

**THE GOVERNMENT**

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**THE SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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No. 31/2021/ND-CP

*Hanoi, March 26, 2021*

## **DECREE**

### **ELABORATION OF SOME ARTICLES OF THE LAW ON INVESTMENT**

*Pursuant to the Law on Government Organization dated June 19, 2015; Law on Amendments to the Law on Government Organization and the Law on Local Government Organization dated November 22, 2019;*

*Pursuant to the Law on Investment dated June 17, 2020;*

*Pursuant to the Law on Enterprises dated June 17, 2020;*

*At the request of the Minister of Planning and Investment;*

*The Government hereby promulgates a Decree to elaborate some articles of the Law on Investment.*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope and regulated entities**

1. This Decree elaborates and provides guidelines for some Articles of the Law on Investment on investment conditions; business lines and conditions for market access by foreign investors (hereinafter referred to as “market access”); guarantees for business investment; investment incentives and assistance; outward investment activities; investment promotion; state management of investment in Vietnam and outward investment.

2. Outward investment activities specified in Point d Clause 1 Article 52 of the Law on Investment; outward investment in the petroleum field; procedures for granting approval for investment guidelines by the National Assembly; investment supervision and assessment are prescribed in separate Decrees of the Government.

3. This Decree applies to investors and competent authorities, organizations and individuals that are relevant to business investment activities in Vietnam and outward business investment activities.

#### **Article 2. Definitions**

For the purposes of this Decree, the terms below are construed as follows:

1. “valid copy” means a copy that is extracted from the master register or authenticated by a competent authority (or from the national database for information about population, enterprise registration and investment stored therein).
2. “original dossier” means the dossier for following investment procedures specified in Clause 7 of this Article, which consists of original documents or valid copies, except documents in foreign languages and Vietnamese translations thereof.
3. “National Investment Portal” is part of the National Investment Information System and used for following procedures for issuance and revision of investment registration certificates and outward investment registration certificates; posting and updating legislative documents policies and market access conditions; update and access of information about investment promotion, foreign investment in Vietnam, outward investment, development of industrial zones, economic zones, and state management of investment activities.
4. “incentive-applying authority” is either a tax authority, finance authority, customs authority or another authority depending on the type of investment incentive.
5. “investment-related international treaty” means an international treaty to which the State or the Government of the Socialist Republic of Vietnam is a signatory and which specifies the rights and obligations of the State or the Government of the Socialist Republic of Vietnam to investment activities of investors in the member countries or territories (hereinafter referred to as “countries”) of the treaty. Investment-related international treaties include:
  - a) Bilateral and multilateral agreements in investment protection and encouragement;
  - b) Free Trade Agreements and other Regional Economic Integration Agreements;
  - c) Protocol of Accession of Vietnam to WTO signed on November 07, 2006;
  - d) Other International Agreements that specify the rights and obligations of the State or the Government of the Socialist Republic of Vietnam to investment activities.
6. “valid application” means an application that contains all the documents with adequate information prescribed by the Law on Investment, this Decree.
7. “investment documents” are documents prepared by the investor or a competent authority for follow procedures for issuance, revision of the decision on approval for investment guidelines, Certificate of Investment Registration, Certificate of Registration of Outward Investment and relevant procedures for investment activities prescribed by the Law on Investment and this Decree.
8. “other areas that affect defense and security” are areas determined according to regulations of law on defense and security, including:

- a) Areas with defense and security-related works, military areas, restricted areas, protected areas, safety corridor of defense works and military areas prescribed by regulations of law on protection of defense works and military areas;
- b) Areas adjacent to locations of political, economic, technological, cultural, social importance under protection of armed police forces;
- c) Important works relevant to national security and protection corridors thereof prescribed by regulations of law on protection of important works relevant to national security;
- d) Military - economic zones prescribed by regulations of the Government on combination of socio-economic and military operations;
- dd) Areas with military defense value under decisions of the Prime Minister on approval for the master plan for combination of socio-economic development and defense;
- e) Areas where foreign organizations and individuals are not permitted to own houses of assurance of defense and security as prescribed by housing laws.

9. “the Law on Enterprises” means Law No. 59/2020/QH14 ratified by the 14<sup>th</sup> National Assembly of the Socialist Republic of Vietnam during its 9<sup>th</sup> session on June 17, 2020.

10. “the 2014’s Law on Enterprises” means Law No. 68/2014/QH13 ratified by the 13<sup>th</sup> National Assembly of the Socialist Republic of Vietnam during its 8<sup>th</sup> session on November 26, 2014.

11. “the Law on Investment” means Law No. 61/2020/QH14 ratified by the 14<sup>th</sup> National Assembly of the Socialist Republic of Vietnam during its 9<sup>th</sup> session on June 17, 2020.

12. “the 2014’s Law on Investment” means Law No. 67/2014/QH13 ratified by the 13<sup>th</sup> National Assembly of the Socialist Republic of Vietnam during its 8<sup>th</sup> session on November 26, 2014, some Articles of which have been amended by Law No. 90/2015/QH13, Law No. 03/2016/QH14, Law No. 04/2017/QH14, Law No. 28/2018/QH14 and Law No. 42/2019/QH14.

13. “business lines without market-access commitment of Vietnam” are business lines that, under investment-related international treaties, Vietnam does not have any commitment or reserve the right to impose measures against market access obligations, national treatment or other obligations on non-discriminatory treatment between domestic investors and foreign investors

14. “foreign business organization” prescribed in Chapter VI of this Decree is any organization that is established according to regulations of law of the foreign country (host country) where a Vietnamese investor has investment activities or investment projects in which the Vietnamese investor has stakes or other sources of financing as prescribed by the host country's law.

15. “documents about the investor’s legal status” are valid copies of the individual’s identity document or documents certifying the establishment and operation of a business organization, including:

a) Personal identification number of a Vietnamese citizen or valid copies of one of the following documents: unexpired ID card, passport, other identify documents of the individual;

b) Valid copies of the following documents: Certificate of Enterprise Registration, Certificate of Establishment, Establishment Decision or other documents with equal legal value of the organization.

16. “rural areas” are administrative divisions other than urban wards, cities and urban districts.

### **Article 3. State’s guarantee to execute investment projects**

1. Depending on the socio-economic conditions and demands for investment attraction in each period, the Prime Minister shall consider and decide to apply forms and contents of guarantee of the State to execute investment projects subject to approval for their investment guidelines by the National Assembly and the Prime Minister, and other important investment projects on infrastructural development at the request of Ministries, ministerial agencies, People’s Committees of provinces and central-affiliated cities (hereinafter referred to as “provincial People’s Committees”).

2. The State’s guarantee to execute investment projects as prescribed in Clause 1 of this Article may be considered to be applied in the following forms:

a) Providing partial assistance in foreign currency balancing according to the foreign exchange management policy and within the capacity for foreign currency balancing from time to time;

b) Other forms of the State’s guarantee decided by the Prime Minister.

3. Public - private partnership (PPP) project investors and enterprises may be considered to apply the forms of investment guarantees specified in Chapter II of the Law on Investment and regulations of law on PPP investment.

### **Article 4. Guarantee for investment incentives upon changes of law**

1. In case revisions to existing legislative documents lead to changes to investment incentives being applied to certain investors before the effective date of the revisions, these investors will have the investment incentives guaranteed in accordance with Article 13 of the Law on Investment.

2. Investment incentives mentioned in Clause 1 of this Article include:

a) Investment incentives specified in the investment license, business license, certificate of investment incentives, investment certificate, investment registration certificate, decision on investment guidelines, decision on approval for investment guidelines or other documents issued and applied by competent persons or competent authorities as prescribed by law;

b) Investment incentives to which the investor is entitled as prescribed by law other than those specified in Point a of this Clause.

3. In case implementation of investment guarantee measures is needed as prescribed in Clause 4 Article 13 of the Law on Investment, the investor shall send a written request to the investment registration authority together with one of the following documents: investment license, business license, certificate of investment incentives, investment certificate, investment registration certificate, decision on investment guidelines, decision on approval for investment guidelines or another document issued by a competent authority or competent person which specifies the investment incentives (if any). The written request shall have the following information:

a) The investor's name and address;

b) The investment incentives prescribed by the legislative document before it is revised, including: types of incentives, eligibility for incentives, level of incentive (if any);

c) The new or revising legislative document that contains changes to the investment incentives being applied to the investor as mentioned in Point b of this Clause;

d) The investor's request for implementation of investment guarantee measures as prescribed in Clause 4 Article 13 of the Law on Investment.

4. The investment registration authority shall consider implementing investment guarantee measures as requested by the investor within 30 days from the receipt of the valid application prescribed in Clause 3 of this Article. If the request is beyond the investment registration authority's jurisdiction, it shall request a competent authority to consider.

## **Article 5. Language in investment documents**

1. Investment documents, documents and reports submitted to competent authorities shall be written in Vietnamese.

2. Investment documents in foreign languages shall be enclosed with their Vietnamese translations by the investors.

3. For investment documents that are available in both Vietnamese and foreign language, the Vietnamese documents shall be used for following investment procedures.

4. Investors are responsible for discrepancies between the translation, the copies and the original document.

## **Article 6. Receipt of applications and handling of investment procedures**

1. The receipt of applications and handling of procedures related to investment activities by investors shall be carried out as follows:

a) Every investor shall take legal responsibility for the legitimacy, accuracy and truthfulness of their application and documents submitted to competent authorities;

b) The receiving authority shall assess the validity of the application and must not require the investor to submit any documents together with the application other than those specified in the Law on Investment and this Decree;

c) When an application needs to be supplemented, the receiving authority shall send a written notification of necessary supplementations to the investor. The notification must specify the bases, supplementations and deadline for supplementation. The investor has the responsibility to supplement the application by the deadline specified in the notification. If the investor fails to supplement the application by the deadline, the Ministry of Planning and Investment and investment registration authority shall consider suspend the application processing and notify the investor in writing;

d) When requiring the investor to provide explanation for contents of the application, the Ministry of Planning and Investment and investment registration authority shall send the investor a notification specifying the deadline for explanation. If the investor fails to provide explanation upon request, the Ministry of Planning and Investment and investment registration authority shall send a notification of suspension of application processing to the investor;

dd) The time spent on supplementation or explanation specified in Points c and d of this Clause and duration of imposition of penalties for administrative violations against regulations on investment (if any) shall not be included in the procedure-handling time in accordance with the Law on Investment and this Decree.

e) In case of refusal to issue or adjust the decision on approval for investment guidelines, decision on investor approval, investment registration certificate, outward investment registration certificate and other administrative documents on investment prescribed in the Law on Investment and this Decree, the Ministry of Planning and Investment and investment registration authority shall send the investor a notification specifying the reason therefor.

2. The collection of regulatory authorities' opinions during the application processing shall be carried out as follows:

a) The enquiring authority shall determine whether contents about which opinions are collected are suitable for functions and duties of the enquired authorities and determine the deadline for giving response in accordance with regulations of the Law on Investment and this Decree;

b) The enquired authorities shall give response by the deadline specified in Point a of this Clause and take responsibility for their opinions within their functions and duties; if an authority fails to give any opinion by the aforementioned deadline, it is considered that it concurs with the contents under its management.

3. Competent authorities and persons shall only take responsibility for the contents assigned to approve, appraise or handle as prescribed in the Law on Investment and this Decree; shall not

take responsibility for the contents previously approved, appraised or handled by other competent authorities and persons.

4. The Ministry of Planning and Investment, investment registration authorities and other regulatory authorities shall not settle disputes between investors and between investors and concerned organizations and individuals during the process of carrying investment activities.

5. Investors shall bear responsibility as prescribed by law and bear all costs in case of failure to implement or incorrectly implementing the procedures specified in the Law on Investment, this Decree and relevant regulations of law.

#### **Article 7. Handling forged documents**

1. If a competent authority or competent person determines that there is forged content of the investment documents, the investment registration authority shall:

- a) notify the investor of the violation;
- b) invalidate or request the competent authority or competent person to consider invalidating the decision on approval for investment guidelines, decision on investor approval, investment registration certificate, outward investment registration certificate and other relevant documents (hereinafter referred to as “documents”) issued for the first time or invalidate the documents which are based on the forged information;
- c) restore the original documents issued based on the latest valid application, handle the violation or report to a competent authority or authorized person to do so as prescribed by law.

2. The investor is legally liable for any damage caused by forging contents of documents.

#### **Article 8. Responsibility to publish and provide information about investment projects**

1. Investment registration authorities, planning, resources, environment and construction authorities, and other regulatory bodies shall make publicly available the planning and list of investment projects in accordance with law.

2. Where an investor requests information about the planning or list of investment project and other information related to investment projects, the authorities mentioned in Clause 1 of this Article shall provide information within their competence for such investor within 05 working days from the receipt of the investor’s request.

3. Investors are entitled to use information mentioned in Clause 1 and Clause 2 of this Article to prepare their investment documents and execute investment projects.

#### **Article 9. Mechanisms for resolving difficulties facing investors and preventing disputes between the State and investors**

1. During the process of carrying out business investment activities, investors are entitled to report difficulties and propositions related to the application and implementation of laws to competent authorities.
2. Competent authorities shall resolve difficulties and propositions of investors as prescribed by law.
3. Investors are entitled to file complaints, denunciations and lawsuits in accordance with regulations of law on denunciation and complaints; file administrative lawsuits in accordance with regulations of law on administrative procedures if there are grounds for presuming that the administrative decision or administrative act is unlawful and infringes upon their legitimate rights and interests.
4. If a difficulty, proposition, complaint, denunciation or lawsuit may potentially lead to an international investment dispute, the competent authority shall promptly notify the Ministry of Planning and Investment, the Ministry of Justice and the Ministry of Foreign Affairs in writing for cooperation in settling and preventing the dispute.
5. If an international investment dispute arises, the cooperation in settling the dispute shall comply with the Prime Minister's Decision on regulations on cooperation in settling international investment disputes.
6. The Ministry of Planning and Investment shall provide guidelines for implementation of regulations on processing and updating information on and reporting of difficulties and propositions as prescribed in Clause 1 of this Article.

## **Chapter II**

### **BUSINESS LINES**

#### **Section 1. BANNED BUSINESS LINES AND CONDITIONAL BUSINESS LINES**

##### **Article 10. Banned business lines**

1. Investors must not invest in the business lines specified in Article 6 of the Law on Investment.
2. The manufacture, use of products specified in Point a, b, c Clause 1 Article 6 of the Law on Investment in analysis, testing, scientific research, healthcare, pharmaceutical production, criminal investigation, defense and security shall comply with the following regulations:
  - a) Narcotic substances permitted for production by competent authorities in accordance with regulations on the Government on the List of narcotic substances and precursors, the Single Convention on Narcotic Drugs of 1961, and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988;



b) Banned chemicals and minerals specified in the Law on Investment that are permitted for production and use according to regulations of the Government on management of controlled chemicals under Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction and documents providing guidance on implementation of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;

c) Samples of wild flora and fauna that are banned according to the Law on Investment and are permitted for use according to regulations of the Government on management of endangered, precious and rare species of forest flora and fauna and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

3. The review, proposal of revisions and evaluation of implementation of regulations on banned business lines specified in Article 6 of the Law on Investment shall follow corresponding procedures for conditional business lines specified in Article 13 and Article 14 of this Decree.

#### **Article 11. Conditional business lines and business investment conditions**

1. Investors may invest in conditional business lines specified in Appendix IV of the Law on Investment as soon as the conditions are fulfilled and fulfillment of such conditions must be maintained throughout the business operation.

2. The investor that fulfill the business investment conditions are entitled to be granted the documents specified in Points a, b, c, d Clause 6 Article 7 of the Law on Investment (hereinafter referred to as “licenses”) or carry out business investment activities when the conditions specified in Point dd Clause 6 Article 7 of the Law on Investment are fulfilled. In case issuance, renewal, revision of a license is rejected, the competent authority shall send a written notice to the investor and provide explanation.

#### **Article 12. Review, gathering and publishing of business investment conditions**

1. The Ministry of Planning and Investment shall preside over and cooperate with other Ministries and ministerial agencies in reviewing and gathering business investment conditions for publishing thereof on the National Business Registration Portal.

2. Business investment conditions published as prescribed in Clause 1 of this Article include:

a) Conditional business lines specified in the Appendix IV of the Law on Investment;

b) Bases for application of the business investment conditions to the business lines specified in Point a of this Clause;

c) Conditions that must be satisfied by individuals and business organizations to carry out business investment activities as prescribed in Clause 2 Article 11 hereof.

3. If business investment conditions are changed according to a Law, Resolution of the National Assembly, Ordinance, Resolution of the Standing Committee of National Assembly, Government's Decree or international investment-related treaty, they shall be updated as follows:

a) Within 05 working days from the day on which the Law, Ordinance or Decree is promulgated or international investment-related treaty is signed, the relevant Ministry or ministerial agency shall send a written request for updating of business investment conditions on the National Enterprise Registration Portal to the Ministry of Planning and Investment;

b) Within 03 working days from the day on which the aforementioned request is received, the Ministry of Planning and Investment shall update the business investment conditions or changes to business investment conditions on the National Enterprise Registration Portal.

### **Article 13. Proposal for amendment and addition of conditional business lines and investment conditions**

1. Depending on the socio-economic conditions and state management requirements from time to time and international investment-related treaties, Ministries and ministerial agencies shall submit proposals for amendment and addition of conditional business lines or business investment conditions to the Government.

2. The proposal for amendment and addition of conditional business lines or business investment conditions shall be included in the request for promulgation of legislative documents in accordance with regulations of the Law on Promulgation of Legislative Documents and contain the following:

a) Conditional business lines or business investment conditions to be amended or added;

b) Necessity and purpose of the amendment or addition of conditional business lines or business investment conditions according to regulations of Clause 1 Article 7 of the Law on Investment;

c) Basis for the amendment or addition of conditional business lines or business investment conditions and subjects of such conditions;

d) The rationality and feasibility of the amendment or addition of conditional business lines or business investment conditions and conformity with international investment-related treaties;

dd) Assessment of impacts of the amendment or addition of conditional business lines or business investment conditions on the state management and business investment activities by the subjects of such conditions.

### **Article 14. Review and assessment of implementation of regulations on conditional business lines**

1. Annually and upon request, Ministries and ministerial agencies shall review and assess the implementation of regulations on conditional business lines and business investment conditions under their management.

2. Contents of review and assessment:

a) Assessment of the implementation of regulations of law on to conditional business lines and business investment conditions under their management at the time of review and assessment;

b) Assessment of effectiveness of regulations on conditional business lines and investment conditions; difficulties that arise during the course of implementation;

c) Assessment of the socio-economic changes, technological changes, management requirements, and other conditions that affect the implementation of regulations on conditional business lines and business investment conditions (if any);

d) Proposal for amendments to regulations on conditional business lines and business investment conditions (if any);

3. Ministries and ministerial agencies shall send their proposals according to the contents mentioned in Clause 2 of this Article to the Ministry of Planning and Investment for consolidation and reporting to the Prime Minister.

## **Section 2. BUSINESS LINES WITH PROHIBITED AND RESTRICTED MARKET ACCESS AND MARKET ACCESS CONDITIONS APPLIED TO FOREIGN INVESTORS**

### **Article 15. Business lines with prohibited and restricted market access**

1. Business lines with prohibited and restricted market access and the restrictions are specified in the Laws and Resolutions of the National Assembly, Ordinances and Resolutions of Standing committee of the National Assembly, Decrees of the Government and investment-related international treaties. The list of business lines with prohibited and restricted market access (Negative List for Market Access) is provided in Appendix I hereof.

2. Market access conditions shall be applied in the manners specified in Clause 3 Article 9 of the Law on Investment, published and updated in accordance with Article 18 of this Decree.

3. In addition to the market access conditions mentioned in Clause 1 and Clause 2 of this Article, foreign investors and foreign-invested business organizations also need to fulfill the following conditions (if any) when carrying out business investment activities in Vietnam:

a) Use of land, employ workers; natural resources, minerals;

b) Manufacture, supply of public services, goods or goods and services under state monopoly;

- c) Ownership, trade of housing, real estate;
- d) Application of assistances, aids of the State in certain industries, sectors or geographical areas;
- dd) Participation in state-owned enterprise equitization programs or plans;
- e) Other conditions specified in the Laws and Resolutions of the National Assembly, Ordinances and Resolutions of Standing committee of the National Assembly, Decrees of the Government and investment-related international treaties that prohibit or restrict market access by foreign-invested business organizations.

