the Prime Minister of the Government for decision on establishment of a State appraisal council.
 3. The State appraisal council shall, within ninety (90) days from the date of establishment, organize appraisal and prepare an appraisal report for submission to the Government. The appraisal report shall contain the following items:
 - (a) Conditions for issuance of an offshore IRC prescribed in article 60 of this Law;
 - (b) Legal status of the investor;
 - (c) Necessity for implementation of offshore investment activities;
 - (d) Conformity of the investment project with article 51.1 of this Law;
 - (dd) Form, scale, location, implementation schedule of the investment project, offshore investment capital and sources of capital;
 - (e) Evaluation of level of risks in the investment recipient country.
 4. No later than sixty (60) days before the opening date of a session of the National Assembly, the Government shall send the file requesting offshore investment policy approval to the agency of the National Assembly presiding over verification.
 5. The file requesting offshore investment policy approval shall comprise:
 - (a) Submission of the Government;
 - (b) The file prescribed in clause 1 of this article;
 - (c) Appraisal report of the State appraisal council;
 - (d) Other relevant documents.
 6. The contents of any verification of a request for approval of the offshore investment policy comprise:
 - (a) Satisfaction of the criteria for determining that the investment project is within the authority of the National Assembly to provide investment policy approval;
 - (b) Necessity of implementing the investment activities offshore;
 - (c) Compliance of the investment project with the provisions of article 51.1 of this Law;
 - (d) Form, scale, location and schedule for implementation of the investment project, offshore investment capital, and capital sources;
 - (dd) Assessment of the level of risk in the investment-recipient country;
 - (e) Special regimes and policies, incentives, investment support and applicable conditions (if any).

7. The Government and relevant agencies, organizations and individuals are responsible to provide complete information and data to serve the verification; and to explain issues regarding contents of the investment project on request from the agency presiding over verification by the National Assembly.
8. The National Assembly shall consider and pass a resolution on the offshore investment policy containing the following items:
 - (a) The investor implementing the project;
 - (b) Objectives of and location for investment;
 - (c) Offshore investment capital, and sources of such capital;
 - (d) Special regimes and policies, incentives, investment support and applicable conditions (if any).
9. The Government shall provide detailed regulations on the sequence and procedures for conducting an evaluation of an offshore investment project file by the State appraisal council.

Article 58 *File, sequence and procedures for offshore investment policy approval by the Prime Minister of the Government*

1. The project investment project file shall be prepared in accordance with article 57.1 of this Law.
2. The investor shall submit the investment project file to MPI. MPI shall, within three (3) business days from the date of receipt of the complete file, forward the file to the relevant State agencies to ask for their appraisal opinions.
3. An agency which is asked for an opinion shall provide its written appraisal opinion on the items under its management within fifteen (15) days from the date of receipt of the file.
4. MPI shall, within thirty (30) days from the date of receipt of the file, organize appraisal and prepare an appraisal report for submission to the Prime Minister of the Government. The appraisal report shall contain the items prescribed in article 57.3 of this Law.
5. The Prime Minister of the Government shall consider and provide offshore investment policy approval in accordance with the items prescribed in article 57.8 of this Law.

Article 59 *Offshore investment decision*

1. A decision to make an offshore investment by a State owned enterprise shall be made in accordance with the law on management and use of State capital invested in production and business of enterprises and other provisions of relevant laws.
2. Offshore investment activities not covered by clause 1 of this article shall be decided by the investor in accordance with the *Law on Enterprises*.
3. The investor and the agency making the decision on the offshore investment as prescribed in clauses 1 and 2 above shall be responsible for their decisions regarding the offshore investment.

SECTION 3

Procedures for Issuance, Amendment and Termination of Effectiveness of Offshore Investment Registration Certificates

Article 60 *Conditions for issuance of offshore IRC*

1. The offshore investment activities conform with the principles prescribed in article 51 of this Law.
2. Not falling into the category of industries and trades for which offshore investment is prohibited as prescribed in article 53 of this Law and satisfying the conditions for offshore investment applicable to industries and trades for which offshore investment is conditional as prescribed in article 54 of this Law.
3. The investor makes an undertaking to itself arrange for foreign currency or obtains an undertaking to arrange for foreign currency from an authorized credit institution for implementation of the offshore investment activities.
4. There is the offshore investment decision prescribed in article 59 of this Law.
5. There is written certification from the tax authority of performance of tax obligations by the investor. The time of certification by the tax authority is no earlier than three (3) months up to the date of submission of the investment project file.

Article 61 *Procedures for issuance of offshore IRC*

1. With respect to projects in the category requiring offshore investment policy approval, MPI shall issue an offshore IRC to the investor within five (5) business days from the date of receipt of the written offshore investment policy approval and the offshore investment decision prescribed in article 59 of this Law.
2. With respect to projects not in the cases prescribed in clause 1 of this article, an investor shall submit the application file for issuance of an IRC to the Ministry of Planning and Investment [MPI]. The file shall comprise:
 - (a) Written registration for offshore investment;
 - (b) Data on the legal entity status of the investor;
 - (c) Offshore investment decision prescribed in article 59 of this Law;
 - (d) Written undertaking to itself arrange for foreign currency or written undertaking to arrange for foreign currency from an authorized credit institution for the investor prescribed in article 60.3 of this Law;
 - (dd) With respect to offshore investment projects in the industries and trades prescribed in article 54.1 of this Law, the investor shall submit a written approval from the competent State agency certifying satisfaction of the conditions for offshore investment in accordance with relevant law (if any).
3. Where the amount of capital in foreign currency remitted overseas is equivalent to 20 billion dong or more, MPI shall obtain written opinions from the State Bank of Vietnam.
4. MPI shall, within fifteen (15) days from the date of receipt of the file prescribed in clause 2 of this article, issue an offshore IRC; if [MPI] refuses to issue an offshore IRC, it shall notify the investor in writing and specify the reason therefor.

5. The Government shall provide detailed regulations on procedures for appraisal of offshore investment projects; for issuance, amendment and termination of effectiveness of offshore IRCs.

Article 62 *Content of offshore IRC*

1. Investment project code.
2. The investor.
3. Name of the investment project, and name of the offshore economic organization (if any).
4. Objectives and location of investment.
5. Form of investment, amount of investment capital, sources of such capital, form of investment capital and implementation schedule of offshore investment activities.
6. Rights and obligations of the investor.
7. Incentives and investment support (if any).