#### **Article 16. Entities applying the Negative List for Market Access**

1. The Negative List for Market Access applies to:

- a) The foreign investors specified in Clause 19 Article 3 of the Law on Investment;
- b) The business organizations specified in Points a, b and c Clause 1 Article 23 of the Law on Investment upon establishing a business organization; making investment by contributing capital, purchasing shares or purchasing stakes in a business organization; making investment under a business cooperation contract.

(The entities specified in Points a and b of this Clause are below collectively referred to as foreign investors, unless otherwise prescribed by this Decree).

2. With regard to the business investment activities carried out in Vietnam, an investor holding both Vietnamese and foreign nationality may decide whether to apply market access conditions and investment procedures applied to domestic investors or foreign investors. If market access conditions and investment procedures applied to domestic investors are selected, the investor holding both Vietnamese and foreign nationality are not allowed to exercise the rights and obligations of a foreign investor.

#### **Article 17. Rules for application of market access restrictions**

- 1. Except the business lines on the Negative List for Market Access in Appendix I hereof, foreign investors have the same market access as that of domestic investors.
- 2. Foreign investors must not invest in the prohibited business lines specified in Section A of Appendix I hereof.
- 3. For restricted business lines specified in Section B of Appendix I hereof, foreign investors shall fulfill the conditions that are published in accordance with Article 18 hereof.
- 4. Conditions for market access by foreign investors in business lines without market-access commitment of Vietnam shall be applied as follows:

a) In case the Laws and Resolutions of the National Assembly, Ordinances and Resolutions of Standing committee of the National Assembly, Decrees of the Government (hereinafter referred to as “the law of Vietnam”) do not restrict market access in those business lines, foreign investors have the same market access as that of Vietnamese investors;

b) In case the law of Vietnam has restrictions on market access by foreign investors in those business lines, the law of Vietnam shall apply.

5. In case new Law or Resolution of the National Assembly, Ordinance or Resolution of Standing committee of the National Assembly, or Decree of the Government (hereinafter referred to as “new legislative document”) contains regulations on market access by foreign investors in the business lines without market-access commitment of Vietnam mentioned in Clause 4 of this Article:

a) Foreign investors to whom the conditions for market access mentioned in Clause 4 of this Article have been applied before the new legislative document takes effect make carry on their investment activities under the said conditions. In case of establishment of a new business organization, execution of a new investment project, receipt of an investment project, purchase of stakes/shares of another business organization under a contract, or change to the objectives or business lines that is subject to fulfillment of market access conditions prescribed by the new legislative documents, such conditions must be fulfilled. In this case, the competent authority shall not reconsider the conditions for market access in the business lines that has been granted to the investor previously;

b) Foreign investors that carry out investment activities after the effective date of the new legislative document shall fulfill the market access conditions prescribed by such document.

6. A foreign investor that carries out investment activities in different business lines specified in Appendix I hereof shall fulfill all market access conditions applied to those business lines.

7. Foreign investors from countries that are not WTO members shall apply the same conditions for market access by investors from countries that are WTO members, unless otherwise prescribed by the law of Vietnam or international treaties between Vietnam and those countries.

8. Foreign investors that are regulated by an investment-related international treaty which prescribes more favorable conditions for market access than those prescribed by the law of Vietnam, the former may be applied.

9. A foreign investor that is regulated by investment-related international treaties which prescribe different market access conditions may apply the conditions prescribed by any of those treaties to all of the investor’s business lines. Once the conditions prescribed by one of the international treaties have been chosen (including new treaties and treaties that are revised after their effective dates which include the investor in their regulated entities), the foreign investor shall perform their rights and obligations in accordance with the chosen treaty.

10. Restrictions on holdings of foreign investors prescribed by investment-related international treaties:

- a) In case multiple foreign investors contribute capital to, purchase shares or stakes in a business organization that is regulated by one or some investment-related international treaties, the total holdings of the foreign investors in the business organization must not exceed the highest limit imposed by one of those international treaties on holdings of foreign investors in a specific business line;
- b) In case multiple foreign investors from the same country contribute capital to, purchase shares or stakes in a business organization, the total holdings of these investors must not exceed the limit prescribed by the international treaty applied to these investors;
- c) Securities laws that provide for foreign investors' holdings differently shall apply to public companies, securities companies, securities investment fund management companies, securities investment funds or securities investment companies.
- d) In case a business organization has multiple business lines that are regulated by investment-related international treaties that provide for foreign investors' holdings differently, the foreign investors' holdings in such business organization must not exceed the limit on foreign investors' holding in the business line with the lowest limit.

#### **Article 18. Publishing and updating of market access conditions applied to foreign investors**

1. The Ministry of Planning and Investment shall preside over and cooperate with other Ministries and ministerial agencies in reviewing and gathering market access conditions applied to foreign investors regarding the business lines specified in the Appendix I hereof in order to publish them on the National Investment Portal.

2. The contents to be published as prescribed in Clause 1 of this Article include:

- a) The business lines on the Negative List for Market Access specified in the Appendix I hereof.
- b) The basis for applying market access conditions applied to foreign investors specified in Clause 1 Article 15 hereof;
- c) The market access conditions applied to foreign investors specified in Clause 3 Article 9 of the Law on Investment;

3. If a Law/Resolution of the National Assembly, Law/Ordinance/Resolution of the Standing Committee of the National Assembly, Government's Decree and international investment-related treaty provides for market access conditions applied to foreign investors but such conditions have yet to be updated on the Negative List for Market Access, and the published contents in Clause 2 of this Article, regulations laid down in such Law, Resolution, Ordinance and Decree

shall apply. The published contents specified in Clause 2 of this Article shall be updated as prescribed in Clause 3 Article 12 of this Decree.

4. The review, gathering, publishing, proposal for amendment and addition, and assessment of implementation of the Negative List for Market Access shall be carried out as the List of conditional business line specified in Articles 12, 13 and 14 hereof.

### **Chapter III**

## **INVESTMENT INCENTIVES AND ASSISTANCE**

### **Article 19. Objects eligible for investment incentives**

Objects eligible for investment incentives specified in Clause 2 Article 15 of the Law on Investment include:

1. Investment projects in business lines eligible for investment incentives or business lines eligible for special investment incentives specified in Appendix II hereof.
2. Investment projects located in disadvantaged or extremely disadvantaged areas specified in the Appendix III hereof.
3. Any investment project whose capital is at least VND 6,000 billion eligible for investment incentives as prescribed in Point c Clause 2 Article 15 of the Law on Investment if the following conditions are met:
  - a) At least VND 6,000 billion is disbursed within 03 years from the issuance date of the investment registration certificate or the decision on approval for both investment guidelines and investor (for the project not required to obtain the investment registration certificate) or the decision on investor approval (for the project not required to obtain the investment registration certificate);
  - b) The total revenue is at least VND 10,000 billion per year within 03 years from the year in which the revenue is earned or the project has an annual average number of at least 3,000 employees in accordance with regulations of law on labor 03 years within 03 years from the year in which the revenue is earned;
4. The investment projects eligible for investment incentives specified in Point d Clause 2 Article 15 of the Law on Investment include:
  - a) Projects on investment in construction of social housing in accordance with regulations of law on housing;
  - b) Investment projects located in rural areas and employing at least 500 employees per year in accordance with regulations of law on labor (excluding employees who work on a part-time basis and employees who sign employment contracts with a fixed term of under 12 months);

c) Investment projects employing persons with disabilities accounting for at least 30% of the annual average number of employees in accordance with regulations of law on persons with disabilities and on labor.

5. Hi-tech enterprises, science and technology enterprises and science and technology organizations; projects involving transfer of technologies on the List of technologies the transfer of which is encouraged; science and technology enterprise incubators; enterprises manufacturing and providing technologies, equipment, products and services with a view to satisfaction of environment protection requirements which are eligible for investment incentives as prescribed in Point dd Clause 2 Article 15 of the Law on Investment are enterprises, organizations, facilities and investment projects that satisfy the conditions prescribed by the law on science and technology; high technology; technology transfer; environmental protection.

6. Objects eligible for investment incentives specified in Point e Clause 2 Article 15 of the Law on Investment include:

a) The National Innovation Center established under the Prime Minister's decision;

b) Other innovation centers established by agencies, organizations and individuals so as to assist in executing start-up projects, establishing startups and promoting innovation, research and development in the centers which satisfy the conditions set forth in Clause 7 of this Article;

c) Start-up projects specified in Clause 8 of this Article;

d) Projects on establishment of research and development centers.

7. An innovation center specified in Point b Clause 6 of this Article will be eligible for investment incentives if it:

a) exercises the functions of supporting, developing and connecting startups with the startup ecosystem;

b) has several technical infrastructure items to serve the support, development and connection of the startup ecosystem, including laboratories, trial production and technology commercialization laboratories assisting enterprises in development of sample products; has infrastructure serving technical equipment installation to ensure one or more activities for enterprises to design, test, measure, analyze, inspect and test products, goods and materials; has information technology infrastructure assisting enterprises and space for organizing events, exhibiting and demonstrating start-up technologies and products;

c) has managerial professionals to provide assistance, development and connection services for enterprises operating in the center; has a network of experts and providers of assistance, development and connection services.

8. The start-up project specified in Point c Clause 6 of this Article is one of the following projects:



a) Projects on manufacturing of products created from inventions, utility solutions, industrial designs, semiconductor integrated circuits layout-designs, computer software, applications on mobile phones, cloud computing; production of new livestock breed or line, new plant varieties, new aquatic breeds, new forest tree cultivars; technological advances which have been granted protection certificates in accordance with regulations of law on intellectual property or copyrights or international registration certificates in accordance with regulations of international treaties to which Vietnam is a signatory or recognized by competent authorities;

b) Projects on manufacturing of products obtained from projects on trial production, sample products and technology completion; manufacturing of products given awards at start-up competitions, national start-up competitions, scientific and technological awards in accordance with regulations of law on scientific and technological awards;

c) Projects of enterprises operating in innovation centers and research and development centers;

d) Projects on manufacturing of culture industry products formed from copyrights or copyright-related rights that have been granted protection certificates in accordance with regulations of law on intellectual property or international registration certificates in accordance with regulations of international treaties to which Vietnam is a signatory.

9. Small and medium-sized enterprises' product distribution chain eligible for investment incentives as specified in Point g Clause 2 Article 15 of the Law on Investment means a network of intermediaries that distribute products of such small and medium-sized enterprises (SMEs) to consumers and meet the following conditions:

a) At least 80% of enterprises joining the chain are small and medium-sized enterprises;

b) There are at least 10 places for distribution of goods to consumers;

c) At least 50% of revenue of the chain are generated by SMEs joining the chain.

10. SME incubators; technical establishments supporting SMEs; co-working spaces supporting start-up SMEs eligible for investment incentives as specified in Point g Clause 2 Article 15 of the Law on Investment are those established in accordance with regulations of law on provision of assistance for SMEs.

## **Article 20. Rules for applying investment incentives:**

1. The investment projects specified in Clause 3 Article 19 hereof are eligible for the same investment incentives as prescribed for investment projects in extremely disadvantaged areas.

2. The investment projects located in rural areas employing at least 500 employees and projects employing persons with disabilities specified in Points b and c Clause 4 Article 19 hereof are eligible for the same investment incentives as prescribed for investment projects in disadvantaged areas.

3. Investment projects in business lines eligible for investment incentives in disadvantaged areas are eligible for the same investment incentives as prescribed for investment projects in extremely disadvantaged areas.

4. The specific investment incentives for the investment projects mentioned in Clauses 1, 2 and 3 of this Article shall be applied in accordance with regulations of law on tax, accounting and land.

5. Regarding an investment project that is eligible for various levels of investment incentive at the same time, the highest level shall apply.

6. Special investment incentives and assistance for the investment projects prescribed in Clause 2 Article 20 of the Law on Investment shall be applied as follows:

a) Level and duration of application of special investment incentives regarding corporate income tax and land and surface water rents shall comply with regulations of the Law on Corporate Income Tax and law on land;

b) Special investment incentives and assistance shall be applied to the National Innovation Center established under the Prime Minister's decision and its affiliates located outside its headquarters;

c) Any investor submitting a proposal for application of special investment incentives must undertake to satisfy the conditions concerning business lines in which such investor invests, registered total investment capital and duration of disbursement as specified in Points a and b Clause 2 Article 20 of the Law on Investment and other conditions written on the investment registration certificate, decision on approval for investment guidelines or written agreement with a competent authority under the Prime Minister's Decision;

d) The Prime Minister shall decide on level and duration of application of special investment incentives according to the criteria concerning high technology, technology transfer and Vietnamese enterprises joining domestic production chain and value for the investment projects in Clause 2 Article 20 of the Law on Investment.

7. Investment incentives shall be applied as follows in the case of full division, partial division, consolidation, merger and conversion of type of a business organization (hereinafter referred to as "business organization re-organization"); full division, partial division, merger and transfer of an investment project:

a) Any business organization which is formed on the basis that it is re-organized or the investment project is transferred to the investor is entitled to inherit the investment incentives (if any) to which the investment project is entitled before the re-organization or transfer if it still satisfies the conditions for investment incentives;

b) Any investment project which is formed on the basis of its full division or partial division and satisfies the conditions for receiving investment incentives is entitled to such investment incentives for the remaining incentive period before the full division or partial division;

c) Any investment project which is formed on the basis of project merger shall continue to be entitled to the investment incentives according to the conditions for investment incentives applied to each project before the merger if it still satisfies such conditions. If the merged project satisfies conditions for different investment incentives, the investor is entitled to such investment incentives according to each different condition for the remaining incentive period.

8. If an industrial park or export-processing zone has been established under the Government's regulations and its removal from the planning or repurposing is approved by a competent authority or the project on investment in construction and commercial operation of infrastructure of the industrial park or export-processing zone is terminated in accordance with regulations of law on investment, the investment projects executed in such industrial park or export-processing zone shall continue to be entitled to the investment incentives in accordance with the regulations set forth in the investment license, business license, investment incentive certificate, investment certificate, investment registration certificate, decision on investment guidelines, decision on approval for investment guidelines or another document of the competent authority providing for investment guidelines (if one of the said documents is available) or in accordance with regulations of law in effect at the time of investment in the industrial park or export-processing zone (if the said documents are not available).

#### **Article 21. Determination of areas eligible for investment incentives in case of change of administrative divisions**

1. If a new administrative division is established under the Resolution of the National Assembly Standing Committee or the Government on adjustment of administrative divisions (full division, partial division or upgrading of old administrative divisions affiliated to areas eligible for investment incentives) due to the arrangement or adjustment of commune-level administrative divisions in areas with different socio-economic conditions that have yet to be considered as areas eligible for investment incentives, follow the instructions below:

a) The newly established administrative division shall be considered as an area eligible for investment incentives enjoyed by the majority of commune-level administrative divisions;

b) If the number of commune-level administrative divisions in a disadvantaged area equals that in an extremely disadvantaged area, the newly established administrative division shall be considered as an extremely disadvantaged area;

c) If the number of commune-level administrative divisions in a disadvantaged area equals that in an area not affiliated to the area eligible for investment incentives, the newly established administrative division shall be considered as a disadvantaged area;

d) If the number of commune-level administrative divisions in an extremely disadvantaged area equals that in an area not affiliated to the area eligible for investment incentives, the newly established administrative division shall be considered as an extremely disadvantaged area.

2. Upon adjusting an administrative division, the adjusted commune-level administrative division is entitled to the investment incentives applied to the district-level administrative division to which it belongs.

## **Article 22. Adjustment of investment incentives**

1. An investment project which is entitled to investment incentives and satisfies conditions for receiving investment incentives at a higher level or additional investment incentives in the new form of incentive shall be entitled to the investment incentives at the higher level or additional investment incentives in the new form of incentive for the remaining incentive period.

2. The investor shall not be entitled to the incentives written on the investment registration certificate or decision on approval for investment guidelines or the incentives determined by the investor itself if the investment project fails to satisfy the conditions for investment incentives specified in the investment registration certificate, decision on approval for investment guidelines, decision on approval for both investment guidelines and investor or decision on investor approval or fails to satisfy the conditions for investment incentives determined by the investor itself. If the investment project satisfies the conditions for other investment incentives, the investor is entitled to the investment incentives according to such conditions.

3. During the period of entitlement to incentives, the investor whose investment project fails to satisfy conditions for investment incentives for a certain period shall not be entitled to such investment incentives for such period of failure to satisfy the conditions for investment incentives.

## **Article 23. Procedures for applying investment incentives**

1. The decision on approval for investment guidelines, investment registration certificate and decision on investor approval shall provide for the forms, bases and conditions for application of investment incentives as prescribed in Articles 15 and 16 of the Law on Investment and Article 19 hereof.

2. According to the investment incentives specified in the decision on approval for investment guidelines, investment registration certificate or decision on investor approval, the investor shall follow receiving investment incentives at incentive-applying authorities corresponding to each type of incentive.

3. The bases for application of investment incentives to several enterprises and investment projects specified in Clause 5 Article 19 hereof include:

- a) The certificate of science and technology enterprise, regarding a science and technology enterprise;
- b) The certificate of hi-tech agricultural enterprise, regarding a hi-tech agricultural enterprise;
- c) The certificate of hi-tech project, regarding a hi-tech project;

d) The incentive certificate of manufacture of supporting industry products, regarding a supporting industry project;

dd) The certificate of transfer of technology the transfer of which is encouraged under the Prime Minister's regulations, regarding a project involving transfer of technology on the List of technologies the transfer of which is encouraged.

4. Investors in projects other than those specified in Clauses 2 and 3 of this Article shall determine their investment incentives and follow procedures for receiving investment incentives at incentive-applying authorities corresponding to each type of incentive according to the objects entitled to investment incentives in Article 19 of this Decree and relevant regulations of law.

#### **Article 24. Promulgation, amendment and addition of List of business line eligible for investment incentives and list of areas eligible for investment incentives**

1. Depending on the socio-economic conditions, demands for investment attraction from time to time and at the request of Ministries and ministerial agencies, provincial People's Committees and the Ministry of Planning and Investment shall submit amendments and additions to the List of business line eligible for investment incentives and list of areas eligible for investment incentives as prescribed in this Decree.

2. Ministries, ministerial agencies, People's Councils and People's Committees at all levels shall not promulgate investment incentive and assistance policies against the regulations laid down in the Law on Investment, this Decree, laws on tax, budget and land and relevant regulations of law.

### **Chapter IV**

## **EXECUTION OF INVESTMENT PROJECTS**

### **Section 1. GENERAL REGULATIONS ON EXECUTION OF INVESTMENT PROJECTS**

#### **Article 25. Guarantee for execution of investment projects by investors**

1. Except for the cases in Points a, b, c and d Clause 1 Article 43 of the Law on Investment, the investor must pay a deposit or have a guarantee of a credit institution or foreign branch bank established under Vietnam's law (hereinafter referred to as "the credit institution") for execution of the investment project which uses land allocated or leased out by the State or is permitted by the State to repurpose land.

2. In case of issuing a guarantee, the credit institution shall pay the deposit payable by the investor in the case specified in Clause 10 Article 26 hereof.

3. The contract of guarantee for deposit payment obligation between the credit institution and the investor shall be signed and executed pursuant to regulations of law on civil matters, credit, bank guarantee and relevant regulations of law.

#### **Article 26. Procedures for guaranteeing of execution of investment projects by investors**

1. The obligation to guarantee investment project execution specified in Clause 1 Article 25 hereof shall be fulfilled on the basis of a written agreement between the investment registration authority and the investor. The project execution guarantee agreement shall contain at least:

a) The investment project's name, objectives, location, scale, investment capital, progress and duration specified in the decision on approval for investment guidelines, decision on approval for both investment guidelines and investor or investment registration certificate;

b) Measures for guaranteeing investment project execution (deposit payment or guarantee for deposit payment obligation specified in Clause 1 Article 25 hereof);

c) The amount of guarantee for project execution (hereinafter referred to as "the guarantee amount") determined as specified in Clauses 2, 3 and 4 of this Article;

d) Time and duration of guaranteeing project execution specified in Clauses 5, 6 and 7 of this Article;

dd) Conditions for refund and adjustment of guarantee amounts, and termination of obligation to guarantee project execution specified in Clause 9 of this Article;

e) Handling measures in the case specified in Clause 10 of this Article;

g) Rights, obligations and other responsibilities of parties related to the contents mentioned in Points a, b, c, d, dd and e of this Clause;

h) Other contents which are agreed upon by the parties but not contrary to the regulations laid down in the Law on Investment, this Decree and relevant regulations of law.

2. The guarantee rate is expressed as a percentage of the investment capital of the investment project on the progressive principle. To be specific:

a) For a capital portion of up to VND 300 billion, the guarantee rate is 3%;

b) For a capital portion of over VND 300 billion to VND 1,000 billion, the guarantee rate is 2%;

c) For a capital portion of over VND 1,000 billion, the guarantee rate is 1%.

3. The project's investment capital determined as the basis for calculation of the guarantee rate prescribed in Clause 2 of this Article does not include land levy or land rent payable to the State and costs of construction of the investment project's works (if any) which the investor is obliged

to transfer to the State for management after completion. If the costs of construction of works to be transferred to the State have yet to be accurately determined at the time of signing the project execution guarantee agreement, the investment registration authority shall determine the guarantee amount according to the cost estimate specified in the project proposal prepared by the investor.

4. Except for the projects not eligible for investment incentives as prescribed in Clause 5 Article 15 of the Law on Investment, the investor is entitled to a reduction of the guarantee amount in the following cases:

a) a 25% reduction of the guarantee amount for investment projects in business lines eligible for investment incentives specified in the Appendix II hereof; investment projects in disadvantaged areas specified in the Appendix III hereof;

b) a 50% reduction of the guarantee amount for investment projects in business lines eligible for special investment incentives specified in the Appendix II hereof; investment projects in extremely disadvantaged areas specified in the Appendix III hereof; investment projects in business lines eligible for investment incentives executed in disadvantaged areas.

5. Time and duration of guaranteeing project execution:

a) The investor shall pay the deposit or submit the credit institution's guarantee certificate after being issued with the decision on approval for both investment guidelines and investor or decision on investor approval or decision on approval for bidding result and prior to implementing the compensation, assistance and relocation plan approved by a competent authority (if the investor does not advance the payment for compensation, assistance or relocation) or by the time of issuing the decision on land allocation or land lease or land repurposing (if the investor does not advance compensation, assistance or relocation payments or the investor is selected to execute the project through a land use right auction and is leased out land by the State and pays land rents on an annual basis);

b) The duration of guaranteeing project execution begins from the time of fulfilling the obligation as specified in Point a of this Clause to the time when the deposit is refunded to the investor or paid to the state budget or to the time of invalidating the guarantee.

6. If a project comprises multiple investment phases, the payment and refund of the deposit amount or payment and adjustment of the guarantee amount or termination of the guarantee obligation shall be carried out in each phase of execution of the investment project under the project execution guarantee agreement. The investor may transfer the remaining deposit amount or remaining guarantee amount of the previous period to guarantee project execution for the next period without having to refund the remaining deposit amount or invalidate the guarantee of the previous period, and make any additional payment of the deposit amount or guarantee amount for the next period and the deposit amount or guarantee amount of the previous period (if any).

7. If the investor advances the compensation, assistance or relocation payments to a competent authority to implement the approved compensation, assistance and relocation plan, follow the instructions below:

a) If the advanced amount is equal to or greater than the guarantee rate prescribed in Clause 2 of this Article, the investor is not required to immediately pay the deposit amount or submit the credit institution's guarantee certificate at the time specified in Point a Clause 5 of this Article;

b) If the advanced amount is less than the guarantee rate as prescribed in Clause 2 of this Article, the investor must pay a deposit amount or submit the credit institution's guarantee certificate which equals to the difference between the advanced amount and the guarantee rate specified in Clause 2 of this Article at the time specified in Point a Clause 5 of this Article;

c) The investor with the deposit amount paid or credit institution's guarantee certificate submitted in the cases mentioned in Points a and b of this Clause must pay a deposit to the investment registration authority in accordance with this Article when the project is behind schedule according to the decision on approval for investment guidelines, decision on approval for both investment guidelines and investor or investment registration certificate.

8. The guarantee amount shall be paid to the investment registration authority's account opened at the commercial bank established under Vietnam's law and selected by the investor; the investor shall pay all costs incurred in connection with the opening and maintenance of the account for project execution guarantee and conduct of transactions relating to the account. In case of execution of multiple projects, it is required to sign a project execution guarantee agreement with the same investment registration authority. The investor may negotiate with the investment registration authority about use of the same account for receiving guarantee amounts with respect to the projects executed in the areas under its management.

9. The refund and adjustment of a guarantee amount, and termination of the guarantee obligation shall be carried out as follows:

a) 50% of the deposit shall be refunded or 50% of the guarantee rate at the time when the investor is issued by a competent authority with the decision on land allocation, land lease or land repurposing and issued by a competent authority with other licenses or approvals to commence the construction (if any);

b) The remaining deposit and interest (if any) arising from the deposit shall be refunded or the guarantee for deposit payment obligation shall be invalidated at the time when the investor accepts the construction works;

c) Where the project's investment capital is decreased, the investor shall receive a refund of an amount of deposit corresponding to the decreased investment capital according to the adjusted decision on approval for adjustment of the investment guidelines or the adjusted investment registration certificate;



d) Where the project's investment capital is increased, the investor shall pay an additional amount of deposit or credit institution's deposit payment guarantee corresponding to the increased investment capital according to the adjusted decision on approval for adjustment of the investment guidelines or the adjusted investment registration certificate. If 50% of the paid deposit has been refunded prior to the adjustment, the investor shall only investor shall only pay a half of the required additional deposit;

dd) Where the execution of an investment project cannot be continued due to a force majeure event or on account of a competent authority while following administrative procedures or due to the project adjustment made at the request of a competent authority in case of change of the planning, the investor may claim the refund of the guarantee amount or terminate the guarantee obligation.

e) Regarding a domestic investor that has their investment guidelines approved and is not required to obtain the investment registration certificate, when the project not subject to adjustment of its investment guidelines is adjusted as prescribed in this Decree and the adjustments change any content of the project execution guarantee agreement, the investor shall send a written notification to the investment registration authority prior to the adjustment. The investment registration authority and investor shall adjust the project execution guarantee agreement in conformity with the adjustments to the investment project.

10. The guarantee amount that is yet to be refunded shall be paid to the state budget as prescribed by law in the following cases:

a) The project is not put into operation on the schedule specified in the decision on approval for investment guidelines or investment registration certificate without the competent authority's permission for adjusting the schedule as prescribed in the Law on Investment and this Decree;

b) The project is terminated as prescribed in Clause 2 Article 48 of the Law on Investment, except for the case mentioned in Point a Clause 2 Article 47 of the Law on Investment.

11. Where the deposit payment obligation is guaranteed by a credit institution, upon the expiry of the guarantee, if the investor fails to extend its validity and investment registration authority's comments on invalidation of the guarantee are not available, the credit institution must transfer the guarantee amount to the investment registration authority's account to continue to pay deposits for guaranteeing project execution.

## **Article 27. Duration of investment projects**

1. The duration of an investment project specified in Clauses 1 and 2 Article 44 of the Law on Investment begins from the date on which the investor is issued with the decision on investor approval, decision on approval for both investment guidelines and investor or the investment registration certificate for the first time. For the investment project which uses land allocated or leased out by the State or is permitted by the State to repurpose land, its duration begins from the date on which the investor is issued with the decision on land allocation, decision on land lease or decision on land repurposing. If the investor has obtained the decision on land allocation,

decision on land lease or decision on land repurposing but the transfer of land is delayed, the duration of the investment project begins from the date on which land is transferred on site.

2. During the execution of the investment project, the investor is entitled to extend or shorten its duration. The adjusted duration shall not exceed the duration specified in Clauses 1 and 2 Article 44 of the Law on Investment.

3. According to the objectives, scale, location and operating requirements of the investment project, the authority that has the power to approve investment guidelines and the investment registration authority shall consider and decide the duration, and adjust duration of the investment project as prescribed in Clauses 1 and 2 of this Article.

4. Except for the regulations in Points a and b Clause 4 Article 44 of the Law on Investment, upon expiry of the duration of an investment project, the authority that has the power to approve investment guidelines and the investment registration authority will consider and decide to extend duration of such project if the investor wishes to keep executing the investment project and satisfies the following conditions:

a) The project conforms to the national planning, regional planning, provincial planning, urban planning and special administrative-economic unit planning (if any); conforms to the objectives and orientations for urban development or residential housing development plans and programs (with respect to projects on investment in residential housing and urban area construction);

b) The conditions for land allocation or land lease prescribed by the law on land are met (in the case of applying for extension of land use term).

5. The period of extension of duration of the project specified in Clause 4 of this Article shall be considered on the basis of objectives, scale, location and operating requirement of the project and shall not exceed the maximum duration mentioned in Clauses 1 and 2 Article 44 of the Law on Investment.

6. If the investment project satisfies the condition prescribed in Point b Clause 4 of this Article but fails to satisfy the condition prescribed in Point a Clause 4 of this Article, the authority that has the power to approve investment guidelines and the investment registration authority shall consider extending its duration on a year-by-year basis until the district's annual land use plan is available in accordance with regulations of law on land. The investor shall only follow procedures for extending the duration for the first year of extension.

7. The duration of an investment project with a commitment to transfer the investor's assets without reimbursement to the State of Vietnam or to a Vietnamese party after the expiry of the duration shall be determined as prescribed in Clause 3 Article 124 hereof.

8. The land-related financial obligation discharged to the State in the case of adjustment or extension of duration of an investment project shall be determined in accordance with regulations of law on land and relevant regulations of law.

9. Procedures for adjusting and extending duration of investment projects are specified in Article 55 hereof.

10. Investment projects using obsolete, environment threatening or resource-intensive which do not have their duration adjusted and extended as prescribed in Point a Clause 4 Article 44 of the Law on Investment include:

a) Projects using a technological line which, upon its operation, fails to meet the provisions of National technical regulations on safety, energy saving and environmental protection; or the capacity (which is the number of products that the technological line produce in a given time period) or the remaining performance of the technological line is less than 85% of the design capacity or performance; or the amount of raw materials, materials or energy consumed by the technological line exceeds 15% of its design consumption level.

In case of unavailability of National Technical Regulations on safety, energy saving and environmental protection related to the projects' technological line, only technical indicators of Vietnam's Standards or National Standards of one of the G7 countries or Korea with regard to safety, energy saving, and environmental protection shall be applied;

b) Projects using machinery and equipment for production with HS codes in Chapters 84 and 85 of Vietnam's nomenclature of exports and imports which have a useful life of more than 10 years or which, upon their operation, fail to satisfy the provision of National technical regulations on safety, energy saving and environmental protection. In case of unavailability of National Technical Regulations on safety, energy saving and environmental protection related to the projects' machinery and equipment, only technical indicators of Vietnam's Standards or National Standards of one of the G7 countries or Korea with regard to safety, energy saving, and environmental protection shall be applied.

The Ministry of Science and Technology shall provide guidelines for determining machinery and equipment in some fields which have a useful life of more than 10 years but are not classified as obsolete, environment threatening or resource-intensive technologies.

11. The determination of whether an investment project uses obsolete, environment threatening or resource-intensive technologies as prescribed in Clause 10 of this Article shall be carried out as follows:

a) The Ministry of Science and Technology shall preside over and cooperate with relevant authorities in determining technologies of investment projects subject to approval for their investment guidelines by the National Assembly and the Prime Minister;

b) Science and technology authorities affiliated to provincial People's Committees shall preside over and cooperate with relevant authorities in determining technologies of investment projects other than those specified in Point a of this Clause;

c) Funding for determination shall be covered by the state budget. If the duration of the investment project continue to be extended, the investor shall pay all costs of determination;

d) Applications and procedures for determination of investment projects using obsolete, environment threatening or resource-intensive technologies shall comply with the Prime Minister's regulations.

**Article 28. Determination of value of investment capital; assessment of value of investment capital; assessment of machinery, equipment and technological lines**

1. The registered capital for execution of an investment project shall be determined on the basis of:

a) Capital contributed by the investor in the form of cash, machinery, equipment, value of intellectual property rights, technology, technical know-how, value of land use rights and other assets in accordance with regulations of the civil law and international treaties on investment;

b) Capital raised to execute the project;

c) Profits (if any) retained by the investor for re-investment.

2. The investment capital for execution of an investment project shall be determined on the basis of contributed capital, raised capital and profits retained for re-investment during the project execution. The investor shall self-determine value of investment capital for execution of the project after it is put into operation.

3. The independent assessment of value of investment capital, quality and value of machinery, equipment and technological line after operation of a project as prescribed in Clause 3 Article 45 of the Law on Investment shall be carried out in the following cases:

a) The investment authority and tax authority have grounds for determining that the investor fails to truthfully, accurately and sufficiently declare tax regarding value of the investment capital in accordance with regulations of law and tax administration;

b) The investment authority and science and technology authority have grounds for determining that the investor show signs of violating regulations on application and transfer of technology during the project execution in accordance with regulations of law on technology transfer.

4. For the case specified in Point a Clause 3 of this Article, the tax authority shall carry out an assessment to determine the amount of tax payable by the investor; the hiring of an independent assessment organization for investment capital assessment shall be carried out by the investment authority.

5. For the case specified in Point b Clause 3 of this Article:

a) The Ministry of Science and Technology shall preside over and cooperate with relevant authorities in assessing quality and value of machinery, equipment and technological lines for the projects subject to approval for their investment guidelines by the National Assembly and the Prime Minister;

b) Science and technology authorities affiliated to provincial People's Committees shall preside over and cooperate with relevant authorities in assessing quality and value of machinery, equipment and technological lines for the projects other than those specified in Point a of this Clause;

c) The assessment of quality and value of machinery, equipment and technological lines shall be carried out by consulting the science and technology advisory board, independent assessment organizations and experts about machinery, equipment and technological lines used during the project execution;

d) Applications and procedures for assessing machinery, equipment and technological lines shall comply with the Prime Minister's regulations.

6. The costs of assessment made as prescribed in Clauses 4 and 5 of this Article shall be covered by the state budget. The investor must bear any costs of assessment if the assessment results lead to an increase in the tax obligations discharged to the State.

## **Section 2. INVESTMENT GUIDELINE APPROVAL AND INVESTOR SELECTION**

### **Article 29. Investment guideline approval and investor selection**

1. Authorities that have the power to approve investment guidelines are specified in Articles 30, 31 and 32 of the Law on Investment (hereinafter referred to as "investment guideline approving authorities"). If an investment project has objectives and contents subject to approval for its investment guidelines by different investment guideline approving authorities, the highest authorized authority shall grant approval for investment guidelines of the entire project.

2. For an investment project subject to approval for its investment guidelines specified in Articles 30, 31 and 32 of the Law on Investment, the investment guideline approving authority shall consider approving investment guidelines and decide on the method of selection of the investor in the project as follows:

a) Hold a land use right auction in the land is allocated or leased out for execution of the investment project subject to a land use right auction in accordance with regulations of law on land and land clearance has been completed in the land area where the project is expected to be executed. In this case, the investment guideline approving authority shall assign a competent authority to hold the land use right auction in accordance with regulations of law on land to select an investor in the project;

b) Bid to select an investor in the investment project in the case of bidding to select investors in accordance with regulations of law on bidding, law on private sector involvement and special legislation, and failure to satisfy the condition for land use right auction specified in Point a of this Clause. The investment guideline approving authority shall assign a competent authority to bid to select the investor in accordance with regulations of law on bidding; The decision on approval for investment guidelines also serves as the decision on approval for list of investment projects in accordance with regulations of law on bidding;

c) For the investment projects specified in Clause 4 Article 29 of the Law on Investment and projects other than those specified in Points a and b of this Clause, the investment guideline approving authority shall consider granting approval for both investment guidelines and investor without holding a land use right auction or bidding to select investors as prescribed in Clause 5 of this Article.

3. The investor approval specified in Clause 3 Article 29 of the Law on Investment shall be carried out as follows:

a) The land use right auction has been held but only one investor registers for participation in the auction or at least 02 auction sessions have been held but unsuccessful in accordance with regulations of law on land;

b) The list of projects has been published in accordance with regulations of law on bidding but only one investor carries out the registration and satisfies preliminary requirements on capacity and experience or multiple investors carry out the registration but only one investor is qualified in terms of capacity and experience in accordance with regulations of law on bidding;

c) The authority that has the power to hold the auction or bid shall consider the satisfaction of the conditions mentioned in Points a and b of this Clause and notify the investment registration authority and investor (if any) in writing to follow the procedures for investor approval as prescribed in Clauses 1, 2 and 3 Article 30 hereof.

4. The investor is entitled to make a selection as prescribed in Points a and b Clause 2 of this Article to execute the project as follows:

a) The competent authority shall decide to approve auction winning results or approve results of investor selection in accordance with regulations of law on land and bidding. The decision on approval for auction winning results or decision on approval for investor selection results shall be sent to the investment guideline approving authority, investment registration authority and investor;

b) The investor that wins the auction or bid shall follow procedures for land allocation or land lease in accordance with regulations of law on land and bidding, and execute the investment project according to the decision on approval for investment guidelines, decision on approval for auction winning results or decision on approval for investor selection results.

5. For the investment projects specified in Point c Clause 2 of this Article, the investment guideline approving authority shall consider granting approval for both investment guidelines and investor without holding a land use right auction or bidding to select investors in the following cases:

a) An investor that has the land use rights is an investor that is using land allocated or leased out by the State or whose land use rights are recognized by the State or that receives the land use rights in accordance with regulations of law, and at the time of submitting the application for approval for investment guidelines, the area of land being used by the investor is not on the list

of projects on land that needs expropriating for national defense and security purposes or for socio-economic development in the national or public interest approved by the provincial People's Council, except for the case where the land is being used as a result of extension of the project's duration as prescribed in Clause 6 Article 27 hereof;

b) The investor is permitted by a competent authority to receive the agricultural land use rights, receive the agricultural land use rights as contributed capital or leases the agricultural land use rights to execute an investment project on non-agricultural production or business in accordance with regulations of law on land;

c) The investor executes the investment project in an industrial park or hi-tech zone;

d) Projects other than those specified in Points a and b Clause 2 of this Article;

dd) Other cases not subject to land use right auction or bidding for investor selection in accordance with regulations of law on land and bidding, relevant regulations of law.

6. Power, procedures and applications for investor approval and investment guideline approval are specified in Articles 30, 31, 32 and 33 hereof.

7. If two investors or more in the investment project specified in Point c, d or dd Clause 5 of this Article submit a valid application for project execution at one location within 20 days (for the project subject to approval for its investment guidelines by the Prime Minister) or 15 days (for the project subject to approval for investment guidelines by the provincial People's Committee) from the receipt of the valid application of the first investor, the Ministry of Planning and Investment and investment registration authority shall follow the procedures below:

a) Notify the investors in writing of implementation of the procedures for investment guidelines approval and investor selection according to this Clause within 25 days (for the project subject to approval for its investment guidelines by the Prime Minister) or 20 days (for the project subject to approval for investment guidelines by the provincial People's Committee) from the receipt of the valid application of the first investor. The Ministry of Planning and Investment and investment registration authority shall not consider and shall return other investors' applications (if any) submitted after the 20-day period (for the project subject to approval for its investment guidelines by the Prime Minister) or 15-day period (for the project subject to approval for investment guidelines by the provincial People's Committee) from the receipt of the valid application of the first investor;

b) Implement the procedures for investment guideline approval as prescribed in Article 32 or Article 33 hereof on the basis of the investment project proposal of the first investor. If the first investor's investment project proposal fails to satisfy the conditions mentioned in Clause 3 Article 33 of the Law on Investment, implement the procedures for investment guideline approval on the principle that the investment project proposal of each next investor is considered;

c) According to the request of the Ministry of Planning and Investment or investment registration authority, the investment guideline approving authority shall consider granting approval for

investment guidelines and assign a competent authority to select to apply the law on bidding to select investors among the investors that have submitted a valid application;

d) The investor is entitled to select to implement the procedures for investor approval according to Clause 2 or Clause 4 Article 30 hereof.