Article 63 *Amendment of offshore IRC*

1. An investor shall conduct procedures to amend the offshore IRC in the following cases:
 - (a) Change of Vietnamese investor;
 - (b) Change of investment form;
 - (c) Change of offshore investment capital; sources of investment capital and form of such capital;
 - (d) Change of location for implementing the investment activity in the case of an investment project requiring an investment location;
 - (dd) Change of main objective of the offshore investment activity;
 - (e) Use of profit from an offshore investment pursuant to clauses (a) and (b) of article 67.1 of this Law.
2. The investor must update changes other than those prescribed in clause 1 of this article on the national information system on investment.
3. The file for amendment of an offshore IRC comprises:
 - (a) Written application for amendment of the offshore IRC;
 - (b) Data on the legal entity status of the investor;
 - (c) Report on the status of implementation of the investment project up to the date of submission of the file for amendment of the offshore IRC;
 - (d) Decision amending the offshore investment activity in accordance with article 59 of this Law or the documents prescribed in article 57.1(e) of this Law;
 - (dd) Copy of the offshore IRC;

- (e) Written certification of the tax authority of performance of tax obligations by the investor in the case of amendment to increase the offshore investment capital. The time of certification by the tax authority is no earlier than three (3) months up to the date of submission of the file.
4. MPI shall amend the offshore IRC within fifteen (15) days from the date of receipt of the file prescribed in clause 3 of this article.
5. With respect to projects in the category requiring offshore investment policy approval, when amending the items prescribed in clause 1 of this article and article 57.8, MPI shall carry out the procedures for the offshore investment policy approval before amending the offshore IRC.
6. Where the amendment of the offshore IRC results in its project falling within the category requiring offshore investment policy approval, the procedures for offshore investment policy approval must be carried out before amending the offshore IRC.
7. The agency or person authorized to provide offshore investment policy approval has authority to approve amendment of the offshore investment policy. The agency or person authorized to make the offshore investment decision has authority to make a decision amending the contents of the offshore investment decision.
8. If a request to amend the investment project results in such project falling within the authority of a higher level to provide offshore investment policy approval, then such higher level authority has authority to approve the amendment to the offshore investment policy.

Article 64 *Termination of effectiveness of offshore IRC*

1. The effectiveness of an offshore IRC shall be terminated in the following circumstances:
 - (a) The investor makes the decision terminating the operation of the project;
 - (b) Upon expiry of the operational duration of the investment project in accordance with the law of the investment recipient country;
 - (c) On the conditions for termination of operation prescribed in the contract or the charter of the enterprise;
 - (d) The investor transfers all offshore investment capital to a foreign investor;
 - (dd) The investor fails to implement or is unable to implement the investment project in accordance with the schedule registered with the State administrative agency within twenty four (24) months from the date of issuance of the offshore IRC and fails to carry out the procedures to amend the implementation schedule of the investment project;
 - (e) The offshore economic organization is dissolved or [declared] bankrupt in accordance with the law of the investment recipient country;
 - (g) Under a judgement or verdict of a court or a verdict of an arbitrator.
2. The investor is responsible to carry out the procedures for termination of operation of the offshore investment project in accordance with the law of the investment recipient country and to carry out the procedures for termination of the effectiveness of the offshore IRC.
3. MPI shall terminate the effectiveness of the offshore IRC.

SECTION 4

Implementation of Offshore Investment Activities

Article 65 *Opening a capital account for offshore investment*

1. Investors shall open an offshore investment capital account at an authorized credit institution in Vietnam in accordance with the law on foreign exchange control.
2. Any transaction for remittance of money overseas from Vietnam and into Vietnam relating to offshore investment activities must be conducted through an investment capital account prescribed in clause 1 of this article in accordance with the law on foreign exchange control.

Article 66 *Remittance of investment capital overseas*

1. An investor is permitted to remit investment capital overseas in order to conduct investment activities on satisfaction of the following conditions:
 - (a) Having been issued with an offshore IRC, except in the case prescribed in clause 3 below;
 - (b) The investment activities have been approved or are licensed by the competent agency of the investment recipient country. If the law of the investment recipient country does not stipulate permission for investment or approval of investment, then the investor must have data proving the right to conduct the investment activities in the investment recipient country;
 - (c) Having a capital account as prescribed in article 65 of this Law.
2. Any remittance of investment capital overseas must comply with the laws on foreign exchange control, export and technology transfer and other relevant laws.
3. An investor is permitted to transfer foreign currency or goods, machinery and equipment overseas in order to serve activities being survey, research and market exploration and to conduct other investment preparatory activities in accordance with Government regulations.

Article 67 *Use of profit overseas*

1. An investor may retain profit from offshore investment for reinvestment in the following cases:
 - (a) Continuation to contribute offshore investment capital if the contribution is not yet made in full as registered;
 - (b) Increase in the offshore investment capital;
 - (c) Implementation of a new investment project in the offshore country.
2. An investor shall carry out the procedures for amendment of the offshore IRC in accordance with article 63 of this Law in the cases prescribed in sub-clauses (a) and (b) of clause 1 above and carry out the procedures for issuance of an offshore IRC in accordance with article 61 of this Law in the case prescribed in clause 1(c) of this article.

Article 68 *Repatriation of profit*

1. Except for retaining of profit in accordance with article 67 of this Law, an investor must, within six (6) months from the date on which there is tax finalization or a document of equivalent validity prescribed by the law of the investment recipient country, repatriate all profit received and other income earned from the offshore investment.
2. An investor who fails to repatriate profit and other income within the period stipulated in clause 1 above must provide written notification to MPI and the State Bank of Vietnam. The time-limit for repatriation of profit may be extended but by no more than twelve (12) months after the date of expiry of the time-limit prescribed in clause 1 above
3. If on expiry of the time-limit prescribed in clause 1 above profit has not been repatriated and notification [as stipulated in clause 2 above] has not been provided or if on expiry of the extended time-limit prescribed in clause 2 above the investor has failed to repatriate profit, then investor shall be dealt with in accordance with law.