### **Article 30. Procedures for investor approval**

1. The only investor that has registered for participation in the auction or the investor that requests the project execution after at least 02 auction sessions have been held but unsuccessful as prescribed in Point a Clause 3 Article 29 hereof may be considered to be approved as follows:

a) The investor shall submit 04 applications for investor approval to the investment registration authority, including an application form for investor approval and the documents specified in Points b, c, e, g and h Clause 1 Article 33 of the Law on Investment;

b) Within 03 working days from the receipt of the valid application, the investment registration authority shall send relevant documents to relevant regulatory bodies to seek their opinions about the satisfaction of the requirements specified in Points b, c and d Clause 4 Article 33 of the Law on Investment. For the project whose investment guidelines have been approved by the National Assembly or the Prime Minister, the investment registration authority shall send relevant documents to the Ministry of Planning and Investment to seek its opinions;

c) Within 15 days from the receipt of the relevant documents, the enquired authorities shall give their opinions about the contents under their state management to the investment registration authority;

d) Within 25 days from the receipt of the valid applications specified in Point a of this Clause, investment registration authority shall prepare an appraisal report on the contents specified in Points b, c and d Clause 4 Article 33 of the Law on Investment and submit it to the provincial People's Committee;

dd) Within 07 working days from the receipt of the application and appraisal report, the provincial People's Committee shall grant investor approval and send the decision on investor approval to the Ministry of Planning and Investment (for the project subject to approval for its investment guidelines by the National Assembly or the Prime Minister); authority holding the auction; investment registration authority and investor.

2. The investor satisfying the conditions specified in Point b Clause 3 Article 29 hereof may be considered to be approved as follows:

a) The investor shall submit 04 sets of application for investor approval to the investment registration authority, including an application form for investor approval and the documents specified in Points b, c, e, g and h Clause 1 Article 33 of the Law on Investment;



b) Within 03 working days from the receipt of the valid application, the investment registration authority shall send a report on preliminary evaluation of capacity and experience, and the applications specified in Point a of this Clause to seek opinions of relevant regulatory bodies about the satisfaction of the requirements specified in Points b, c and d Clause 4 Article 33 of the Law on Investment. For the project whose investment guidelines have been approved by the National Assembly or the Prime Minister, the investment registration authority shall also send relevant documents to the Ministry of Planning and Investment to seek its opinions;

c) Within 15 days from the receipt of the investment registration authority's relevant documents, the enquired authorities shall give their opinions about the contents under their state management to the investment registration authority;

d) Within 25 days from the receipt of the valid applications specified in Point a of this Clause, investment registration authority shall prepare an report on the contents specified in Points b, c and d Clause 4 Article 33 of the Law on Investment and submit it to the provincial People's Committee;

dd) Within 07 working days from the receipt of the application and appraisal report, the provincial People's Committee shall grant investor approval and send the decision on investor approval to the Ministry of Planning and Investment (for the project subject to approval for its investment guidelines by the National Assembly or the Prime Minister) and the investor.

3. If a Ministry, ministerial agency or Governmental agency conducts bidding, such agency shall prepare a report on preliminary evaluation of capacity and experience and approve the investor if the investor satisfy the requirements specified in Points b, c and d Clause 4 Article 33 of the Law on Investment. The decision on investor approval shall be sent to the Ministry of Planning and Investment (for the project subject to its investment guidelines by the National Assembly or the Prime Minister), investment registration authority and investor.

4. Procedures for approving the investor in the investment project executed in an economic zone as specified in Clause 2 Article 32 of the Law on Investment are as follows:

a) The investor shall submit 04 sets of application for investor approval to economic zone management board, including an application form for investor approval and the documents specified in Points b, c, e, g and h Clause 1 Article 33 of the Law on Investment;

b) The economic zone management board shall send relevant documents to relevant regulatory agencies according to Point b Clause 1 and Point b Clause 2 of this Article;

c) Within 15 days from the receipt of the relevant documents, the enquired authorities shall give their opinions about the contents under their state management to the economic zone management board;

d) The economic zone management board shall approve the investor within 25 days from the receipt of the valid applications specified in Point a of this Clause.

### **Article 31. Applications and procedures for making and appraising requests for investment guideline approval**

1. Applications for approval for investment guidelines of investment projects are specified in Clause 1 or Clause 2 Article 33 of the Law on Investment and Clauses 2 and 3 of this Article.

2. Explanatory documents for the proposal for method of investor selection specified in Clauses 1 and 2 Article 33 of the Law on Investment include:

a) A copy of the list of projects on land subject to expropriation approved by the provincial People's Council; documents proving that land has been cleared (if any), other explanatory documents (if any) in the case of proposal for investor selection through land use right auction in accordance with regulations of law on land;

b) A copy of the list of projects on land subject to expropriation approved by the provincial People's Council; a document proving that land has not been cleared (if any), other explanatory documents (if any) in the case of proposal for investor selection through bidding for land-using project; In this case, the investment proposal shall specify the total estimated cost of project execution that is determined according to the total investment of the project in accordance with regulations of law on construction, exclusive of the costs of compensation, assistance and relocation is required.

In case of bidding for investor selection in accordance with regulations of law on private sector involvement and special legislation, explanatory documents for legal bases and conditions for application of method of investor selection through bidding in accordance with regulations of law on private sector involvement and special legislation are required;

c) A document proving that the project is not on the list of projects on land subject to expropriation approved by the provincial People's Council; a valid copy of the decision on land allocation or decision on land lease or the land use right lease contract or certificate of land use rights, certificate of ownership of houses and land use rights, certificate of land use rights, ownership of houses and other property on land in the case of proposal for approval for both investment guidelines and investor regarding the investor that has the land use rights as specified in Point a Clause 4 Article 29 of the Law on Investment;

d) A valid copy of the competent People's Committee's written approval for receipt of the land use rights, receipt of the land use rights as contributed capital or lease of the land use rights for project execution and valid copies of other documents containing agreement on use of location for project execution in the case of proposal for approval for both investment guidelines and investor with regard to the investor receiving the agricultural land use rights, receiving the agricultural land use rights as contributed capital or leasing the agricultural land use rights for execution of the project on non-agricultural production or business as prescribed in Point b Clause 4 Article 29 of the Law on Investment.

3. Regarding a project on investment in construction, the project investment proposal includes:

a) The contents specified in Point d Clause 1 or Point b Clause 2 Article 33 of the Law on Investment; description of fulfillment of objectives and orientations for urban development, residential housing development program or plan; expected division of component projects (if any); preliminary plan for phasing of investment with a view to synchronism assurance; preliminary structure of residential housing products and provision of land for social housing development; preliminary plan for investment in construction and management of urban infrastructure inside and outside the project, including a proposal for preliminary part of the urban infrastructure retained by the investor for business operation and part of the urban infrastructure to be transferred or proposed by the investor to the local government with respect to the project on investment in residential housing or urban area construction.

For an urban area project, if the law on construction requires formulation of a pre-feasibility study report, the investor or competent authority is entitled to submit or use the pre-feasibility study report instead of the investment project proposal, including a proposal for preliminary part of the urban infrastructure retained by the investor for business operation and part of the urban infrastructure to be transferred or proposed by the investor to the local government;

b) The contents specified in Point d Clause 1 or Point b Clause 2 Article 33 of the Law on Investment, expected division of component projects (if any) with respect to the project on investment in construction other than that specified in Point a of this Clause.

4. The competent authorities that prepare applications for approval for investment guidelines of the investment projects in Clauses 1 and 2 Article 22 of the Law on Investment consist of:

a) Ministries, ministerial agencies and provincial People's Committees, which prepare applications for approval for investment guidelines of projects subject to approval for their investment guidelines by the National Assembly and the Prime Minister;

b) Specialized agencies of provincial People's Committees; district-level People's Committees; industrial park management boards, export-processing zones, hi-tech zones and economic zones, which prepare applications for approval for investment guidelines of projects subject to approval for their investment guidelines by provincial People's Committees.

5. Authorities receiving applications for approval for investment guidelines consist of:

a) The Ministry of Planning and Investment, which receives applications for approval for investment guidelines of investment projects subject to approval for their investment guidelines by the National Assembly and the Prime Minister;

b) Departments of Planning Investment, which receive applications for approval for investment guidelines of investment projects subject to approval for their investment guidelines by provincial People's Committees outside industrial parks, export-processing zones, hi-tech zones and economic zones; investment projects executed both inside and outside industrial parks, export-processing zones, hi-tech zones and economic zones; investment projects executed inside industrial parks, export-processing zones, hi-tech zones and economic zones where management boards of such industrial parks, export-processing zones, hi-tech zones and economic zones have

yet to be established or not under the management of the management boards of industrial parks, export-processing zones, hi-tech zones and economic zones;

c) Management boards of industrial parks, export-processing zones, hi-tech zones and economic zones, which receive applications for approval for investment guidelines of investment projects subject to approval for their investment guidelines by provincial People's Committees executed inside the industrial parks, export-processing zones, hi-tech zones and economic zones.

6. Contents of appraisal of the request for approval for investment guidelines include:

a) The contents in Clause 3 Article 33 of the Law on Investment;

b) Legal bases and conditions for application of investor selection method prescribed in Clause 1 Article 29 of the Law on Investment and Article 29 of this Decree.

7. The appraisal of conformity of an investment project with planning as prescribed in Point a Clause 3 Article 33 of the Law on Investment shall be carried out as follows:

a) If the national planning, regional planning or provincial planning has yet to be decided or approved as prescribed by the Law on Planning, the assessment of conformity of the investment project with such planning shall be conducted on the basis of assessment of conformity of the investment project with the planning prescribed in Point c Clause 1 Article 59 of the Law on Planning regarding the implementation of the planning integrated into the national planning, regional planning or provincial planning and the Government's Resolution on the List of planning integrated into such planning;

b) If the planning integrated into the national planning, regional planning or provincial planning as prescribed in Point a of this Clause expires before the national planning, regional planning or provincial planning is decided or approved, such planning shall be extended until the national planning, regional planning or provincial planning is decided or approved;

c) For the urban planning, the appraisal shall cover the assessment of conformity of the investment project with the detailed planning (if any) or zoning planning (if any); if the detailed planning or zoning planning has yet to be approved by the competent authority, the assessment of conformity of the investment project with the general planning is required.

8. Contents of appraisal of the request for approval for both investment guidelines and investor include:

a) The contents in Clause 4 Article 33 of the Law on Investment;

b) Legal bases and conditions for investor approval prescribed in Clause 1 Article 29 of the Law on Investment and Article 29 of this Decree;

c) Assessment of satisfaction of conditions in accordance with regulations of law on construction, housing, urban development and real estate business (for projects on investment in residential housing and urban area construction and real estate business).

9. The obtainment of and response to opinions during the appraisal shall be carried out on according to the principle specified in Clause 2 Article 6 hereof. If the law on construction, housing, urban development or real estate business provides for enquired authorities and contents about which appraisal opinions are obtained, regulations laid down in such law shall apply.

### **Article 32. Procedures for investment guideline approval by the Prime Minister**

1. Investment projects subject to approval for their investment guidelines by the Prime Minister are specified in Article 31 of the Law on Investment. Other investment projects subject to approval for their investment guidelines by the Prime Minister specified in Clause 4 Article 31 of the Law on Investment are those prescribed by law that they must be submitted to the Prime Minister for approval for their investment guidelines, decision on investment, permission for investment or decision made in other forms.

2. The investor or competent authority specified in Point a Clause 4 Article 31 hereof shall submit 08 sets of application for approval for investment guidelines as prescribed in Clause 1 or Clause 2 Article 33 of the Law on Investment, Clauses 2 and 3 Article 31 of this Decree to the Ministry of Planning and Investment.

3. Within 03 working days from the receipt of the valid applications mentioned in Clause 2 of this Article, the Ministry of Planning and Investment shall send relevant documents to relevant Ministries, authorities and People's Committees of provinces where the project is executed to seek their appraisal opinions on the project's contents under their state management as prescribed in Clause 6 or Clause 8 Article 31 hereof.

For the investment project that has the proposal for repurposing of land meant for rice cultivation, protection forest land or special-use forest land or forest repurposing, the procedures for obtaining opinions are as follows:

a) For the project that has the proposal for repurposing of land meant for rice cultivation, protection forest land or special-use forest land, the Ministry of Planning and Investment shall seek appraisal opinions of the Ministry of Natural Resources and Environment, Ministry of Agriculture and Rural Development, other concerned Ministries, agencies and People's Committee of the province where the project is expected to be executed about conformity of the project with the land use planning approved by the competent authority; remaining allocated quotas for use of land by the time of project proposal; current use of land (types of land and users of land); preliminary expected plans for land expropriation, compensation, assistance and relocation (if any); compliance with regulations of law on land in the case where the investor is using land allocated or leased out by the State to execute other investment projects.

b) For the project that has the proposal for forest repurposing, the Ministry of Planning and Investment shall seek appraisal opinions of the Ministry of Agriculture and Rural Development,

Ministry of Natural Resources and Environment, concerned ministries and People's Committee of the province where the project is expected to be executed about the guidelines for forest repurposing in accordance with regulations of law on forestry. If the application for decision on guidelines for forest repurposing has been prepared and appraised as prescribed by the law on forestry, the Ministry of Agriculture and Rural Development shall submit it to the Prime Minister for consideration and decision on guidelines for forest repurposing (for the case within the Prime Minister's power), and to the Ministry of Planning and Investment, which will submit it to the Prime Minister for approval for investment guidelines; the provincial People's Committee shall submit the application to the provincial People's Committee for consideration and decision on forest repurposing (for the case within the power of the provincial People's Council), and to the Ministry of Planning and Investment, which will submit it to the Prime Minister for approval for investment guidelines.

4. Within 15 days from the receipt of the Ministry of Planning and Investment's request for opinions, the enquired authorities shall give their appraisal opinions about the contents under their state management to the Ministry of Planning and Investment.

5. Within 40 days from the receipt of the valid applications specified in Clause 2 of this Article, the Ministry of Planning and Investment shall appraise them and prepare an appraisal report on the contents specified in Clause 6 or Clause 8 Article 31 hereof and submit it to the Prime Minister for investment guideline approval.

For the investment project that is subject to approval for its investment guidelines by 02 provincial People's Committee or more and has the proposal for selection of an investor through land use right auction or bidding, the Ministry of Planning and Investment shall propose that the People's Committee of a province presides over and cooperates with concerned authorities and local authorities in holding land use right auction or bidding for investor selection or propose that a Ministry, ministerial agency or Governmental agency presides over and cooperates with concerned authorities and local authorities in bidding to select the investor.

6. Within 07 working days from the receipt of the appraisal report of the Ministry of Planning and Investment, the Prime Minister shall grant approval for investment guidelines.

7. Contents of the Prime Minister's decision on approval for investment guidelines shall include:

a) The investor executing the project (in case of approving both investment guidelines and investor) or investor selection method (in case of selecting an investor to execute the project through a land use right auction or bidding);

b) Project's name; objectives; scale (preliminary structure of residential housing products and provision of land for social housing development, preliminary plan for investment in construction and management of urban infrastructure inside and outside the project with respect to the project on investment in residential housing or urban area construction, preliminary part of the urban infrastructure retained by the investor for business operation and part of the urban infrastructure to be transferred or proposed by the investor to the local government with respect

to the project on investment in residential housing or urban area construction, if any); investment capital of the project (total estimated cost of executing the project), duration of the project;

c) Location of the investment project;

d) Project execution schedule: schedule for contributing and raising capital sources; schedule for carrying out capital construction and putting the work into operation (if any); preliminary plan for investment phasing or division of component projects (if any); schedule for implementing each stage (for the multi-stage investment project);

dd) Technologies applied (if any);

e) Investment incentives and assistance and conditions for application thereof (if any);

g) Other conditions for executing the investment project (if any);

h) Responsibilities of investors and agencies concerned for project execution;

i) Effective date of the decision on approval for investment guidelines.

8. The decision on approval for investment guidelines shall be sent to the Ministry of Planning and Investment, investor, competent authority specified in Clause 2 of this Article and People's Committee of the province where the project is executed to hold an auction (in case of selecting an investor through land use right auction), bidding organizing authority to publish the list of projects in accordance with regulations of law on bidding and private sector involvement, and special legislation (in case of selecting an investor through bidding), investment registration authority, other Ministries and agencies involved in execution of the project.

### **Article 33. Power and procedures for investment guideline approval by provincial People's Committees**

1. Investment projects subject to approval for their investment guidelines by provincial People's Committees are specified in Article 32 of the Law on Investment.

2. Investment projects subject to approval for their investment guidelines by provincial People's Committees specified in Point a Clause 1 Article 32 of the Law on Investment include:

a) Investment projects that request the State to allocate or lease out land without land use right auction or bidding for investor selection;

b) Investment projects that request the State to allocate or lease out land of households and individuals required to obtain the written approval of the provincial People's Committee in accordance with regulations of law on land;

c) Investment projects that request the State to allocate or lease out land in a case other than the case of receipt of land use rights or property on land;

d) Investment projects that request land repurposing subject to written permission for land repurposing from the competent authority in accordance with regulations of law on land, except for the case of repurposing of households and individuals' land not subject to approval by the provincial People's Committee in accordance with regulations of law on land.

3. Investment projects subject to approval for their investment guidelines by provincial People's Committees as specified in Point d Clause 1 Article 32 of the Law on Investment are foreign investors and foreign-invested business organizations' projects that request the State to allocate or lease out land or permit repurposing of land on islands or in border or coastal communes; in other areas that affect defense and security determined according to Clause 8 Article 2 and Point dd Clause 2 Article 98 of this Decree or opinions of the Ministry of National Defense and Ministry of Public Security specified in Point dd Clause 2 Article 98 of this Decree.

4. Procedures for investment guideline approval by a provincial People's Committee are as follows:

a) The investor or competent authority shall submit 04 sets of application for approval for investment guidelines as prescribed in Clause 1 or Clause 2 Article 33 of the Law on Investment, Clauses 2 and 3 Article 31 of this Decree to the investment registration authority.

b) Within 03 working days from the receipt of the valid applications mentioned in Point a of this Clause, the investment registration authority shall send relevant documents to Departments, People's Committees of the district where the project is expected to be executed and agencies concerned to seek their appraisal opinions on the contents under their state management as prescribed in Clause 6 or Clause 8 Article 31 hereof;

c) Within 15 days from the receipt of the relevant documents, the enquired authorities shall give their opinions about the contents under their state management to the investment registration authority;

d) Within 25 days from the receipt of the valid applications specified in Point a of this Clause, investment registration authority shall prepare an appraisal report containing the contents as specified in Points b, c and d Clause 4 Article 33 of the Law on Investment and submit it to the provincial People's Committee.

5. Within 07 working days from the receipt of the applications and appraisal report, the provincial People's Committee shall consider approving investment guidelines of projects according to Clause 7 Article 32 hereof.

6. The decision on approval for investment guidelines shall be sent to the investor or competent authority specified in Point a Clause 4 of this Article, authority assigned to conduct (in case of selecting an investor through land use right auction), the auction bidding organizing authority to publish the list of projects in accordance with regulations of law on bidding and private sector involvement, and special legislation (in case of selecting an investor through bidding), investment registration authority, Departments and agencies involved in execution of the project.



7. Regarding an investment project executed in an industrial park, export-processing zone, hi-tech zone or economic zone as specified in Clause 2 Article 32 of the Law on Investment, the industrial park, export-processing zone, hi-tech zone or economic zone management board shall follow procedures for investment guideline approval as follows:

a) The investor or competent authority specified in Point b Clause 4 Article 31 hereof shall submit 04 sets of application for approval for investment guidelines as prescribed in Clause 1 or Clause 2 Article 33 of the Law on Investment, Clauses 2 and 3 Article 31 of this Decree to the industrial park, export-processing zone, hi-tech zone or economic zone management board;

b) Within 03 working days from the receipt of the valid applications mentioned in Point a of this Clause, the industrial park, export-processing zone, hi-tech zone or economic zone management board shall send relevant documents to agencies concerned to seek their appraisal opinions on the contents under their state management as prescribed in Clause 6 or Clause 8 Article 31 hereof;

c) Within 15 days from the receipt of the relevant documents, the enquired authorities shall give their opinions about the contents under their state management to the industrial park, export-processing zone, hi-tech zone or economic zone management board;

d) Within 25 days from the receipt of the valid applications specified in Point a of this Clause, the industrial park, export-processing zone, hi-tech zone or economic zone management board shall prepare an appraisal report on the contents specified in Clause 6 or Clause 8 Article 31 hereof and decision on approval for investment guidelines containing the contents specified in Clause 7 Article 32 hereof.

8. For an investment project executed in an economic zone and subject to a land use right auction, the economic zone management board shall request the provincial People's Committee to assign a competent agency or unit to hold the auction.

### **Section 3. PROCEDURES FOR ISSUANCE, ADJUSTMENT AND REVOCATION OF INVESTMENT REGISTRATION CERTIFICATES**

#### **Article 34. The power to issue, adjust and revoke investment registration certificates**

1. The power to issue, adjust and revoke investment registration certificates is prescribed in Article 39 of the Law on Investment.

2. Departments of Planning and Investment of provinces where investment projects are executed or where operating offices are located or expected to be located for execution of investment projects shall issue, adjust and revoke investment registration certificates of the following investment projects:

a) Investment projects executed in 02 provinces or more;

b) Investment projects executed inside and outside industrial parks, export-processing zones, hi-tech zones and economic zones;

c) Investment projects executed inside industrial parks, export-processing zones, hi-tech zones and economic zones where management boards of such industrial parks, export-processing zones, hi-tech zones and economic zones have yet to be established or not under the management of the management boards of industrial parks, export-processing zones, hi-tech zones and economic zones.

3. Industrial park, export-processing zone, hi-tech zone and economic zone management boards shall issue, adjust and revoke investment registration certificates of the following investment projects:

a) Projects on investment in and commercial operation of infrastructure in industrial parks, export-processing zones, hi-tech zones and economic zones;

b) Investment projects executed inside industrial parks, export-processing zones, hi-tech zones and economic zones.

### **Article 35. Procedures for issuance and adjustment of investment registration certificates of projects subject to approval for their investment guidelines**

1. Procedures for issuing and adjusting the investment registration certificate of an investment project whose investment guidelines are approved together with approval for the investor and subject to issuance of the investment registration certificate are as follows:

a) According to the decision on approval for investment guidelines and decision on approval for adjustment of the investment guidelines, the investment registration authority shall issue and adjust the investment registration certificate within 05 working days from the receipt of the decision on approval for investment guidelines and decision on approval for adjustment of the investment guidelines;

b) For the investment project subject to approval for its investment guidelines by 02 provincial People's Committees or more, at the request of the Ministry of Planning and Investment, the Prime Minister shall assign the Department of Planning and Investment of a province or central-affiliated city where the investment project is executed or where the operating office is located or expected to be located for execution of the investment project to issue the investment registration certificate.

2. For an investment project whose investment guidelines have been approved and investor in which has won the auction or bidding; investment project subject to investor approval as specified in Clause 3 Article 29 of the Law on Investment and subject to issuance of the investment registration certificate, the investor shall submit an application form for issuance of the investment registration certificate to the investment registration authority to be issued with the investment registration certificate within 05 working days from the date on which the investment registration authority receives the application form.

3. For an investment project subject to investor approval by the economic zone management board, the economic zone management board shall decide on investor approval together with issuance of the investment registration certificate.

4. For a project not subject to issuance of the investment registration certificate, if wishing to obtain the investment registration certificate, the investor shall submit an application form for issuance of the investment registration certificate, valid copy of the decision on approval for investment guidelines and valid copy of the decision on investor approval (if any) to the investment registration authority to be issued with the investment registration certificate within 05 working days from the date on which the receipt of the application form.

**Article 36. Procedures for issuance and adjustment of investment registration certificates of projects not subject to approval for their investment guidelines**

1. The investor shall submit 01 set of application for issuance of the investment registration certificate containing the contents in Clause 1 Article 33 of the Law on Investment to the investment registration authority. If the investment project is executed in 02 provinces or more, the investor shall submit the application to the Department of Planning and Investment of a province or central-affiliated city where the investment project is executed or where the operating office is located or expected to be located for execution of the investment project to apply for issuance of the investment registration certificate to the project.

2. If the investment project has commenced, the investor shall submit the application mentioned in Clause 1 of this Article in which the investment project proposal is replaced with a report on project execution from the date of commencement to the date of the application for issuance of the investment registration certificate.

3. The investment registration authority shall issue the investment registration certificate to the investor within 15 days from the receipt of the valid application if the conditions below are satisfied:

a) The project does not involve any banned business line specified in Article 6 of the Law on Investment and international investment-related treaty;

b) There is a location for project execution which is determined according to the valid copy of the document regarding the land use right or valid copy of the location lease agreement or another document identifying the right to use the location for project execution;

c) The project conforms to the planning specified in Clause 7 Article 31 hereof;

d) The project satisfies the condition concerning the investment per m<sup>2</sup> prescribed by the provincial People's Committee according to the local conditions and approved by the Standing Committee of the provincial People's Council (if any), the number of workers employed (if any);

dd) The market access conditions applied to a foreign investor are satisfied.

4. Procedures for adjustment of investment registration certificates of projects not subject to approval for their investment guidelines are specified in Article 47 hereof.

### **Article 37. Investment project codes**

1. A code of an investment project is a sequence of numbers automatically generated by the National Foreign Investment Information System and written on the investment registration certificate. Each investment project is issued with a single code, exists throughout the operation of the project and expires upon termination of the investment project.

2. With regard to an investment project executed according to the investment certificate, investment license or another equivalent document, the code of the investment project is the number of the investment certificate, investment license or the equivalent document issued to the investment project.

3. The competent authority shall use codes of investment projects uniformly to manage and exchange information about investment projects.

### **Article 38. Following investment procedures on the National Investment Information System**

1. Before following procedures for issuance or adjustment of the investment registration certificate, the investor shall make online declaration of information about the investment project on National Investment Information System. Within 15 days from the date of online declaration of application, the investor shall submit an application for issuance or adjustment of the investment registration certificate to the investment registration authority. If the application is not received within the 15-day period, the online application will be invalidated.

2. The investment registration authority shall use the National Investment Information System to receive and process applications, return results, update the processing of applications and issue project codes. A project code becomes effective as the electronic copy of the investment registration certificate is recorded and stored in the National Investment Information System.

3. In case National Foreign Investment Information System is inaccessible due to a breakdown, the investment registration authority shall issue the investment registration certificate under the backup procedures below:

a) The investment registration authority shall receive the physical application for issuance or adjustment of the investment registration certificate and request the Ministry of Planning and Investment in writing to issue a code to the investment project. Within 02 working days from the day on which the request is received, the Ministry of Planning and Investment shall issue the project code and notify the investment registration authority;

b) Within 05 working days from the day on which the investment registration certificate is issued under the backup procedures, the investment registration authority shall update information about the project on National Investment Information System.

### **Article 39. Online applications for issuance and adjustment of investment registration certificates**

1. For an investment project not subject to approval for its investment guidelines, the investor is entitled to choose between submitting a physical application for issuance or adjustment of the investment registration certificate as prescribed in Articles 36 and 47 hereof or submitting an online application on the National Investment Information System with or without a digital signature.
2. An online application for issuance or adjustment of the investment registration certificate shall contain the information prescribed in this Decree, be shown in the form of an electronic document and have same legal validity as a physical one.
3. An online application shall be accepted if it meets all of the following conditions:
  - a) There are sufficient electronic documents with complete contents as physical documents. Names of electronic documents must be relevant to names of physical documents;
  - b) Information provided on the National Investment Information System must be adequate and accurate as that in physical documents; authenticated with digital signature of the investor or consistent with that in physical documents.
4. If the investor authorizes a third party to follow investment procedures, an application for issuance or adjustment of the investment registration certificate must include a letter of authorization and legal documents of the authorized party.

### **Article 40. Procedures for online issuance and adjustment of investment registration certificates on the National Investment Information System**

1. An investor shall follow procedures for issuance or adjustment of the investment registration certificate using digital signatures as follows:
  - a) The investor shall register an account on the National Investment Information System;
  - b) The investor shall enter information and download electronic documents bearing digital signatures on the National Investment Information System;
  - c) After completing the submission of the application, the investor will receive a confirmation slip through the National Investment Information System;
  - d) If the application is invalid or has to be clarified, the investment registration authority shall request the investor in writing to complete the application on the National Investment Information System within 05 working days from the receipt of the application;

dd) If the application is valid and satisfies all conditions, the investment registration authority shall issue or adjust the investment registration certificate within 15 days from the receipt of the valid application.

2. The investor shall follow procedures for issuance or adjustment of the investment registration certificate without using digital signatures as follows:

a) The investor shall register an account on the National Investment Information System;

b) The investor shall declare information and downloads electronic documents on the System;

c) After completing the submission of the application, the investor will receive a confirmation slip through the System;

d) If the application is invalid or has to be clarified, the investment registration authority shall request the investor in writing to complete the application on the System within 05 working days from the receipt of the application;

dd) If the application satisfies the conditions for issuance or adjustment of the investment registration certificate, the investment registration authority shall the investor on the System;

e) After receiving the notification mentioned in Point dd of this Clause, the investor shall submit a physical application enclosed with the printed copy of the confirmation slip to the investment registration authority, whether directly or by post, to compare it with the application submitted on the System. If the investor's physical application is not received within a period of 30 days from the date of sending the notification of satisfaction of the conditions for issuance or adjustment of the investment registration certificate, the investor's online application will be invalidated;

g) The investment registration authority shall issue or adjust the investment registration certificate within 15 days (exclusive of the time when the investor submits the physical application for comparison with the electronic one) from the receipt of the valid application if the comparison shows that physical application is consistent with the electronic one;

h) The investor shall take responsibility for the accuracy and adequacy of the physical application compared with the application submitted on the System. If the physical application is inconsistent with the application submitted on the System, the investment registration authority is entitled to refuse to issue or adjust the investment registration certificate.

#### **Article 41. Procedures for re-issuance and correction of information on investment registration certificates**

1. If the investment registration certificate is lost or damaged, the investor shall submit an application form for re-issuance of the investment registration certificate to the investment registration authority to be re-issued within 05 working days from the receipt of the application form.

2. If contents of the investment registration certificate stored in the form of electronic data in the National Investment Information System are different from those of the physical investment registration certificate, the one on which the information is consistent with the information included in the application for investment registration shall prevail. The investment registration authority shall correct information on the investment registration certificate within 03 working days from the receipt of the investor's request.

3. If information on the investment registration certificate is inaccurate compared to that in the investment documents, the investment registration authority shall correct information on the investment registration certificate within 03 working days from the receipt of the investor's request.

#### **Article 42. Registration for return of investment registration certificates**

For an investment project issued with the investment registration certificate but having any of its contents adjusted resulting in the project not being required to obtain the investment registration certificate, the investor shall return the investment registration certificate to the investment registration authority (if the investor so requests) and continue to execute the project as prescribed by law.

### **Section 4. ADJUSTMENT OF INVESTMENT PROJECTS**

#### **Article 43. Adjustments and procedures for adjusting investment projects**

1. During execution of an investment project, the investor is entitled to adjust the project according to Clauses 1, 2 and 3 Article 41 of the Law on Investment.

2. For the project whose investment guidelines have been approved, the investor shall follow the procedures below:

a) If any content of the investment project is adjusted according to Clause 3 Article 41 of the Law on Investment, the investor shall follow procedures for adjusting the decision on approval for investment guidelines in accordance with the corresponding regulations laid down in Articles 44, 45 and 46 hereof. Pursuant to the decision on approval for adjustment of the investment guidelines, the investor shall follow procedures for adjusting the decision on investor approval (if any) or investment registration certificate (if any);

b) If any content of the investment project is adjusted in a case other than the case specified in Clause 3 Article 41 of the Law on Investment, the investor is not required to follow procedures for approval for adjustment of the investment guidelines.

3. For the investment project not subject to approval for its investment guidelines or project whose investment guidelines have been approved in a case other than the case specified in Clause 3 Article 41 of the Law on Investment, the investor shall follow procedures for adjusting the investment registration certificate (if any) as prescribed in Article 47 hereof.

4. If a request for adjustment of an investment project not subject to approval for its guidelines results in the project being subject to approval for its investment guidelines, the investor must follow procedures for approval for investment guidelines as prescribed in Section 2 Chapter IV hereof prior to making the adjustment. In this case, the investment guideline approving authority shall consider the adjustments to grant approval for investment guidelines.

**Article 44. Procedures for adjusting investment projects subject to approval for their investment guidelines by the Prime Minister**

1. The investor shall submit 08 sets of application to the Ministry of Planning and Investment. The application includes:

- a) An application form for adjustment of the investment project;
- b) A report on investment project's progress by the time of adjustment;
- c) The investor's decision on investment project adjustment if the investor is an organization;
- d) Explanation or documents relating to the adjustment of the contents specified in Points b, c, d, dd, e, g and h Clause 1 Article 33 of the Law on Investment (if any).

2. Procedures for adjusting the investment project:

- a) Within 03 working days from the receipt of the valid applications, the Ministry of Planning and Investment shall send them to competent authorities as prescribed in Clause 3 Article 32 hereof to seek their opinions about the adjustments;
- b) Within 15 days from the receipt of the valid applications, the enquired authorities shall give their opinions about the adjustments under their state management;
- c) Within 35 days from the receipt of the valid applications, the Ministry of Planning and Investment shall prepare an appraisal report on the adjustments for submission to the Prime Minister;
- d) Within 05 working days from the receipt of the appraisal report of the Ministry of Planning and Investment, the Prime Minister shall decide to approve adjustment of the investment guidelines. The decision on approval for adjustment of the investment guidelines shall be sent to the Ministry of Planning and Investment, investment registration authority, investor, other Ministries and agencies related to execution of the investment project, and the investor approving authority (if any).

**Article 45. Procedures for adjusting investment projects subject to approval for their investment guidelines by provincial People's Committees**

1. The investor shall submit 04 sets of application specified in Clause 1 Article 44 hereof to the investment registration authority.



## 2. Procedures for adjusting the investment project:

- a) Within 03 working days from the receipt of the valid applications, the investment registration authority shall send them to competent authorities as prescribed in Point b Clause 4 Article 33 hereof to seek their opinions about the adjustments;
- b) Within 15 days from the receipt of the valid applications, the enquired authorities shall give their opinions about the adjustments under their state management;
- c) Within 25 days from the receipt of the valid applications, the investment registration authority shall prepare an appraisal report on the adjustments for submission to the provincial People's Committee;
- d) Within 07 working days from the receipt of the applications and appraisal report of the investment registration authority, the provincial People's Committee shall decide to approve adjustment of the investment guidelines. The decision on approval for adjustment of the investment guidelines shall be sent to the investment registration authority and investor, the investor approving authority in the case of investor approval as prescribed in Clause 3 Article 29 of the Law on Investment, Departments and agencies related to execution of the investment project.

### **Article 46. Procedures for adjusting investment projects subject to approval for their investment guidelines by industrial park, export-processing zone, hi-tech zone and economic zone management boards**

Procedures for adjusting an investment project subject to approval for its investment guidelines by an industrial park, export-processing zone, hi-tech zone or economic zone management board as prescribed in Clause 2 Article 32 of the Law on Investment are as follows:

- 1. The investor shall submit 04 sets of application prescribed in Article 44 hereof to the industrial park, export-processing zone, hi-tech zone or economic zone management board;
- 2. Within 03 working days from the receipt of the valid applications, the industrial park, export-processing zone, hi-tech zone or economic zone management board shall send them to competent authorities as prescribed in Point b Clause 7 Article 33 hereof to seek their opinions about the adjustments;
- 3. Within 15 days from the receipt of the valid applications, the enquired authorities shall give their opinions about the adjustments under their state management;
- 4. Within 25 days from the receipt of the valid applications, the industrial park, export-processing zone, hi-tech zone or economic zone management board shall decide to approve adjustment of the investment guidelines. The decision on approval for adjustment of the investment guidelines shall be sent to the investor and agencies related to execution of the investment project.

**Article 47. Procedures for adjusting investment projects issued with investment registration certificates and not subject to approval for their investment guidelines**

1. If the adjustment of the investment project is related to the change of the investment project name or investor name on the investment registration certificate, the investor shall submit an application form for adjustment of the investment project to the investment registration authority enclosed with the documents concerning such change. Within 03 working days from the receipt of the application form for adjustment of the investment registration certificate, the investment registration authority shall adjust the investment registration certificate.
2. If the adjustment of an investment project is not made in the case specified in Clause 1 of this Article, the investor shall submit 01 application specified in Clause 1 Article 44 hereof to the investment registration authority. Within 10 days from the receipt of the valid application, the investment registration authority shall adjust the investment registration certificate.

**Article 48. Adjustment of investment projects in case of transfer of part or whole of investment projects**

1. An investor (the transferor) is entitled to transfer part or whole of their investment project to another investor (the transferee) if the conditions set out in Clause 1 Article 46 of the Law on Investment are satisfied.
2. The transferee is entitled to inherit the rights and obligations to execute the investment project of the transferor. If the project transfer generates income, the transferor shall discharge financial obligations to the State as prescribed by law.
3. For a real estate business project, the investor that is approved as prescribed in Clause 3 or 4 Article 29 of the Law on Investment or issued with the investment registration certificate shall follow procedures for adjusting the investment project upon transfer of the project as prescribed in this Article and in compliance with the principles, conditions, rights and obligations of the transferor and transferee in accordance with regulations of law on real estate business.
4. For the real estate business project other than that specified in Clause 3 of this Article, the power, procedures, conditions and applications for transfer of part or whole of the real estate business project shall adhere to regulations of law on real estate business.
5. An application for adjustment of the investment project is composed of:
  - a) An application form for adjustment of the investment project;
  - b) A report on the investment project's progress by the time of project transfer;
  - c) A contract or principal contract for transfer of part or whole of the investment project;
  - d) Copies of documents about the legal status of the transferor and transferee;

dd) A copy of the investment registration certificate; the decision on approval for investment guidelines; the decision on investor approval (if any);

e) A copy of the BCC (for BCC investment projects);

g) A copy of one of the following documents of the transferee: financial statements for the last 02 years or equity audit report of the investor, commitment of the parent company to provide financial support or commitment of a financial institution to provide financial support, guarantee for the investor's financial capability or a document describing the investor's financial capability.

6. Where an investment project has had its investment guidelines approved together with approval for the investor but the investor has transferred whole of the project before it is operated or there is a change of conditions applicable to the investor, the procedures for adjusting the project are as follows:

a) The transferor shall submit 08 sets of the application prescribed in Clause 5 of this Article to the Ministry of Planning and Investment or 04 sets of the application prescribed in Clause 5 of this Article to the investment registration authority corresponding to the power to approve investment guidelines of the project;

b) The authority specified in Point a of this Clause shall consider the conditions for project transfer set forth in Clause 1 Article 46 of the Law on Investment to decide to adjust the investment project in accordance with the corresponding regulations in Articles 44, 45 and 46 hereof. The decision on approval for change of investor shall record the transferor, transferee and part of the project transferred (if any), and be sent to the investment registration authority, transferor and transferee.

7. Where an investment project has had its investment guidelines approved and the transfer thereof changes any content of approval for the investment guidelines in one of the cases mentioned in Points a, b, c, d, dd and e Clause 3 Article 41 of the Law on Investment, the transferor shall follow the procedures for adjusting the project according to the corresponding regulations set out in Points a and b Clause 6 of this Article, except for the cases in Clause 9 of this Article.