CHAPTER 6

State Administration of Investment

Article 69 *Responsibilities for State administration of investment*

1. The Government exercises uniform State administration of investment in Vietnam and of investment from Vietnam to overseas countries.
2. The Ministry of Planning and Investment [MPI] assists the Government to exercise uniform State administration of investment in Vietnam and investment from Vietnam to overseas countries and has the following duties and powers:
 - (a) To submit to the Government and to the Prime Minister of the Government to approve strategies, plans and policies on investment in Vietnam and on investment from Vietnam to overseas countries;
 - (b) To promulgate or to submit to the competent agency to promulgate legal instruments on investment in Vietnam and on investment from Vietnam to overseas countries;
 - (c) To promulgate the standard forms for conducting procedures for investment in Vietnam and for investment from Vietnam to overseas countries;
 - (d) To guide, disseminate and organize implementation of legal instruments on investment, and to monitor, inspect and assess such implementation;
 - (dd) To formulate and submit to the competent agency to promulgate a regime on resolving difficulties for investors and on preventing disputes between the State and investors;
 - (e) To compile, assess and report the status of investments in Vietnam and of investments from Vietnam to overseas countries;
 - (g) To formulate, manage and operate a national information system on investment and a national database on investment;
 - (h) To issue, amend and terminate effectiveness of offshore investment registration certificates;

- (i) To conduct State administration of industrial zones, export processing zones and economic zones;
 - (k) To conduct State administration of investment promotion and coordinate investment promotion activities in Vietnam and overseas;
 - (l) To conduct checks and inspections, to supervise and assess investment activities, to manage and co-ordinate management of investment activities in accordance with authority;
 - (m) To negotiate and sign international treaties relating to investment in accordance with authority;
 - (n) To undertake other duties and powers regarding State administration of investment in accordance with delegation of authority from the Government and Prime Minister of the Government.
3. Ministries and ministerial equivalent agencies, within the scope of their respective duties and powers, are responsible to co-ordinate with MPI in undertaking the task of State administration of investment in Vietnam and of investments from Vietnam to overseas countries, comprising:
- (a) To co-ordinate with MPI, other ministries and ministerial equivalent agencies to draft laws and policies relating to investment activities;
 - (b) To preside over and co-ordinate with [other] ministries and ministerial equivalent agencies to draft and promulgate laws, policies, standards and technical regulations and guide the implementation thereof;
 - (c) To submit business investment conditions in respect of the industries and trades prescribed in article 7 of this Law to the Government for issuance;
 - (d) To preside over and co-ordinate with MPI to formulate master plans, plans and lists of projects for attracting investment capital in their respective industries; and to organize campaigns and specialized investment promotion;
 - (dd) To participate in appraisal of investment projects in the category requiring investment policy approval in accordance with this Law, and to accept liability for the items of such appraisal in accordance with their respective functions and duties;
 - (e) To supervise, evaluate and carry out specialized inspection of satisfaction of investment conditions and undertake State administration of investment projects under their authority;
 - (g) To preside over and co-ordinate with provincial people's committees and [other] ministries and ministerial equivalent agencies to resolve difficulties and problems of investment projects under their State administration; and to provide guidelines on delegation of powers and authorization to industrial zone, export processing zone, high-tech zone and economic zone management boards to perform the task of State management in such industrial zones, export processing zones, high-tech zones and economic zones;
 - (h) To periodically evaluate socio-economic efficiency of investment projects under their State administration and send [the results thereof] to MPI;
 - (i) To provide relevant information to establish a national database on investment; and to maintain and update the information system for investment administration in respect of their

assigned sectors and integrate [their information systems] into the national information system on investment.

4. Provincial people's committees and investment registration agencies are responsible, within the scope of their respective duties and powers, to undertake the task of State administration of investment activities in Vietnam and of investments from Vietnam to overseas countries, comprising:
 - (a) To co-ordinate with ministries and ministerial equivalent agencies to prepare and publish a list of projects for attraction of investment in their locality;
 - (b) To preside over or to participate in appraisal of investment projects requiring investment policy approval in accordance with the provisions of this Law and to be liable for the contents of such appraisals in accordance with their respective functions and duties; and to preside over conduct of procedures for issuance, amendment and revocation of IRCs;
 - (c) To perform the function of State administration in respect of investment projects in their localities;
 - (d) To resolve difficulties and problems of investors within their authority, or to submit same to the competent authority for resolution;
 - (dd) To periodically evaluate efficiency of investment activities in their locality and report [the results thereof] to MPI;
 - (e) To provide relevant information to build a national database on investment; and to maintain and update the national information system on investment;
 - (g) To direct organization, supervision and evaluation of implementation of the investment reporting regime.
5. Overseas representative offices of Vietnam are responsible to monitor and support investment activities of Vietnam and protect the lawful rights and benefits of Vietnamese investors in investment recipient countries.

Article 70 *Supervision and assessment of investment*

1. Investment supervision and assessment activities comprise:
 - (a) Supervision and assessment of [specific] investment projects;
 - (b) Overall investment supervision and assessment.
2. Responsibility for investment supervision and assessment:
 - (a) State administrative agencies for investment and specialized branch State administrative agencies conduct overall investment supervision and assessment and supervision and assessment of [specific] investment projects under their management;
 - (b) Investment registration agencies [IRAs] conduct supervision and assessment of investment projects subject to their authority to issue IRCs.
3. Contents of supervision and assessment of investment projects:

- (a) With respect to investment projects using State capital for business investment, the State administrative agency for investment or the specialized branch State administrative agency conducts supervision and evaluation of the investment projects as per the content and criteria approved in the investment decision;
 - (b) With respect to investment projects using other sources of capital, the State administrative agency for investment or the specialized branch State administrative agency conducts supervision and evaluation of the objectives and conformity of investment projects with the master plan and investment policy approved by the authority, the investment schedule and implementation of the requirements for environmental protection, technology, land use and use of other resources in accordance with law;
 - (c) IRAs conducts supervision and assessment of the items prescribed in IRCs and written investment policy approvals.
4. The contents of overall investment supervision and assessment comprise:
- (a) Promulgation of legal instruments providing detailed regulations and guidelines for implementation thereof and implementation of the law on investment;
 - (b) Status of implementation of investment projects;
 - (c) Evaluation of results of nationwide investment implementation by ministries, ministerial equivalent agencies and local authorities; and of investment projects in accordance with delegated powers;
 - (d) Recommendation to the State administrative agency at the same level and the higher level State administrative agency for investment on the results of investment assessment and measures for dealing with problems and breaches of the law on investment.
5. Agencies and organizations conducting assessment shall themselves conduct or hire an eligible expert or consultant with full capability to conduct assessment.
6. The Government shall provide detailed regulations on this article.

Article 71 *National information system on investment*

1. The national information system on investment comprises:
- (a) National information system on domestic investment;
 - (b) National information system on foreign investment in Vietnam;
 - (c) National information system on investment from Vietnam to overseas countries [offshore investment];
 - (d) National information system on investment promotion;
 - (dd) National information system on industrial zones and economic zones.
2. MPI presides over and co-ordinates with relevant agencies to build and operate the national information system on investment, and build a national database on investment; and evaluates the operation of the system by State administrative agencies for investment at the central and local levels.

3. State administrative agencies for investment and investors are responsible to promptly, fully and accurately update relevant information into the national information system on investment.
4. Information about investment projects archived in the national information system on investment shall be valid the same as the original [source] information about such investment projects.

Article 72 *Regime of reporting investment activities in Vietnam*

1. Entities implementing the reporting regime comprise:
 - (a) Ministries, ministerial equivalent agencies and provincial people's committees;
 - (b) Investment registration agencies [IRAs];
 - (c) Investors and economic organizations implementing investment projects in accordance with this Law.
2. The periodical reporting regime is implemented as follows:
 - (a) Investors and economic organizations implementing investment projects shall report on a quarterly and annual basis to the IRA and statistics agency of their respective locality the status of implementation of their investment project, comprising the following items: realized investment capital, results of business investment activities, information about labour and payments to the State budget; investment in research and development; dealing with and protection of the environment, and [other] specialized norms depending on the operational sector;
 - (b) The IRA shall report on a quarterly and annual basis to MPI and to provincial people's committees on the status of receipt [of application files for issuance of IRCs], and on issuance, amendment and revocation of IRCs and on the status of operation of investment projects under their management;
 - (c) Provincial people's committees shall compile and report the status of investment in their locality to MPI on a quarterly and annual basis;
 - (d) Ministries and ministerial equivalent agencies shall report on a quarterly and annual basis the status of issuance, amendment and revocation of IRCs or documents of equivalent validity (if any) under their management and investment activities relating to their management to MPI for compilation and report to the Prime Minister of the Government;
 - (dd) MPI shall report the status of nationwide investment and evaluation of the status of implementation of investment reporting regime by the agencies prescribed in clause 1 of this article to the Prime Minister of the Government on an annual basis.
3. Agencies, investors and economic organizations shall provide reports in writing via the national information system on investment.
4. The agencies, investors and economic organizations prescribed in clause 1 of this article shall provide extraordinary reports upon request from a competent State agency.
5. With respect to projects not in the category requiring an IRC to be issued, the investors shall report to the IRA before implementation of the investment project.

Article 73 *Regime of reporting on offshore investment activities*

1. Agencies, organizations and individuals implementing the reporting regime comprise:
 - (a) Ministries and ministerial equivalent agencies with the duties of managing offshore investment activities in accordance with law; and agencies acting as representatives of the State capital in enterprises;
 - (b) Investors implementing offshore investment projects in accordance with this Law.
2. Reporting regime by the entities prescribed in clause 1(a) of this article is implemented as follows:
 - (a) [Such entities] shall send on an annual basis periodical reports on the status of administration of offshore investment activities depending on their respective functions and duties to MPI for compilation and reporting to the Prime Minister;
 - (b) MPI shall submit on an annual basis periodical reports on the status of offshore investment to the Prime Minister of the Government.
3. The reporting regime by investors is implemented as follows:
 - (a) Within sixty (60) days from the date on which the investment project is approved or licensed in accordance with the law of the investment recipient country, the investor must notify in writing the implementation of the offshore investment activities accompanied by a copy of the written approval of the investment project or a document proving the right to carry out investment activities in the investment recipient country to MPI, the State Bank of Vietnam and the representative office of Vietnam in the investment recipient country;
 - (b) Investors shall send periodical reports on the status of operation of their investment projects to MPI, to the State Bank of Vietnam, and to the representative office of Vietnam in the investment recipient country on a quarterly and annual basis;
 - (c) Within six months from the date on which there is a tax finalization report or a document of equivalent validity prescribed by the law of the investment recipient country, the investor shall send a report on the status of operation of the investment project accompanied by the financial statements, the tax finalization report or a document of equivalent validity prescribed by the law of the investment recipient country to MPI, the State Bank of Vietnam, the Ministry of Finance, the representative office of Vietnam in the investment recipient country and the competent State administrative agency in accordance with this Law and other relevant laws;
 - (d) With respect to offshore investment projects using State capital, in addition to implementation of the reporting regime prescribed in paragraphs (a), (b) and (c) of this clause, the investor must implement the investment reporting regime in accordance with the law on management and use of State capital for production and business in enterprises.
4. The reports prescribed in clauses 2 and 3 of this article shall be made in writing via the national information system on investment.
5. The agencies and investors prescribed in clause 1 of this article shall submit extraordinary reports upon request from a competent State agency when there is a requirement relating to the work of State administration or issues arising in relation to the investment project.

Article 74 *Investment promotion activities*

1. The Government directs the formulation and arranges the implementation of policies and orientations for investment promotion for the purpose of promoting and facilitating investment activities on the basis of branches, regions and partners in compliance with strategies, master plans, plans and objectives of socio-economic development in each period; and ensures implementation of programs on and activities of investment promotion which are of the inter-regional and inter-branch nature and are linked with trade promotion and tourism promotion.
2. MPI formulates and arranges the implementation of a national plan or program on investment promotion; coordinates inter-regional and inter-provincial investment promotion activities; and monitors, supervises and assesses the efficiency of investment promotion in the entire country.
3. Ministries, ministerial equivalent agencies and provincial people's committees, within the scope of their respective functions, duties and powers, formulate and arrange implementation of plans and programs on investment promotion in sectors and areas under their management in compliance with strategies, master plans and plans on socio-economic development and the national program on investment promotion.
4. Funds for formulation and arrangement of implementation of the program on investment promotion are sourced from the State budget and other lawful funding sources.
5. The Government shall provide detailed regulations on this article.