8. Where an investment project has had its investment guidelines approved and the transfer thereof does not change any content of approval for the investment guidelines in one of the cases mentioned in Points a, b, c, d, dd and e Clause 3 Article 41 of the Law on Investment, the transferor shall follow the procedures for adjusting the decision on investor approval instead of the procedures for approving the adjustment of the investment guidelines. To be specific:

a) The transferor shall submit to the investment registration authority 04 sets of the application prescribed in Clause 5 of this Article in which the application form for investment project adjustment is replaced with the application form for approval for change of investor;

b) Within 03 working days from the receipt of the valid applications, the investment registration authority shall send them to concerned competent authorities at the same level about the compliance with regulations set out in Points b, c and d Clause 4 Article 33 of the Law on Investment;

c) Within 15 days from the receipt of the valid applications, the enquired authorities shall give their opinions about the contents under their state management to the investment registration authority;

d) Within 25 days from the receipt of the valid applications, the investment registration authority shall prepare an appraisal report on the contents in Points b, c and d Clause 4 Article 33 of the Law on Investment and submit it to the provincial People's Committee;

dd) Within 07 working days from the receipt of the applications and appraisal report, the provincial People's Committee shall decide to approve the change of investor;

e) The decision on approval for change of investor shall record the transferor, transferee and part of the project transferred (if any), and be sent to the investment registration authority, transferor and transferee.

9. For an investment project that has had its investment guidelines approved and has been put into operation, the investor is not required to follow the procedures for approving investment guideline adjustment upon transfer of the project.

10. For an investment project that has been issued with the investment registration certificate and not subject to approval for its investment guidelines or has had its investment guidelines approved in a case other than the case specified in Clause 3 Article 41 of the Law on Investment, the procedures for adjusting the project are as follows:

a) The transferor shall submit 01 set of the application specified in Clause 5 of this Article to the investment registration authority;

b) The investment registration authority shall consider the conditions for project transfer set forth in Clause 1 Article 46 of the Law on Investment to adjust the investment project in accordance with Article 47 hereof. The adjusted investment registration certificate shall be sent to the transferor and transferee.

11. Procedures for adjusting an investment project in case where a foreign investor receives the investment project (transferee) and establish a business organization to execute the project:

a) The transferor shall follow the procedures for project adjustment in accordance with the corresponding regulations specified in Clauses 6, 7, 8 and 10 of this Article;

b) After completing the procedures set out in Point a of this Clause, the transferee shall follow procedures for establishing a business organization in accordance with regulations of law on enterprises corresponding to each type of business organization. From the date on which the

enterprise registration certificate or another equivalent document is issued, the business organization established by the foreign investor shall be the investor that executes the investment project as prescribed in Clause 2 Article 22 of the Law on Investment.

**Article 49. Adjustment of an investment project in case the investor receives the investment project which is collateral**

1. Any credit institution, organization or individual that receives collateral which is an investment project (hereinafter referred to as “the creditor”) is entitled to transfer such investment project.
2. The transferee is entitled to inherit the rights and obligations to execute the investment project of the transferor under the project transfer contract and relevant regulations of law.
3. The creditor or transferee shall prepare an application for investment project adjustment, including:
  - a) An application form for adjustment;
  - b) The project transfer contract between the creditor and the transferee;
  - c) A loan agreement or credit extension agreement or debt purchase and sale contract (if any);
  - d) A secured transaction contract or written confirmation of secured transaction (if any);
  - dd) A written confirmation of auction winning in case where the creditor or civil enforcement agency holds an asset auction (if any);
  - e) Copies of documents about the legal status of the transferor and transferee;
  - g) A copy of the investment registration certificate; the decision on approval for investment guidelines; the decision on investor approval (if any);
  - h) A copy of one of the following documents of the transferee: financial statements for the last 02 years or equity audit report of the investor, commitment of the parent company to provide financial support or commitment of a financial institution to provide financial support, guarantee for the investor’s financial capability or a document describing the investor’s financial capability;
  - i) A creditor’s written confirmation of legal status of the collateral.
4. Procedures for adjusting an investment project in the case of transfer of the investment project which is collateral are as follows:
  - a) Where an investment project has had its investment guidelines approved together with the approval of investor and the whole of the project is transferred in the case in Point g Clause 3

Article 41 of the Law on Investment, the creditor or transferee shall submit an application specified in Clause 3 of this Article and follow the procedures for adjusting the project in accordance with the corresponding regulations laid down in Articles 44, 45 and 46 hereof;

b) Where an investment project has had its investment guidelines approved and the transfer thereof changes any content of approval for the investment guidelines in one of the cases mentioned in Points a, b, c, d, dd and e Clause 3 Article 41 of the Law on Investment, the procedures for adjusting the project upon the transfer are set out in Articles 44, 45 and 46 hereof, except for the case in Clause 5 of this Article.

c) Where an investment project has had its investment guidelines approved and the transfer thereof does not change any content of approval for the investment guidelines in one of the cases mentioned in Points a, b, c, d, dd and e Clause 3 Article 41 of the Law on Investment, it is not required to follow the procedures for approving investment guideline adjustment. The creditor or transferee shall follow the procedures for adjusting the decision on investor approval in accordance with the corresponding regulations in Points a, b, c, d, dd and e Clause 8 Article 48 hereof.

d) For an investment project that has been issued with the investment registration certificate and not subject to approval for its investment guidelines or has had its investment guidelines approved in a case other than the case specified in Clause 3 Article 41 of the Law on Investment, the creditor or investor shall submit 01 set of the application specified in Clause 3 of this Article to the investment registration authority to follow the procedures for adjusting the project as prescribed in Article 47 hereof.

5. For an investment project that has had its investment guidelines approved and has been put into operation, it is not required to follow the procedures for approving investment guideline adjustment upon transfer of the project.

6. If the creditor wishes to receive and execute the investment project, the creditor shall prepare an application and follow the procedures for project adjustment in accordance with the corresponding regulations specified in Articles 44, 45, 46 and 47 hereof; the application for project adjustment shall additionally include a secured transaction contract or written confirmation of secured transactions; credit contract or written confirmation of debt; creditor's written confirmation of legal status of the collateral.

7. If the foreign investor or business organization specified in Points a, b and c Clause 1 Article 23 of the Law on Investment receives the investment project and establishes a business organization to execute the investment project, it is required to follow the procedures for project adjustment in accordance with the corresponding regulations specified in Articles 44, 45, 46 and 47 hereof, and then establish the business organization in accordance with regulations of law on enterprises corresponding to each type of business organization. The transferee shall satisfy the conditions specified in Clause 2 Article 24 of the Law on Investment.

8. For an investment project executed before the effective date of the Law on Investment, the procedures for project adjustment are specified in Article 117 hereof.

## **Article 50. Adjustment of investment project in case of full division, partial division and merger of investment projects**

1. An investor is entitled to adjust an investment project in the following forms:

a) Full division or partial division of the investor's project that is being executed (hereinafter referred to as "fully divided or partially divided project") into two or several projects;

b) Merger of one or more of projects of such investor (hereinafter referred to as "acquired project") and one investment project of such investor (hereinafter referred to as "acquiring project").

2. The full division, partial division or merger of an investment project in the form specified in Clause 1 of this Article shall satisfy the following conditions:

a) The conditions for use of land prescribed by the law on land, business investment conditions (if any) and other conditions prescribed by law are satisfied;

b) It is not allowed to change any of the conditions (if any) applicable to the investor specified in the decision on approval for investment guidelines or investment registration certificate prior to the full division, partial division or merger of the investment project;

3. Procedures for adjusting an investment project in case of its full division, partial division or merger are as follows:

a) For the investment project whose investment guidelines have been approved, the investor shall submit 08 sets of application to the Ministry of Planning and Investment or 04 sets of application to the investment registration authority corresponding to the power to approve investment guidelines of the project.

The application includes: An application form for project adjustment; report on the project's progress by the time of full division, partial division or merger; investor's decision on full division, partial division or merger of the project or another equivalent document; documents about the investor's legal status; a copy of the investment registration certificate or decision on approval for investment guidelines (if any); a copy of the decision on investor approval (if any); explanation or documents relating to the adjustment of the contents specified in Points b, c, d, dd, e, g and h Clause 1 Article 33 of the Law on Investment (if any);

b) The authority specified in Point a of this Clause shall consider the conditions for full division, partial division or merger of the investment project set forth in Clause 2 of this Article to follow the procedures for project adjustment in accordance with the corresponding regulations in Articles 44, 45 and 46 hereof. The decision on approval for adjustment of the investment guidelines shall be sent to the investment registration authority and investor;

c) For an investment project that has been issued with the investment registration certificate and not subject to approval for its investment guidelines or has had its investment guidelines

approved in a case other than the case specified in Clause 3 Article 41 of the Law on Investment, the investor shall submit 01 set of the application specified in Point a of this Clause to the investment registration authority. The investment registration authority shall consider the conditions for full division, partial division or merger of the investment project set forth in Clause 2 of this Article to follow the procedures for project adjustment in accordance with Article 47 hereof. The adjusted investment registration certificate shall be sent to the investor.

**Article 51. Adjustment of investment projects in case of full division, partial division, consolidation, merger or conversion of type of business organization**

1. A business organization that is formed on the basis of full division, partial division, consolidation, merger or conversion of type of the business organization (hereinafter referred to as “re-organization”) is entitled to inherit and continue to exercise the re-organized business organization’s rights and obligations to the investment project executed by the re-organized business organization prior to the re-organization in accordance with regulations of law on enterprises, land and relevant regulations of law.

2. The investor shall decide the re-organization and settle assets, rights and obligations relating to the investment project in accordance with regulations of law on enterprises and relevant regulations of law. After the procedures for re-organization and settlement of assets, rights and obligations relating to the investment project, the investor shall submit an application for project adjustment. The application includes:

a) An application form for adjustment;

b) Copies of the documents about the business organization’s legal status after the re-organization;

c) A copy of the resolution or decision of the investor being the re-organized business organization on re-organization which specifies the settlement of assets, rights and obligations relating to the project;

d) Explanation or documents relating to the adjustment of the contents specified in Points b, c, d, dd, e, g and h Clause 1 Article 33 of the Law on Investment (if any);

dd) A copy of the investment registration certificate; the decision on approval for investment guidelines; the decision on investor approval (if any);

3. Where an investment project has had its investment guidelines approved and the adjustment thereof upon the re-organization changes any content of approval for investment guidelines in one of the cases in Clause 3 Article 41 of the Law on Investment, the investor shall submit 08 sets of the application specified in Clause 2 of this Article to the Ministry of Planning and Investment or 04 sets of the application specified in Clause 2 of this Article to the investment registration authority corresponding to the power to approve investment guidelines to adjust the investment project in accordance with the corresponding regulations laid down in Articles 44, 45



and 46 hereof. The decision on approval for adjustment of the investment guidelines shall be sent to the investor and investment registration authority.

4. For an investment project that has been issued with the investment registration certificate and not subject to approval for its investment guidelines or has had its investment guidelines approved in a case other than the case specified in Clause 3 Article 41 of the Law on Investment, the investor shall submit 01 set of the application specified in Clause 2 of this Article to the investment registration authority to adjust the project as prescribed in Article 47 hereof. The adjusted investment registration certificate shall be sent to the investor.

5. Where any business organization established on the basis of re-organization is invested in by a foreign investor or business organization specified in Points a, b and c Clause 1 Article 23 of the Law on Investment that is a general partner or shareholder, it is required to satisfy the conditions in Clause 2 Article 24 of the Law on Investment and follow the procedures below:

a) If the business organization that is formed on the basis of such re-organization continues to execute part or whole of the investment project executed by the re-organized business organization prior to the re-organization, it shall follow the procedures for project adjustment as prescribed in Clauses 3 and 4 of this Article;

b) If the business organization that is formed on the basis of such re-organization fails to receive and execute part or whole of the investment project executed by the re-organized business organization prior to the re-organization, the foreign investor or business organization specified in Points a, b and c Clause 1 Article 23 of the Law on Investment shall set up an investment project and follow procedures for issuance of the investment registration certificate or approval for investment guidelines as prescribed in this Decree before the business organization formed on the basis of the re-organization follows procedures for enterprise registration due to the re-organization in accordance with regulations of law on enterprises.

## **Article 52. Adjustment of investment projects in case of exercise of rights to use land and property on land which is part of investment projects for contributing capital to enterprises**

1. An investor is entitled to exercise the rights to use land and property on land which is part of their investment project to contribute capital for establishment of a business organization or contribute capital to an enterprise in accordance with regulations of law on land and enterprises and relevant regulations of law.

2. The capital contribution prescribed in Clause 1 of this Article shall comply with the following conditions:

a) Conditions prescribed by law on land concerning rights and obligations of land users and persons having property on land; rights and obligations of persons receiving the rights to use land and property on land as contributed capital; conditions for capital contribution and receipt of the rights to use land and property on land as contributed capital;

- b) Conditions prescribed by the law on construction, housing and real estate business (if any);
  - c) Conditions specified in the decision on approval for investment guidelines, decision on investor approval, investment registration certificate and agreement (if any) between the competent authority and investor;
  - d) Conditions for capital contribution and receipt of wholly state-owned enterprises' property as contributed capital in accordance with regulations of law on management and use of state capital invested in manufacturing and business activities of enterprises and management and use of public property and relevant regulations of law;
  - dd) Conditions for capital contribution, and purchase of shares and stakes prescribed in Clause 2 Article 24 of the Law on Investment and Articles 15, 16 and 17 hereof applicable to foreign investors and business organizations prescribed in Points a, b and c Clause 1 Article 23 of the Law on Investment;
  - e) Fulfillment of financial obligations (if any) to the State as prescribed by law.
3. The investor contributing capital shall prepare an application for project adjustment, including:
- a) An application form for adjustment;
  - b) A report on the project's progress by the time of capital contribution;
  - c) An agreement between shareholders and members on exercise of the rights to use land and property on land which is part of the project for enterprise establishment or contribution of additional capital to the enterprise that is operating;
  - d) Copies of documents about the legal status of the investor contributing capital and the investor receiving contributed capital;
  - dd) A copy of the investment registration certificate, the decision on approval for investment guidelines, the decision on investor approval (if any) of the capital contributing party;
  - e) A copy of the certificate of land use rights, certificate of ownership of houses and land use rights or certificate of land use rights, ownership of houses and other property on land.
4. Procedures for exercising the rights to use land and property on land which is part of an investment project to establish an enterprise or contribute capital to an enterprise are as follows:
- a) Apply for enterprise registration or contribution of capital to the enterprise in accordance with regulations of law on enterprises;
  - b) The investor contributing capital shall submit the application prescribed in Clause 3 of this Article and follow the procedures for project adjustment specified in Clauses 5 and 6 of this

Article. The transfer of ownership of contributed property by a member or shareholder to the enterprise shall comply with regulations of law on enterprises and relevant laws.

5. Where an investment project has had its investment guidelines approved and the capital contribution changes any content of the decision on approval for investment guidelines in one of the cases in Clause 3 Article 41 of the Law on Investment, the investor contributing capital shall submit 08 sets of the application specified in Clause 3 of this Article to the Ministry of Planning and Investment or 04 sets of the application specified in Clause 3 of this Article to the investment registration authority to follow the procedures for project adjustment in accordance with the corresponding regulations laid down in Articles 44, 45 and 46 hereof.

If part of the rights to use land and property on land is contributed not in one of the cases specified in Clause 3 Article 41 of the Law on Investment, the investor contributing the capital is not required to follow the procedures for approving adjustment of investment guidelines.

6. For an investment project that has been issued with the investment registration certificate and not subject to approval for its investment guidelines or has had its investment guidelines approved in a case other than the case specified in Clause 3 Article 41 of the Law on Investment, if the capital contribution changes any content of the investment registration certificate, the investor contributing capital shall submit 01 set of the application specified in Clause 3 of this Article to the investment registration authority to follow the procedures for project adjustment in accordance with the corresponding regulations prescribed in Article 47 hereof.

7. If a business organization is established to execute the investment project that has had its investment guidelines approved or has been issued with the investment registration certificate, the investor and business organization shall satisfy the conditions set out in Clause 2 of this Article. The business organization established by the investor is entitled to inherit the investor's rights and obligations to execute the investment project. The investor establishing the business organization shall follow the procedures for project adjustment in accordance with the corresponding regulations prescribed in Clause 5 or 6 of this Article.

### **Article 53. Adjustment of investment projects in case of exercise of rights to use land and property on land which is part of investment projects for business cooperation**

1. An investor is entitled to exercise the rights to use land and property on land which is part of their investment project for business cooperation.

2. The business cooperation prescribed in Clause 1 of this Article shall comply with the following conditions:

a) The conditions set forth in Clause 2 Article 52 hereof;

b) Business cooperation conditions prescribed by relevant regulations of law (if any).

3. The investor carrying out business cooperation specified in Clause 1 of this Article shall prepare an application for project adjustment, including:

- a) An application form for adjustment;
- b) A report on the project's progress by the time of business cooperation;
- c) A copy of the business cooperation contract;
- d) Copies of documents about the legal status of parties participating in business cooperation;
- dd) A copy of the investment registration certificate or decision on approval for investment guidelines or decision on investor approval (if any) of the investor exercising the rights to use land and property on land which is part of the investment project for business cooperation;
- e) A copy of one of the following documents: the certificate of land use rights, certificate of ownership of houses and land use rights or certificate of land use rights, ownership of houses and other property on land;
- g) A copy of one of the following documents of the party participating in business cooperation: financial statements for the last 02 years or equity audit report of the investor, commitment of the parent company to provide financial support or commitment of a financial institution to provide financial support, guarantee for the investor's financial capability or a document describing the investor's financial capability.

4. Procedures for exercising the rights to use land and property on land which is part of an investment project for business cooperation are as follows:

- a) Where the business cooperation changes any content of the investment registration certificate or decision on investor approval or any content of the decision on approval for investment guidelines in one of the cases in Clause 3 Article 41 of the Law on Investment, the investor shall submit 08 sets of the application specified in Clause 3 of this Article to the Ministry of Planning and Investment or 04 sets of the application specified in Clause 3 of this Article to the investment registration authority to follow the procedures for project adjustment in accordance with the corresponding regulations laid down in Articles 44, 45 and 46 hereof;
- b) Where the business cooperation does not change any content of the investment registration certificate or decision on investor approval or any content of the decision on approval for investment guidelines in one of the cases in Clause 3 Article 41 of the Law on Investment, the investor exercising the rights to use land and property on land for business cooperation is not required to follow the procedures for project adjustment as prescribed in Point a of this Clause.

5. For the business cooperation contract signed between foreign investors or between a domestic investor and a foreign investor, the investor exercising the rights to use land and property on land which is part of the investment project for business cooperation shall follow the procedures for project investment in accordance with the corresponding regulations specified in Articles 44, 45 and 46 hereof if the business cooperation changes any content of the decision on approval for investment guidelines in one of the cases in Clause 3 Article 41 of the Law on Investment, and shall adjust the investment registration certificate as prescribed in Article 47 hereof. If such

investment project has not been issued with the investment registration certificate, the investor shall follow the procedures for issuance of the investment registration certificate as prescribed in this Decree.

**Article 54. Adjustment of an investment project under a judgment or decision of a court or arbitration body**

1. Where an investment project has to be adjusted under the effective judgment or decision of a court or arbitration body, the investor shall, according to such decision or judgment, adjust and continue to execute the project.
  2. The investor having the investment project that has to be adjusted as prescribed in Clause 1 of this Article shall prepare an application for project adjustment, including:
    - a) An application form for adjustment;
    - b) A copy of document about the investor's legal status;
    - c) The effective judgment or decision of the court or arbitration body;
    - d) A copy of the investment registration certificate; the decision on approval for investment guidelines; the decision on investor approval (if any).
  3. For an investment project whose investment guidelines have been approved, the investor shall follow the procedures for project adjustment below:
    - a) The investor having the investment project that has to be adjusted under the effective judgment or decision of a court or arbitration body shall submit 01 set of the application specified in Clause 2 of this Article to the Ministry of Planning and Investment or investment registration authority corresponding to the power to approve investment guidelines;
    - b) Within 07 working days from the receipt of the application, the Ministry of Planning and Investment or investment registration authority shall, according to the effective judgment or decision, request the investment guideline approving authority to adjust the decision on approval for investment guidelines. Within 05 working days from the receipt of the request, the investment guideline approving authority shall adjust the decision on approval for investment guidelines.
- Pursuant to the decision on approval for adjustment of the investment guidelines, the investor approving authority shall adjust the decision on investor approval (if any) or the investment registration authority shall adjust the investment registration certificate (if any). The decision on approval for adjustment of the investment guidelines, decision on approval for change of investor or investment registration certificate that has been adjusted shall be sent to the court or arbitration body issuing the judgment or decision, enforcement agency and investor.