CHAPTER 7

Organization of Implementation

Article 75 *Amendments and additions to a number of laws relevant to business investment*

1. *Law 65/2014/QH13 on Residential Housing* as amended by *Law 40/2019/QH14* is amended and supplemented as follows:
 - (a) Clause 2 of article 21 [*Conditions to become the developer of an investment project in construction of commercial residential housing*]³ is amended as follows:

"2. Having an escrow capital deposit or a bank guarantee regarding the obligation to provide an escrow deposit in order to implement each project in accordance with the law on investment."
 - (b) Clause 2(c) of article 22 [*Investment project in construction of commercial residential housing and selection of project developer*] is amended as follows:

[2. The developer [investor] of an investment project for construction of commercial residential housing is selected via the following forms]:

"(c) Approval of an investor in accordance with the provisions of the *Law on Investment*. If a number of investors are approved then the investor is determined in accordance with the provisions of the *Law on Construction*.

The Government shall provide detailed regulations on this clause."

³ Allens footnote: Square brackets contain the name of the heading or contents of the article in question for ease of reference.

- (c) Clause 1 of article 23 [*Form of land use for implementation of project for construction of commercial residential housing*] is amended as follows:
- "1. Having the lawful right to use the residential land and the other types of land for which the competent State agency permits conversion of land use purpose to residential land."
- (d) Clause 2 of article 170 [*Investment policy decision for a project for construction of residential housing*] is amended as follows:
- "2. Projects for construction of other residential housing in the category requiring investment policy approval pursuant to the *Law on Investment* shall be implemented in accordance with the provisions of the *Law on Investment*."
- (dd) Clause 7 of article 175 [*Responsibilities of the Ministry of Construction*] is amended as follows:
- "7. To arrange professional training on development and management of residential housing, and to regulate the issuance of certificates of completion of training courses on management of operation of apartment buildings, and to regulate and recognize classification/grading of apartment buildings."
- (e) The following are repealed namely article 22.3 [*Reporting on selection of developers for investment projects for construction of commercial residential housing*] and article 171 [*Research and application of science and technology, and international co-operation in the residential housing sector*].

2. *Law 66/2014/QH13 on Real Estate Business* is amended and supplemented as follows:

- (a) Clause 1 of article 10 [*Conditions applicable to organizations and individuals engaged in real estate business*] is amended as follows:
- "1. Any organization or individual engaged in real estate business must establish an enterprise or cooperative (hereinafter referred to as an *enterprise*), except for the cases stipulated in clause 2 of this article."

- (b) Article 50 is amended as follows:

"Article 50 *Authority to permit transfer of a part of or an entire real estate project*

1. In the case of a real estate project for which the investor was approved or for which an investment registration certificate was issued in accordance with the *Law on Investment*, authority and procedures for permission to transfer of a part of or the entire real estate project are implemented in accordance with the provisions of the *Law on Investment*.
2. In the case of a real estate project not in the category prescribed in clause 1 above, authority to permit transfer of a part of or the entire real estate project is regulated as follows:
 - (a) People's committees of provinces and cities under central authority (hereinafter referred to as provincial people's committees) decide on permission to transfer a part of or the entire real estate project in the case of a project for which the provincial people's committee made the investment decision;

- (b) The Prime Minister of the Government decides on permission to transfer a part of or the entire real estate project in the case of a project for which the Prime Minister made the investment decision;"
- (c) The following sentence is inserted before the beginning of clause 1 of article 51 [*Procedures for transfer of a part of or an entire real estate project*].

"The procedures for transfer of a part of or an entire real estate project as prescribed in article 50.2 of this Law are implemented as follows:"

- 3. Clause 2 of article 25 [*Approval of the environmental impact assessment report*] of Law 55/2014/QH13 on *Environmental Protection* as amended by Law 35/2018/QH14 and Law 39/2019/QH14 is amended as follows:

- (a) Clause 2(a) of article 25 is amended and supplemented as follows:

[2. The decision certifying the environmental impact assessment report serves as the basis for the competent agency's following tasks:]

"(a) In the case of the entities prescribed in article 18 of this Law [*projects requiring an environmental impact assessment*], the authorized level shall rely on the preliminary environmental impact assessment to provide investment policy approval; and the investor is only permitted to implement the project after an environmental impact assessment report has been approved.

In the case of a public investment project, the authorized level shall rely on the preliminary environmental impact assessment to make the investment policy approval decision; and shall rely on the environmental impact assessment [report] to make the investment decision for any project prescribed in article 13 of this Law. The Government shall provide detailed regulations on entities [requiring] and the contents of a preliminary environmental impact assessment;"

- (b) Clause 2(dd) of article 25 is amended and supplemented as follows:

"(dd) Applicable to the projects not covered by sub-clauses (a), (b), (c) and (d) above, the authorized level shall rely on the preliminary environmental impact assessment to issue the IRC, except where the IRC is issued at the request of the investor; and the investor is only permitted to implement the project after an environmental impact assessment report has been approved."

- 4. Law 14/2008/QH12 on Corporate Income Tax [CIT] as amended by Law 32/2013/QH13 and Law 71/2014/QH13 is amended and supplemented as follows:

- (a) Clause 5a is added after clause 5 of article 13 [*Incentives being preferential tax rates*] as follows:

"5a. In the case of the investment projects prescribed in article 20.2 of the *Law on Investment*, the Prime Minister [may] decide to apply a preferential tax rate reducing by no more than 50% the preferential tax rate prescribed in clause 1 of this article. The term of application of [such] preferential tax rate shall not exceed 1.5 times the term of application of the preferential tax rate prescribed in clause 1 and may be extended for no more than 15 years and must not exceed the term of the investment project";

- (b) Clause 1a is added after clause 1 of article 14 [*Incentives being duration of tax exemption and reduction*] as follows:

"1a. With respect to the investment projects prescribed in article 20.2 of the *Law on Investment*, the Prime Minister [may] decide to apply tax exemption for no more than 6 years and a reduction of 50% of the maximum of tax payable for no more than the 13 subsequent years".

5. *Law 62/2006/QH11 on Cinematography* as amended by *Law 31/2011/QH12* and *Law 35/2008/Qh14* is amended as follows:

(a) The following are repealed: Articles 14 [*Conditions for establishment of cinema enterprises*], 15 [*Criteria and conditions for acting as director/general director of a cinema enterprise*] and 30.3 [*Import/export of films by film production enterprises*]:

(b) "14," is deleted in article 55.⁴ .

6. Article 10 [*Conditions applicable to consultants involved in urban master planning*] and article 43.2(a) [*Evaluation of urban master plans*] of *Law 30/2009/Qh12 on Urban Master planning* as amended *Law 77/2015/QH13*, *Law 35/2018/QH14* and *Law 40/2019/QH14* are repealed.

Article 76 *Effectiveness*

1. This Law is of full force and effect as of 1 January 2021, except for the provision in clause 2 of this article.
2. The provisions in article 75.3 of this Law shall be of full force and effect as from 1 September 2020.
3. *Law 67/2014/QH14 on Investment* as amended by *Law 90/2015/QH13*, *Law 03/2016/QH14*, *Law 04/2017/QH14*, *Law 28/2018/QH14* and *Law 42/2019/QH14* shall no longer be effective as from the effective date of this Law, except for article 75 of *Law 67/2014/QH14 on Investment*.
4. Individuals being Vietnamese citizens may use their personal identification numbers [PINs] instead of a copy of their citizen's identity cards, personal identity cards, passports or other personal identification documents when conducting administrative procedures stipulated in the *Law on Investment* and *Law on Enterprises* when the national database on residents is connected to the national database on registration of investments and enterprises.
4. Any legal instrument which refers to provisions on project approval decisions and investment policy decisions in accordance with the *Law on Investment* shall be implemented in accordance with the provisions on investment policy approval stipulated in this Law.

Article 77 *Transitional provisions*

1. Investors issued with an investment licence, investment incentive certificate, investment certificate or investment registration certificate prior to the effective date of this Law shall implement their investment projects in accordance with such issued investment licence, investment incentive certificate, investment certificate or investment registration certificate.
2. An investor is not required to carry out the procedures for investment policy approval in accordance with this Law with respect to a project in any one of the following cases:

⁴ Allens footnote: Article 55 lists the articles on which the Government provides detailed regulations, which will now exclude article 14 regulating conditions for establishment of cinematographic enterprises.

- (a) The investor was issued by the competent State agency with an investment policy decision, investment policy approval or investment approval in accordance with the laws on investment, residential housing, urban zones or construction prior to the effective date of this Law;
 - (b) The project was not in the category requiring investment policy approval, an investment policy decision, investment approval [or] issuance of an investment registration certificate in accordance with the laws on investment, residential housing, urban zones or construction, and the investor had commenced implementation of the investment project in accordance with law prior to the effective date of this Law;
 - (c) An investor won tendering for selection of investor or was successful at an auction of a land use right prior to the effective date of this Law;
 - (d) The project was issued with an investment incentive certificate, investment licence, investment certificate or investment registration certificate prior to the effective date of this Law.
3. If an investment project prescribed in clause 2 above is amended and the amended contents fall within the category requiring investment policy approval pursuant to this Law, then procedures in accordance with this Law must be carried out to obtain investment policy approval or amendment of the investment policy.
4. Any investment project implemented or approved or permitted to be implemented in accordance with law prior to 1 July 2015 and in the category requiring a guarantee [security] for contractual performance as prescribed in this Law, is not required to have an escrow deposit or a bank guarantee regarding the obligation to provide an escrow deposit. If the investor amends the objectives or schedule for implementation of the investment project [or] converts land use purpose after the effective date of this Law, then the investor must provide an escrow deposit or a bank guarantee regarding the obligation to provide an escrow deposit in accordance with the provisions of this Law.
5. A contract to provide debt collection services entered into prior to the effective date of this Law shall have its effectiveness terminated [shall no longer be effective] as from the effective date of this Law; and the parties to such contract must carry out activities to liquidate the contract in accordance with the civil law and provisions of other relevant laws.
6. Economic organizations with foreign investment capital to which market approach conditions more favorable than those prescribed in the List issued with article 9 of this Law were applied, may continue to apply the conditions prescribed in their issued investment registration certificate.
7. The provision in article 44.3 of this Law applies to both projects for which land was handed over prior to the effective date of this Law and to projects for which land has not yet been handed over.
8. Where the law provides that the components of a file for resolution of an administrative procedure must include an investment registration certificate or written investment policy approval but the investment project is not in the category requiring issuance of an investment registration certificate or investment policy approval in accordance with this Law, then the investor is not required to submit an investment registration certificate or written investment policy approval.
9. With respect to localities which suffer difficulties in arranging a land fund for development of residential housing, service facilities and public utilities for employees working in industrial zones, the competent State agency may adjust the master plan for construction of industrial zones (applicable to

industrial zones established prior to 1 July 2014) to reserve part of the land area for development of residential housing, service facilities and public utilities for employees working in the industrial zones.

Upon adjustment of the master plan, the land area for development of residential housing, service facilities and public utilities for employees working in an industrial zone must be outside the geographical boundary of the industrial zone and must ensure an environmentally safe distance in accordance with the law on construction and provisions of [other] relevant laws.

10. The following transitional provisions apply to offshore investment activities:
 - (a) Provisions on the duration of operation of an offshore investment project in offshore investment licences and offshore investment certificates issued prior to 1 July 2015 are no longer effective;
 - (b) Any investor issued with an offshore investment licence or certificate or offshore investment registration certificate to conduct offshore investment in an industry or trade for which offshore investment is conditional pursuant to this Law, may continue to implement [such investment] in accordance with the issued offshore investment licence or certificate or offshore investment registration certificate.
11. As from the effective date of this Law, any valid [application] file received and for which the deadline for resolution has expired but the results [of resolution] have not been delivered in accordance with *Law 67/2014/QH14 on Investment* as amended by *Law 90/2015/QH13*, *Law 03/2016/QH14*, *Law 04/2017/QH14*, *Law 28/2018/QH14* and *Law 42/2019/QH14* shall continue to apply [be implemented] in accordance with *Law 67/2014/QH14 on Investment* as amended by *Law 90/2015/QH13*, *Law 03/2016/QH14*, *Law 04/2017/QH14*, *Law 28/2018/QH14* and *Law 42/2019/QH14*.
12. The Government shall provide detailed regulations on this article.