4. For an investment project that has been issued with the investment registration certificate and not subject to approval for its investment guidelines or has had its investment guidelines approved in a case other than the case specified in Clause 3 Article 41 of the Law on Investment, the procedures for adjusting the project are as follows:

a) The investor having the investment project that has to be adjusted under the effective judgment or decision of a court or arbitration body shall submit 01 set of the application specified in Clause 2 of this Article to the investment registration authority;

b) Within 05 working days from the receipt of the application, the investment registration authority shall, according to the effective judgment or decision, adjust the investment registration certificate. The adjusted investment registration certificate shall be sent to the court or arbitration body issuing the judgment or decision, enforcement agency and investor.

5. Where the investor fails to follow the procedures for project adjustment according to the effective judgment or decision of the court or arbitration body, the civil enforcement agency, organization and individual that have the rights and obligations related to the project are entitled to request a competent authority to approve investment guidelines or the investment registration authority to follow the procedures for project adjustment in accordance with the corresponding regulations in Clauses 3 and 4 of this Article.

#### **Article 55. Adjustment and extension of duration of investment projects**

1. Every investor is entitled to adjust duration of their investment project according to Point dd Clause 3 Article 41 of the Law on Investment and Clause 2 Article 27 hereof and follow the procedures for duration adjustment in accordance with the corresponding regulations set out in Articles 44, 45, 46 and 47 hereof.

2. Procedures for extending duration of the investment project according to Clause 4 Article 27 hereof are as follows:

a) For the investment project whose investment guidelines have been approved, the investor shall submit 04 sets of application to the Ministry of Planning and Investment or the investment registration authority corresponding to the power to approve investment guidelines of the project.

The application includes: an application form for extension of the project's duration; decision on approval for investment guidelines; investment registration certificate; decision on investor approval or equivalent document; certificate of land use rights or equivalent document; document (s) proving the financial capacity of the investor including at least one of the following documents: the investor's financial statements for the last two years; commitment of the parent company to provide financial support; commitment of a financial institution to provide financial support; guarantee for the investor's financial capacity; other document proving the investor's financial capacity;

b) Within 03 working days from the receipt of the valid application specified in Point a of this Clause, the Ministry of Planning and Investment or the investment registration authority shall

send the application to the land authority and relevant authorities to seek their opinions about fulfillment of the conditions specified in Clause 4 Article 44 of the Law on Investment and Clause 4 Article 27 hereof;

c) Within 10 days from the receipt of the valid application, the enquired authorities shall give their opinions about fulfillment of the conditions specified in Clause 4 Article 44 of the Law on Investment and Clause 4 Article 27 hereof;

d) Within 15 days from the receipt of the valid application, the Ministry of Planning and Investment and investment registration authority shall consider the conditions for extending the project's duration prescribed in Clause 4 Article 44 of the Law on Investment and Clause 4 Article 27 hereof to prepare an appraisal report and submit it to the investment guideline approving authority.

dd) Within 03 working days from the receipt of the report, the investment guideline approving authority shall decide to extend the project's duration;

e) For an investment project that has been issued with the investment registration certificate and not subject to approval for its investment guidelines, the investor shall submit 04 sets of the application specified in Point a of this Clause to the investment registration authority. The investment registration authority shall follow the corresponding procedures in Points b, c, d and dd of this Clause to extend the project's duration.

3. For an investment project that uses land, within 06 months before the expiration of its duration, the investor shall follow the extension procedures set out in Clause 2 of this Article.

## **Section 5. PROCEDURES FOR SUSPENSION AND TERMINATION OF INVESTMENT PROJECTS**

### **Article 56. Conditions and procedures for suspension of investment projects**

1. An investment project shall be suspended in the cases specified in Clauses 1, 2 and 3 Article 47 of the Law on Investment.

2. The total period of suspension of an investment project shall not exceed 12 months. If the investment project is suspended according to a court's effective judgment or decision, effective arbitral award or investment authority's decision, the suspension period shall be determined according to the court's judgment or decision, effective arbitral award or investment authority's decision. If these documents do not specify the suspension period, the total suspension period shall not exceed the period prescribed in this Clause.

3. Suspension procedures are as follows:

a) If the investor decides to suspend the investment project himself/herself/itself as prescribed in Clause 1 Article 47 of the Law on Investment, such investor shall send a notification to the investment registration authority within 05 working days from the date of making the decision.

The investment registration authority shall receive the notification and notify the project suspension to relevant authorities;

b) If the investment authority decides to suspend the investment project, such authority shall, according to the competent authorities' opinions about the cases specified in Clause 2 Article 47 of the Law on Investment to decide to suspend part or whole of the investment project and notify relevant authorities and investor. The investment authority or competent authorities in the fields specified in Points a, b, c and dd Clause 2 Article 47 of the Law on Investment shall make a record prior to deciding to suspend or suspend part of the investment project. Where the investment project is suspended according to the court's judgment or decision or arbitral award, the investment authority shall, according to the court's effective judgment or decision or effective arbitral award, decide to suspend part or whole of the investment project;

c) Regarding an investment project that is detrimental or potentially detrimental to the national defense and security, the provincial People's Committee shall send a written notification to the Ministry of Planning and Investment. The notification shall contain the following contents: the investor executing the project; objectives, locations and contents of the project, process of executing the project; assessment of impacts or potential impacts of the project on national defense and security; proposal that part or whole of the project is suspended. At the request of the provincial People's Committee, the Ministry of Planning and Investment shall seek opinions of the Ministry of National Defense and Ministry of Public Security for submission thereof to the Prime Minister for decision to suspend part or whole of the project.

## **Article 57. Conditions and procedures for termination of investment projects**

1. An investment project shall be terminated in the cases specified in Clauses 1 and 2 Article 48 of the Law on Investment.

2. Termination procedures are as follows:

a) If the investor decides to terminate the investment project himself/herself/itself as prescribed in Point a Clause 1 Article 48 of the Law on Investment, such investor shall send the termination decision to the investment registration authority within 15 days from the date of making the decision together with the investment registration certificate (if any);

b) If the investment project is terminated according to the conditions set out in the contract or enterprise's charter or upon the expiration of the project's duration as specified in Points b and c Clause 1 Article 48 of the Law on Investment, the investor shall notify and return the investment registration certificate (if any) to the investment registration authority within 15 days from the date of termination together with a copy of the document recording the termination. The investment registration authority shall notify the project termination to relevant authorities;

c) If the investment project is terminated according to Clause 2 Article 48 of the Law on Investment, the investment registration authority shall decide to terminate the project and revoke the investment registration certificate in the case of the project issued with the investment



registration certificate. The investment registration certificate shall be invalidated from the effective date of the decision on project termination.

3. For an investment project operating under an investment certificate (also the business registration certificate) or investment license, the investment registration authority shall issue a decision on project termination without revoking the investment certificate (also the business registration certificate) or investment license. In this case, the business registration contents on the investment certificate (also the business registration certificate) or investment license is still effective.

Where an enterprise has its business registration certificate revoked in accordance with regulations of law on enterprises, the business registration authority shall follow procedures for revoking the business registration contents on the investment certificate (also the business registration certificate); contents of the investment project remain effective.

4. If the investor fails to follow the termination procedures specified in Point b Clause 2 of this Article, the investment registration authority shall follow the termination procedures specified in Point c Clause 2 of this Article.

5. If the investment project is terminated as prescribed in Points a, b and dd Clause 2 Article 48 of the Law on Investment, the investment registration authority shall make a record prior to making a decision on termination. If the investment project is terminated as prescribed in Point d Clause 2 Article 48 of the Law on Investment, the investment registration authority shall decide to terminate the project after the land expropriation decision is issued.

6. If the investor or investment registration authority decide to terminate part of the investment project as prescribed in Clauses 1 and 2 Article 48 of the Law on Investment, the investor is entitled to continue to execute part of the project that is not terminated and concurrently follow the procedures for project adjustment in accordance with the corresponding regulations in Articles 44, 45, 46 and 47 hereof.

7. If the investment project is terminated together with the shutdown of the business organization, the project shall be terminated as prescribed in this Article and the investor shall follow procedures for shutdown of the business organization in accordance with regulations of law corresponding to each type of the business organization.

8. After the investment project is terminated, the liquidation thereof shall be carried out as follows:

a) The investor shall liquidate the project himself/herself/itself in accordance with regulations of law on asset liquidation;

b) For the project which uses land allocated or leased out by the State or is permitted by the State to repurpose land, the handling of the rights to use land and property on land shall comply with regulations of law on land and relevant regulations of law;

c) During the project liquidation, if the investor being a business organization is dissolved or on the verge of bankruptcy, the project liquidation shall comply with regulations of law on dissolution and bankruptcy.

**Article 58. Termination of an investment project in case the investment registration authority cannot contact the investor**

1. Where a project is terminated and the investment registration authority cannot contact the investor or the investor's legal representative, the investment registration authority shall follow the procedures below:

a) Make a record on suspension of the investment project and failure to contact the investor;

b) Send a document to the address registered by the investor with the investment registration authority to request the investor contact to the investment registration authority to settle the project termination. If the investor fails to contact within 30 days from the day on which the document is sent, the investment registration authority shall follow the procedures mentioned in Point c of this Clause;

c) Send a written request for assistance in contacting the investor to the People's Committee of the commune where the investor resides (in the case of domestic individual investors) or to the diplomatic mission in Vietnam of the country of the investor's nationality (in the case of foreign investors), and publish a notice requesting the investor to contact the investment registration authority within 90 days on the National Investment Portal for settling of the project termination.

2. After all measures specified in Clause 1 of this Article are taken and the investor or the investor's legal representative cannot be contacted after 12 months from the date of termination of the project, the investment registration authority shall issue a decision on project termination.

3. After the investment registration authority issues such decision, assets of the project shall be managed in accordance with regulations of the civil law on management of property of persons who are absent from their place of residence.

4. The competent authority shall, within its jurisdiction, perform the following tasks:

a) The investment registration authority shall appoint a person to supervise the management of assets of the project terminated as prescribed in this Article at the request of the competent authority or a person having relevant rights or benefits, unless otherwise prescribed by law;

b) The tax authority and customs authority shall take the measures prescribed by regulations of law on tax administration and relevant regulations of law to collect tax debts and other financial obligations (if any) of the investor to the State;

c) The land authority shall expropriate land and settle property on land if the project is subject to land expropriation as prescribed by regulations of law on land;

d) The labor authority shall assist workers who lose their jobs and provide relevant benefits in accordance with regulations of law on labor;

dd) Other competent authorities shall perform state management of the investment project within their jurisdiction as prescribed by law.

5. Every request or dispute between the investor and other entities over rights and obligations relevant to the investment project shall be settled by a court or arbitration body as agreed upon by the parties and in accordance with Vietnam's law.

**Article 59. Termination of an investment project in case the investor conducts investment activities on the basis of a sham civil transaction in accordance with the civil law**

1. The investment registration authority shall decide to terminate whole or part of an investment project if the investment conducts investment activities on the basis of a sham civil transaction according to regulations of the civil law or the effective judgment or decision of the court or arbitral award.

2. The investment registration authority, organizations and individuals concerned are entitled to request a competent court to nullify the sham civil transaction during the execution of the investor's investment project to form a basis for terminating whole or part of the project.

3. Procedures for terminating the investment project are specified in Article 57 hereof.

**Article 60. Termination of an investment project under a court's judgment or decision or arbitral award**

According to the court's effective judgment or decision or arbitral award on the termination of part or whole of the investment project, the investment registration authority shall follow the termination procedures specified in Article 57 hereof.

**Section 6. SOME REGULATIONS ON INVESTMENT ACTIVITIES IN INDUSTRIAL PARKS, EXPORT-PROCESSING ZONES, HI-TECH ZONES AND ECONOMIC ZONES**

**Article 61. Investment in construction and commercial operation of infrastructure in industrial parks, export-processing zones, hi-tech zones and economic zones**

1. The investment in construction and commercial operation of infrastructure in industrial parks and export-processing zones must be conformable to the industrial park and export-processing zone construction planning approved by a competent authority.

2. For disadvantaged areas, the provincial People's Committees shall, according to specific local conditions, request the Prime Minister to decide to establish or assign revenue-generating public service providers act as investors in the project on construction and commercial operation of infrastructure in industrial parks and export-processing zones.

3. Every investor executing a project on investment in construction and commercial operation of infrastructure in an industrial park, export-processing zone, hi-tech zone or dedicated area of an economic zone is entitled to carry out the following activities:

- a) Constructing buildings, offices, warehouses and depots for sale or for lease;
- b) Fixing the prices for leasing out and subleasing out land on which technical infrastructure has been constructed; charges for using infrastructure; rental and selling prices for buildings, offices, warehouses and depots, and other services charges as prescribed by law and as registered with the industrial park, export-processing zone, hi-tech zone or economic zone management board. Price brackets and charges for use of infrastructure shall be registered every 6 months or when there is any adjustment to the registered price brackets and charges for use of infrastructure;
- c) Collecting charges for use of infrastructure;
- d) Transferring the land use rights, leasing out and subleasing out land on which technical infrastructure has been constructed in the industrial park, export-processing zone, hi-tech zone or dedicated area of the economic zone to other investors in accordance with regulations of law on land and real estate business;
- dd) Carrying out other activities specified in the Law on Investment, this Decree, Government's regulations on industrial parks, export-processing zones, hi-tech zones and economic zones, and relevant regulations of law.

**Article 62. Execution of investment projects in industrial parks, export-processing zones, hi-tech zones and economic zones**

For the investment project executed in an industrial park, export-processing zone, hi-tech zone or economic zone, the investor is entitled to carry out the following activities:

- 1. Leasing or purchasing warehouses and depots to serve their business operation.
- 2. Using and paying for the use of technical infrastructure and service facilities, including systems of roads, electricity supply, water supply and drainage, communications, wastewater treatment, waste treatment and other public facilities (hereinafter referred to as "infrastructure charges").
- 3. Transferring and receiving the land use rights, leasing out and subleasing out land on which technical infrastructure has been constructed to construct buildings, offices and other works serving their business operation in accordance with regulations of law on land and real estate business.
- 4. Leasing out or subleasing out their buildings, offices and other works to serve their business operation in accordance with regulations of law on land and real estate business.

5. Carrying out other activities specified in the Law on Investment, this Decree , Government's regulations on industrial parks, export-processing zones, hi-tech zones and economic zones, and relevant regulations of law.

## **Chapter V**

### **ESTABLISHMENT OF BUSINESS ORGANIZATIONS AND CONDUCT OF INVESTMENT ACTIVITIES BY FOREIGN INVESTORS**

#### **Article 63. Establishment of business organizations by foreign investors**

1. Except for the case in Article 67 hereof, the foreign investor shall establish a business organization and execute an investment project as follows:

a) In the case of execution of a new investment project, the foreign investor shall follow procedures for approval of investment guidelines and issuance of the investment registration certificate to the new investment project, and procedures for establishing a business organization in accordance with regulations of law corresponding to each type of business organization;

b) In the case of receipt of an investment project and establishment of a business organization, the foreign investor shall follow procedures for issuance of the investment registration certificate (if such project is not issued with the investment registration certificate) or adjustment of the investment registration certificate (if such project has been issued with the investment registration certificate) and procedures for business organization establishment in accordance with regulations of law corresponding to each type of business organization.

2. Documentation and procedures for establishment of the business organization shall comply with regulations of law on enterprises or other law corresponding to each type of business organization.

3. Charter capital of a business organization established by a foreign investor for execution of an investment project is not necessarily equal to the investment capital of the investment project. The business organization established by the foreign investor shall contribute capital and raise capital from other sources to execute the investment project according to the schedule on the investment registration certificate.

#### **Article 64. Execution of investment projects and business investment activities of foreign-invested business organizations**

1. If there is a new investment project other than the investment project issued with the investment registration certificate, the foreign-invested business organization shall follow the procedures below:

a) The business organizations specified in Point a through c Clause 1 Article 23 of the Law on Investment shall follow procedures for issuance of the investment registration certificate as set out in this Decree;

b) Business organizations other than those specified in Point a of this Clause shall implement the reporting regulation specified in Clause 5 Article 72 of the Law on Investment. The report shall specify: The project's name, investment objectives, investment scale, investment capital, location, schedule, labor demand, and investment incentives (if any).

2. A foreign-invested business organization is entitled to adjust the contents of enterprise registration at the business registration authority without necessarily having an investment project. The addition of business lines by the foreign-invested business organization must satisfy market access conditions (if any) applied to a foreign investor.

3. A foreign-invested business organization is entitled to establish branches, representative offices and business locations outside its headquarters without necessarily having an investment project. Applications and procedures for establishment of a branch, representative office or business location of the business organization shall comply with regulations of law on enterprises or other law corresponding to each type of business organization.

4. When making investment or trading securities on the securities market, every foreign-invested business organization shall comply with regulations of law on securities regarding investment procedures and holding of charter capital, unless otherwise prescribed by international investment-related treaties regarding holding of charter capital.

#### **Article 65. Conditions and rules for conducting investment activities by contributing capital, purchasing shares or purchasing stakes**

1. Any domestic investor that invests in contributing capital, purchasing shares or purchasing stakes in a business organization established in Vietnam shall comply with the conditions and procedures specified in the Law on Enterprises and other law applicable to each type of business organization.

2. The contribution of capital, purchase of shares or stakes on the securities market shall comply with regulations of law on securities.

3. Wholly state-owned enterprises and representatives of state capital invested in enterprises shall comply with the conditions and procedures prescribed by regulations of law on management and use of state capital invested in manufacturing and business activities of enterprises; law on management and use of public property and other relevant law upon conducting investment activities by contributing capital, purchasing shares or purchasing stakes in business organizations or transferring the stakes or shares to other organizations and individuals.

4. A foreign investor contributing capital or purchasing shares or stakes in a business organization established in Vietnam shall satisfy the conditions set out in Clause 2 Article 24 of the Law on Investment, including:

a) Market access conditions applied to foreign investors upon capital contribution, and purchase of shares and stakes in business organizations established in Vietnam as prescribed in Clause 3 Article 9 of the Law on Investment and Articles 15, 16 and 17 of this Decree;

b) Conditions concerning assurance of national defense and security and conditions for land use applied to a business organization to which foreign investors contribute capital or whose shares/stakes are purchased by foreign investors in case such business organization has the certificate of rights to use land on the island, in border commune, ward or town and coastal commune, ward or town; other areas that affect defense and security, except for the business organization executing the investment project in an industrial park, export-processing zone, hi-tech zone or economic zone established under the Government's regulations.

5. Any foreign organization or individual that receives shares or stakes in a business organization established in Vietnam by a gift or exchange or another contract of transfer of ownership rights as prescribed by law or through inheritance shall satisfy the conditions set out in Clause 4 of this Article and follow procedures in accordance with regulations applicable to foreign investors making investment in the form of capital contribution, purchase of shares or stakes.

**Article 66. Procedures for conducting investment activities by contributing capital, purchasing shares or purchasing stakes applicable to foreign investors**

1. Except for the case specified in Clause 2 Article 26 of the Law on Investment, a business organization in which foreign investors invest in the form of capital contribution, purchase of shares or stakes shall follow procedures for registration of a change of members or shareholders in accordance with regulations of law on enterprises and other law corresponding to each type of business organization.