This Law was passed by Legislature XIV of the National Assembly of the Socialist Republic of Vietnam at its 9th Session on 17 June 2020.

Chairman of the National Assembly
NGUYEN THI KIM NGAN

Appendix 4

LIST OF INDUSTRIES AND TRADES IN WHICH BUSINESS INVESTMENT IS CONDITIONAL

No	Industry or Trade
1	Production of seals
2	Trading support devices [small size weaponry and combat gear] (including repair)
3	Trading fireworks, except for firecrackers
4	Trading equipment and camouflage software used for sound recording, image recording and locating
5	Trading paintball guns
6	Trading military equipment and supplies for the people's armed forces, military weapons, technical equipment, ammunition and specialized vehicles used for the army and police; and components, accessories, spare parts and specialized equipment and technology used for their production
7	Pawnshop services
8	Massage services
9	Trading signalling or warning equipment for priority [or emergency] vehicles
10	Security guard services
11	Fire prevention and firefighting services
12	Lawyer's practice
13	Notary's practice
14	Judicial assessment [legal evaluation] practice in the sectors of finance, banking, construction, antiques, relics, and authorship [copyright]
15	Auctioneer's practice
16	Bailiff's practice
17	Practice by asset managers and liquidators regarding assets of enterprises and co-operatives during resolution of bankruptcy
18	Accounting services
19	Auditing services
20	Tax agency services
21	Customs agency services
22	Trading duty-free goods
23	Bonded warehouse business and business of [leasing out] locations for gathering small volumes of goods ⁵
24	Business of [leasing out] locations for conducting customs procedures, laydown areas [of goods], and for customs inspection and supervision
25	Securities trading
26	Services of securities registration, depository and clearance by Vietnam Securities Depository and Clearing Corporation, and organizing markets for trading listed and other securities
27	Insurance business
28	Reinsurance business
29	Insurance brokerage and insurance auxiliary services

⁵ Allens footnote: This refers to a case when a business entity wishes to gather a large volume of goods before conducting customs procedures/selling etc. but does not have a big enough site to do so and must lease a location from another entity.

No	Industry or Trade
30	Insurance agency
31	Price evaluation services
32	Lotteries business
33	Electronic games with prizes for foreigners
34	Credit rating services
35	Casino business
36	Betting business
37	Voluntary retirement fund management services
38	Petrol and oil trading
39	Gas trading
40	Commercial assessment services
41	Trading industrial explosives (including destruction)
42	Trading explosives precursors
43	Business in industries and trades using industrial explosives and explosives precursors
44	Blasting services
45	Trading chemicals except for prohibited chemicals under the International Convention on prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction
46	Trading wine and spirits [alcohol]
47	Trading tobacco products, tobacco raw materials, and specialized machinery and equipment for the tobacco industry
48	Trading foods under the specialized management of the Ministry of Industry and Trade
49	Commodity Exchange operations
50	Electricity generation, transmission, distribution, wholesaling, retail, and consultancy to the power industry
51	Rice export
52	Temporary import for re-export of goods subject to special sales tax
53	Temporary import for re-export of frozen food
54	Temporary import for re-export of goods on the List of second-hand goods
55	Trading minerals
56	Trading industrial precursors
57	Trading goods and activities directly relating to trading goods [distribution] by foreign service providers in Vietnam
58	Pyramid [multi-level] sales
59	E-commerce activities
60	Petroleum activities
61	Energy auditing
62	Vocational educational activities
63	Quality control testing of vocational education
64	Occupational skill assessment services
65	Labour safety [occupational] technical accreditation services
66	Occupational safety and hygiene training services
67	Employment agency services

No	Industry or Trade
68	Overseas employment agency services [for workers going to work overseas]
69	Voluntary drug rehabilitation services; and services of curing smoking addiction; HIV/AIDS treatment; and services of caring for aged, disabled/handicapped and children
70	Labour sub-leasing [outsourcing] services
71	Road transport services
72	Automobile warranty and maintenance services
73	Manufacture, assembly and import of automobiles
74	Motor vehicle testing services
75	Automobile driving instruction services
76	Traffic safety inspector training services
77	Vehicle driving test services
78	Traffic safety assessment services
79	Waterway transport services
80	Services of new building, rebuilding and repair of inland watercraft
81	Services of training crew and operators of inland watercraft
82	Training maritime crew and arranging recruitment and supply of maritime crew
83	Maritime navigation services
84	Sea transport
85	Shipping tugboat [ship towing] services
86	Import and dismantling of second-hand ships
87	Ship building, conversion and repair services
88	Seaport operation business
89	Air transport business
90	Services of design, manufacture, maintenance and testing of aircraft, aircraft engines, propellers and other aircraft equipment in Vietnam
91	Airport and aerodrome business
92	Aviation services at airports and aerodromes
93	Air flight operation assurance [navigation] services
94	Airline staff [flight crew] training services
95	Rail transport business
96	Rail infrastructure business [commercial operation of rail infrastructure]
97	Urban rail business
98	Multimodal transport services
99	Services of transport of dangerous [hazardous] goods
100	Conduit [pipeline] transport services
101	Real estate trading
102	Clean water (domestic water) trading
103	Architectural business services
104	Construction project management consultancy
105	Construction survey services
106	Services of construction design and evaluation of construction design

No	Industry or Trade
107	Construction [building of works] supervision consultancy services
108	Construction [building of works] services
109	Foreign contractors' construction activities
110	Construction investment costs management services
111	Construction inspection services
112	Specialized construction laboratory testing services
113	Services of management and operation of apartment buildings
114	Services of cremation management and operation of cremation facilities
115	Services of formulation of design of construction planning
116	Trading white asbestos of the Serpentine group
117	Postal services
118	Telecom services
119	Digital signature authentication services
120	Publishers' activities
121	Printing services excluding printing on packaging
122	Publication issuance services ⁶
123	Social network services ⁷
124	Games on telecom networks and the internet ⁸
125	Pay radio and television services
126	General website development services
127	Services of processing, repairing and refurbishing second-hand information technology [IT] products on the List of second-hand IT products prohibited from import for foreign parties
128	Services of provision of information contents on mobile telecom networks and the internet
129	Registration and maintenance of internet domain name services
130	Data centre services
131	Electronic identification and authentication services
132	Network information safety products and services
133	Imported newspaper distribution services
134	Trading civil cryptography products and services
135	Trading mobile information jamming and breaking devices
136	Operation of pre-school educational institutions
137	Operation of elementary schools
138	Operation of universities
139	Operation of foreign invested education establishments, of representative offices in Vietnam of foreign education establishments and of branches of foreign invested education establishments
140	Operation of continuing education establishments

⁶ Allens footnote: This refers to printing and selling magazines, books, newspapers etc.

⁷ Allens footnote: An example may be Zalo (a type of Facebook or Instagram in Vietnam), a network which allows users to post photos/texts, interact on their own and others' posts, and chat/call one another free.

⁸ Allens footnote: These games are usually referred to as "added value services", being games provided by telecom providers in cooperation with other partners, which can be played without the use of the internet (by sending text messages, etc.)

No	Industry or Trade
141	Operation of specialized schools
142	Training activities in association with foreign parties [Twinning]
143	Educational quality accreditation services
144	Overseas study consultancy services
145	Aquaculture exploitation [fisheries]
146	Aquaculture business [trading]
147	Trading aquaculture feed and feed for breeding animals
148	Services of testing aquatic feed and feed for breeding animals
149	Trading biological preparations, micro-organisms, chemicals and environment remedial agents [used] during aquaculture cultivation or breeding
150	Construction of new fishing vessels and repair of old fishing vessels
151	Registration of fishing vessels
152	Training crew members of fishing vessels
153	Breeding and cultivation of wild flora and fauna species on the CITES Convention Appendix and those on the List of rare, precious and endangered forest and aquatic flora and fauna
154	Breeding and raising common wild animals
155	Export, import, re-export, transit, and entry into Vietnam from the sea of natural specimens of species on the CITES Convention Appendix and those on the List of rare, precious and endangered forest and aquatic flora and fauna
156	Export, import, and re-export of bred, raised or artificially propagated specimens of species on the CITES Convention Appendix and those on the List of rare, precious and endangered forest and aquatic flora and fauna
157	Processing, trading, transporting, advertising, displaying and storing specimens of plants and animals [flora and fauna] on the CITES Convention Appendix and those on the List of rare, precious and endangered forest and aquatic flora and fauna
158	Trading plant protection products
159	Services of treating objects subject to plant quarantine
160	Plant protection product testing services
161	Plant protection services
162	Trading veterinary medicines, vaccines, biological preparations, micro-organisms and chemicals used in veterinary medicine
163	Veterinary technical services
164	Animal testing and surgery services
165	Animal vaccination, diagnosis, prescription, treatment and healthcare services [veterinary practice]
166	Services of testing and experimenting on veterinary medicine (comprising veterinary drugs, aquatic veterinary drugs, vaccines, biological preparations, micro-organisms and chemicals used in veterinary medicine and aquaculture veterinary medicine)
167	Farm breeding/husbandry services [farming business]
168	Services of slaughtering domestic animals and poultry
169	Trading food under the management of the Ministry of Agriculture and Rural Development
170	Services of quarantining animals and animal products
171	Trading fertilizers
172	Services of testing fertilizers
173	Trading plant [seed] varieties and animal breeds

No	Industry or Trade
174	Trading aquaculture [aquatic and fisheries] seeds
175	Services of testing seed varieties and animal breeds
176	Services of testing aquaculture seeds
177	Services of testing biological preparations, micro-organisms, chemicals and environment remedial agents serving aquaculture
178	Trading genetically modified products
179	Medical diagnostic and treatment services
180	Cosmetic surgery services
181	Trading pharmaceutical drugs [pharmacy business]
182	Production of cosmetics
183	Trading anti-insect and anti-bacterial chemicals used in the household and medical sectors
184	Trading medical equipment
185	Industrial property assessment services (comprising assessment of copyright and related rights, assessment of industrial property ownership and assessment of rights relating to seed varieties)
186	Services of conducting radiation work ⁹
187	Ancillary services of atomic energy application
188	Conformity assessment services
189	Services of inspection, calibration and testing of measurement instruments and standards
190	Technology assessment, pricing/valuation and evaluation services
191	Intellectual property representation services (comprising industrial property representation services and services of right representation with respect to plant varieties)
192	Services of film release and distribution
193	Antiques assessment services
194	Services of project planning or organizing actual building work and supervising such building work to maintain, refurbish or restore relics [or monuments]
195	Karaoke and dance club business
196	Travel [tourism] services
197	Sports business activities of sports enterprises and of professional sports clubs
198	Art performances, fashion shows, beauty and model contest services
199	Trading audios and videos of dance, music and stage performances
200	Accommodation services
201	Trading national treasures, relics and antiques
202	Export of relics and antiques not owned by the State or by political or socio-political organizations; import of cultural articles under the specialized management of the Ministry of Culture, Sports and Tourism
203	Museum services
204	Trading electronic games (except for electronic games with prizes for foreigners and online electronic games)
205	Land survey and assessment consultancy services
206	Services of formulation of land use master planning and plans
207	Services of formulation of land information IT infrastructure and software development services for such land information systems

⁹ Allens footnote: An example may be carrying out radiation to treat fruit for export.

No	Industry or Trade
208	Services of formulation of land databases
209	Land price determination services
210	Measurement and mapping services
211	Hydro-meteorological forecasting and warning services
212	Underground water drilling and exploration services
213	Services of exploitation and use of water resources, and of discharge of waste water into water sources
214	Services of basic surveys of, and consultancy on planning and formulation of proposals and reports on water resources
215	Mineral exploration services
216	Mineral mining
217	Services of transportation and treatment of hazardous waste
218	Import of scrap
219	Environmental surveillance [monitoring] services
220	Operation of commercial banks
221	Operation of non-banking credit institutions
222	Operation of cooperative banks, people's credit funds and micro-finance institutions
223	Provision of intermediary payment services and provision of payment services via payment accounts of customers
224	Provision of credit information services
225	Foreign exchange activities of organizations which are not credit institutions
226	Gold trading
227	Money printing and minting activities.