2. The business organization in which foreign investors invest in the form of capital contribution, purchase of shares or stakes in the case specified in Clause 2 Article 26 of the Law on Investment shall submit 01 set of application for registration of capital contribution or purchase of shares or stakes to investment registration authority of the administrative division where the business organization's headquarters is located. The application includes:

a) A registration form for capital contribution/purchase of shares/stakes, which contains: enterprise registration information of the business organization to which the foreign investors expects to contribute capital or whose shares/stakes are expected to be purchased by the foreign investors; business lines; list of owners, members and founding shareholders, list of owners, members and founding shareholders that are foreign investors (if any); holding of charter capital by foreign investors before and after the capital contribution/purchase of shares/stakes in the business organization; expected transaction value of the contract for capital contribution/purchase of shares/stakes; information about the business organization's investment project (if any);

b) Copies of legal documents of the individual or organization that contributes capital or purchases shares/stakes and of the business organization to which foreign investors contribute capital or whose shares/stakes are purchased by foreign investors;

c) A principal agreement on capital contribution or purchase of shares/stakes between the foreign investors and the business organization to which foreign investors contribute capital or whose shares/stakes are purchased by foreign investors or between the foreign investors and the shareholders or members of such business organization.

d) A copy of the certificate of land use rights of the business organization to which foreign investors contribute capital or whose shares/stakes are purchased by foreign investors (in the case specified in Point b Clause 4 Article 65 of this Decree).

3. For the cases specified in Points a and b Clause 2 Article 26 of the Law on Investment, within 15 days from the receipt of the valid application specified in Clause 2 of this Article, the investment registration authority shall consider the satisfaction of the conditions for capital contribution or purchase of shares or stakes set out in Clause 2 Article 24 of the Law on Investment and Clause 4 Article 65 of this Decree, and notify the investors, except for the case in Clause 4 of this Article. The notification shall be sent to foreign investors and business organization to which foreign investors contribute capital or whose shares/stakes are purchased by foreign investors.

4. If the business organization to which foreign investors contribute capital or whose shares/stakes are purchased by foreign investors has the certificate of rights to use land on an island or in a border or coastal commune; in a coastal commune; in another area that affects national defense and security, the investment registration authority shall follow the procedures below:

a) Within 03 working days from the receipt of the valid application specified in Clause 2 of this Article, the investment registration authority shall seek opinions of the Ministry of National Defense and Ministry of Public Security about the satisfaction of the conditions specified in Point b Clause 4 Article 65 of this Decree.

b) Within 07 working days from the receipt of the investment registration authority's request, the Ministry of National Defense and Ministry of Public Security shall give their opinions about the satisfaction of the conditions for national defense and security assurance by the business organization to which foreign investors contribute capital or whose shares/stakes are purchased by foreign investors; in case of failure to give any opinion by the aforementioned deadline, it is considered that it concurs with the satisfaction of the conditions for national defense and security assurance by the business organization to which foreign investors contribute capital or whose shares/stakes are purchased by foreign investors;

c) Within 15 days from the receipt of the valid application, the investment registration authority shall consider the satisfaction of the conditions for capital contribution or purchase of shares or stakes specified in Clause 2 Article 24 of the Law on Investment and Clause 4 Article 65 of this Decree, and notify investors according to the opinions given by the Ministry of National Defense and Ministry of Public Security. The notification shall be sent to foreign investors and business organization to which foreign investors contribute capital or whose shares/stakes are purchased by foreign investors.



5. After foreign investors are granted the approval for capital contribution or purchase of shares or stakes as prescribed in Clauses 3 and 4 of this Article, the business organization to which foreign investors contribute capital or whose shares/stakes are purchased by foreign investors shall follow procedures for change of members or shareholders at the business registration authority in accordance with regulations of law on enterprises and other law corresponding to each type of business organization. Rights and obligations of foreign investors that act as members or shareholders of the business organization shall be established after completing the procedures for change of members or shareholders.

#### **Article 67. Procedures for establishment of, capital contribution or purchase of stakes in start-up SMEs and startup investment funds**

1. If a start-up SME is established to execute an investment project as specified in Clause 8 Article 19 hereof or contributes capital or purchases shares or stakes in a start-up SME to execute the investment project as specified in Clause 8 Article 19 hereof, the foreign investor shall follow the procedures applicable to domestic investors in accordance with regulations of Law on Enterprises without having to follow the corresponding procedures specified in Articles 22 and 26 of the Law on Investment and Articles 63 through 66 of this Decree.

2. When establishing an enterprise for the only purpose of managing a startup investment fund in Vietnam in accordance with regulations of law on provision of assistance for SMEs or contributing capital to this fund, the foreign investor shall follow the procedures in accordance with the corresponding regulations of the Law on Provision of Assistance for Small and Medium-sized enterprises without having to follow the procedures specified in Articles 22 and 26 of the Law on Investment and Articles 63 through 66 of this Decree.

### **Chapter VI**

## **OUTWARD INVESTMENT ACTIVITIES**

### **Section 1. GENERAL PROVISIONS**

#### **Article 68. Investors conducting outward investment activities**

1. Enterprises established and operating under the Law on Enterprises and Law on Investment.
2. Cooperatives and cooperative unions established and operating under the Law on Cooperatives.
3. Credit institutions established and operating under the Law on Credit Institutions.
4. Household businesses registered under Vietnam's laws.
5. Individuals holding Vietnamese nationality, except for the case specified in Clause 2 Article 17 of the Law on Enterprises.

6. Other organizations making business investment as prescribed by Vietnam's law.

### **Article 69. Outward investment capital**

1. Sources of outward investment capital consist of money and other legal assets of investors, including equity and loans in Vietnam transferred overseas and profits obtained from outward investment projects and retained to carry out investment activities in foreign countries.

2. Money and other legal assets prescribed in Clause 1 of this Article include:

a) Foreign currencies on the accounts opened at licensed credit institutions or purchased from licensed credit institutions as regulated by law;

b) Vietnamese dong conforming to Vietnam's law on foreign exchange management;

c) Machinery, equipment, supplies, raw materials, fuels, finished and semi-finished goods;

d) Value of intellectual property rights, technologies, brands and rights to assets;

dd) Investors' shares, stakes and projects swapped at business organizations in Vietnam and business organizations in foreign countries as prescribed in Clause 4 of this Article;

e) Other legal assets prescribed by regulations of civil law.

3. Outward investment capital shall be used to contribute capital, grant loans to foreign business organizations, pay for purchase of shares or stakes, fulfill guarantee obligations that arise (if any) in order to make outward investment in the forms specified in Points a, b, c and dd Clause 1 Article 52 of the Law on Investment. The amounts of capital transferred overseas, when recovered and repatriated, shall not be included in the capital transferred overseas.

4. Vietnamese investors are entitled to use their shares, stakes or investment projects in Vietnam to pay for or swap the purchase of shares, stakes or investment projects of foreign business organizations. In this case, Vietnamese investors shall follow the procedures for issuance of the outward investment registration certificate and then foreign investors shall follow the investment procedures in Vietnam as prescribed by law.

### **Article 70. Outward investment by foreign-invested business organizations in Vietnam**

For a business organization over 50% of charter capital of which is held by the foreign investor, the outward investment capital must be the equity, exclusive of the capital contributed to conduct investment activities in Vietnam. If the increased contributed capital is used for outward investment, the investor shall follow the procedures for issuance of the outward investment registration certificate as prescribed in this Decree and then follow the procedures for increasing capital and fully contribute charter capital in Vietnam before transferring investment capital overseas.

## **Article 71. Outward investment by state-owned enterprises**

1. Conditions for deciding investment, power and procedures for deciding or terminating investment in outward investment projects of state-owned enterprises shall comply with regulations of law on management and use of state capital invested in manufacturing and business activities of enterprises and other relevant regulations of law.
2. Every agency representing state ownership shall decide guidelines for making outward investment and terminating outward investment according to internal procedures and regulations within its jurisdiction as prescribed by regulations of law on management and use of state capital invested in manufacturing and business activities of enterprises and other relevant regulations of law.
3. Every state ownership representative agency has the responsibility to:
  - a) Decide outward investment within its power and take responsibility for investment efficiency as prescribed by regulations of law on management and use of state capital invested in manufacturing and business activities of enterprises and relevant regulations of law;
  - b) Inspect and supervise outward investment activities; resolve difficulties in implementation of regulations of law on outward investment;
  - c) Manage and supervise the use of state capital for outward investment by state-owned enterprises, state capital invested in enterprises under its management or in which it acts as the representative of state ownership; assess the efficiency in use of state capital invested in enterprises conducting outward investment activities;
  - d) Comply with regulations on reporting of outward investment under its management as prescribed in Article 73 of the Law on Investment, and submit reports to the Ministry of Planning and Investment.

## **Article 72. Conditions applicable to business lines subject to conditional outward investment**

1. Regarding \ banking, insurance and securities specified in Points a, b and c Clause 1 Article 54 of the Law on Investment, investors must satisfy the conditions prescribed by regulations of law on banking, insurance and securities and obtain a written approval from a competent authority.
2. Regarding press, radio and television specified in Points d Clause 1 Article 54 of the Law on Investment, investors must be organizations that have been granted the license to conduct press, radio and television activities in Vietnam and the written consent from the Ministry of Information and Communications.
3. Regarding real estate business specified in Point dd Clause 1 Article 54 of the Law on Investment, investors must be enterprises established under the Law on Enterprises.

### **Article 73. Documents specifying locations of outward investment projects**

1. The following investment projects must include documents specifying project locations:

- a) Projects subject to approval for their investment guidelines by the Prime Minister or the National Assembly;
- b) Energy projects;
- c) Projects on livestock production, cultivation, afforestation and aquaculture;
- d) Projects on exploration, extraction and processing of minerals;
- dd) Projects on construction of factories and manufacturing and processing facilities;
- e) Projects on investment in construction of works and infrastructure; projects on investment in real estate business, except for the provision of the following services: real estate brokerage, real estate exchange, real estate consulting and real estate management.

2. A document specifying project location is one of the following papers on which information on the location is included:

- a) Investment license or equivalent document of the country or territory that receives investment (hereinafter referred to as “the host country”);
- b) Decision on land allocation or land lease of the competent authority in the host country;
- c) Contract awarding agreement; land allocation or land lease agreement; investment and business cooperation contract enclosed with a document proving relevant parties’ competence in the location in the contract;
- d) Principal agreement on land allocation, land lease, business location lease, transfer of the rights to use land or property on land; agreement on investment and business cooperation contract enclosed with a document proving relevant parties’ competence in the location in the contract.

### **Article 74. Documents specifying forms of outward investment**

1. Regarding an outward investment activity that is carried out under an overseas contract as prescribed in Point b Clause 1 Article 52 of the Law on Investment, the investor shall submit the investment agreement or contract with the foreign partner or another equivalent document together with a document about the foreign partner's legal status.

2. Regarding an outward investment activity that is carried out in the form of capital contribution or purchase of shares or stakes in a foreign business organization for participation in management of such business organization, the investor shall submit the agreement, contract or

another document specifying the capital contribution or purchase of shares or stakes together with a document about the legal status of the foreign business organization to which the investor contributes capital or whose shares or stakes are purchased by the investor.

3. Regarding an outward investment activity that is carried out in another form of investment as prescribed by regulations of law of the country receiving investment as prescribed in Point dd Clause 1 Article 52 of the Law on Investment, the investor shall submit a document specifying such form of investment in line with regulations of law of the host country.

## **Section 2. PROCEDURES FOR ISSUANCE AND ADJUSTMENT OF OUTWARD INVESTMENT REGISTRATION CERTIFICATES OF PROJECTS SUBJECT TO APPROVAL FOR THEIR OUTWARD INVESTMENT GUIDELINES**

### **Article 75. Applications for issuance of outward investment registration certificates of projects subject to approval for their outward investment guidelines**

An application includes:

1. The documents specified in Clause 1 Article 57 of the Law on Investment.
2. For the documents specified in Point dd Clause 1 Article 57 of the Law on Investment, if the investor submits a commitment to balance foreign currency sources, a credit institution's certification of the balance of the investor's foreign currency account must be enclosed.
3. The tax authority's certification of the investor's fulfillment of the tax payment obligation specified in Clause 5 Article 60 of the Law on Investment.
4. The document specifying location of the outward investment project in the case specified in Article 73 of this Decree.
5. The document specifying the form of outward investment in the case specified in Article 74 of this Decree.
6. A report on grant of loan to foreign business organization, containing: name of the borrower; total amount of the loan; purposes and conditions for grant of loan; disbursement plan; debt recover plan; asset guarantee measure and collateral settlement method (if any); plan to balance foreign currency sources to grant the loan; assessment of the borrower's financial capacity; level of risks and expected measures for prevention of risks of the loan in case where the investor grants a loan to the business organization as specified in the outward investment project.
7. The document confirming the fulfillment of the guarantee obligation that arises in the case where the outward investment project contains the investor's guarantee to grant a loan for project execution.
8. Other relevant documents.

## **Article 76. Procedures for issuance of outward investment registration certificates of projects subject to approval for their outward investment guidelines**

1. Procedures applicable to projects subject to approval for their outward investment guidelines by the National Assembly shall comply with the regulations laid down in Article 57 of the Law on Investment and Government's separate regulations on procedures for appraising projects of national significance.

2. Procedures applicable to projects subject to approval for their outward investment guidelines by the Prime Minister are as follows:

a) The investor shall declare information on the application for issuance of the outward investment registration certificate on the National Investment Information System and submit 08 sets of application (including 01 original dossier) to the Ministry of Planning and Investment within the next 15 days. The application will be accepted by the Ministry of Planning and Investment if there are sufficient types and quantities of documents;

b) Within 03 working days from the receipt of the application, the Ministry of Planning and Investment shall send it and written request for opinions to the State Bank of Vietnam, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Labor, War Invalids and Social Affairs, relevant ministry and People's Committee of the province or central-affiliated city where investor's headquarters is located or investor's permanent residence is registered;

c) Within 15 days from the receipt of the written request for opinions and application, the enquired authorities shall give their written opinions about the contents under their management or assigned contents to the Ministry of Planning and Investment;

d) Within 30 days from the receipt of the application, the Ministry of Planning and Investment shall carry out appraisal, prepare an appraisal report on the contents specified in Clause 3 Article 57 of the Law on Investment and submit it to the Prime Minister for approval for the outward investment guidelines;

dd) During the appraisal of the application, if it has to be clarified, the Ministry of Planning and Investment shall notify the investor in writing. After providing explanation, if the project is ineligible to be submitted to the Prime Minister for approval for its outward investment guidelines, the Ministry of Planning and Investment shall send the investor a written notification of its refusal to issue the outward investment registration certificate;

e) Within 10 days from the receipt of the appraisal report, the Prime Minister shall issue a decision on approval for the outward investment guidelines containing the contents specified in Clause 8 Article 57 of the Law on Investment;

g) For the state-owned enterprise's outward investment project, after obtaining the decision on approval for outward investment guidelines from the Prime Minister, the competent authority prescribed by regulations of law on management and use of state capital invested in manufacturing and business activities of enterprises shall decide to make outward investment;

h) Within 05 working days from date of receiving the Prime Minister's decision on approval for outward investment guidelines as prescribed in Point e of this Clause and making the decision on outward investment guidelines as prescribed in Point g of this Clause, the Ministry of Planning and Investment shall issue the investor with the outward investment registration certificate which specifies the investment project code as prescribed in Article 37 of this Decree and send its copy to the State Bank of Vietnam, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Labor, War Invalids and Social Affairs, relevant ministry, People's Committee of the province or central-affiliated city where investor's headquarters is located or investor's permanent residence is registered, tax authority certifying the investor's fulfillment of the tax payment obligation and investor's state ownership representative agency (if any);

i) If the Prime Minister fails to approve the outward investment guidelines, within 03 working days from the receipt of the document stating the Prime Minister's opinion, the Ministry of Planning and Investment shall send the investor a written notification of its refusal to issue the outward investment registration certificate and reasons therefor.

#### **Article 77. Applications and procedures for adjustment of outward investment registration certificates of projects subject to approval for their outward investment guidelines**

1. An application for adjustment of the outward investment registration certificate includes:

a) The documents specified in Clause 3 Article 63 of the Law on Investment.

b) The documents specified in Points c, d, dd, e and g Clause 1 Article 57 of the Law on Investment and Clauses 2, 4, 5, 6 and 7 Article 75 of this Decree related to the adjustments;

c) Other relevant documents.

2. Procedures for adjustment of the outward investment registration certificate for the projects subject to approval for their outward investment guidelines or approval for adjustment of their outward investment guidelines by the National Assembly shall comply with Article 57 of the Law on Investment and Government's separate regulations on procedures for appraising projects of national significance.

3. Procedures for adjustment of the investment registration certificate for the projects subject to approval for their outward investment guidelines or approval for adjustment of their outward investment guidelines by the Prime Minister are as follows:

a) The investor shall declare information on the application for issuance of the outward investment registration certificate on the National Investment Information System and submit 08 sets of application (including 01 original dossier) to the Ministry of Planning and Investment within the next 15 days. The application will be accepted by the Ministry of Planning and Investment if there are sufficient types and quantities of documents;

b) Within 03 working days from the receipt of the application, the Ministry of Planning and Investment shall send it and written request for opinions to the State Bank of Vietnam, Ministry

of Finance, Ministry of Foreign Affairs, Ministry of Labor, War Invalids and Social Affairs, relevant ministry and People's Committee of the province or central-affiliated city where investor's headquarters is located or investor's permanent residence is registered;

c) Within 15 days from the receipt of the written request for opinions and application, the enquired authorities shall give their written opinions about the contents under their management or assigned contents to the Ministry of Planning and Investment;

d) Within 30 days from the receipt of the application, the Ministry of Planning and Investment shall carry out appraisal, prepare an appraisal report on the contents to be adjusted corresponding to the regulations set out in Clause 3 Article 57 of the Law on Investment, and submit it to the Prime Minister for approval for the outward investment guidelines or approval for adjustment of the outward investment guidelines;

dd) During the appraisal, if there are issues that need clarifying, the Ministry of Planning and Investment shall notify the investor in writing. After providing explanation or making additions, if the project is ineligible to be submitted to the Prime Minister for approval for its outward investment guidelines or approval for adjustment of its outward investment guidelines, the Ministry of Planning and Investment shall send the investor a written notification of its refusal to issue the outward investment registration certificate;

e) Within 10 days from the receipt of the appraisal report, the Prime Minister shall issue a decision on approval for the outward investment guidelines or approval for adjustment of the outward investment guidelines containing the contents specified in Clause 8 Article 57 of the Law on Investment;

g) For the state-owned enterprise's outward investment project, after obtaining the decision on approval for outward investment guidelines or decision on approval for adjustment of outward investment guidelines from the Prime Minister, the competent authority prescribed by regulations of law on management and use of state capital invested in manufacturing and business activities of enterprises shall decide to adjust the outward investment activity;

h) Within 05 working days from date of receiving the Prime Minister's decision on approval for outward investment guidelines or decision on approval for adjustment of outward investment guidelines and making the decision on adjustment of the outward investment activity as prescribed in Point g of this Clause, the Ministry of Planning and Investment shall adjust the outward investment registration certificate and send a copy of the adjusted outward investment registration certificate to the State Bank of Vietnam, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Labor, War Invalids and Social Affairs, relevant ministry, People's Committee of the province or central-affiliated city where investor's headquarters is located or investor's permanent residence is registered, tax authority certifying the investor's fulfillment of the tax payment obligation and investor's state ownership representative agency (if any);

i) If the Prime Minister fails to approve the outward investment guidelines or approve adjustment of the outward investment guidelines, within 03 working days from the receipt of the document stating the Prime Minister's opinion, the Ministry of Planning and Investment shall send the



investor a written notification of its refusal to adjust the outward investment registration certificate and reasons therefor.

### **Section 3. PROCEDURES FOR ISSUANCE AND ADJUSTMENT OF OUTWARD INVESTMENT REGISTRATION CERTIFICATES OF PROJECTS NOT SUBJECT TO APPROVAL FOR THEIR OUTWARD INVESTMENT GUIDELINES**

#### **Article 78. Applications and procedures for issuance of outward investment registration certificates of projects not subject to approval for their outward investment guidelines**

1. An application for issuance of the outward investment registration certificate includes:

- a) The documents specified in Clause 2 Article 61 of the Law on Investment.
- b) For the documents specified in Point d Clause 2 Article 61 of the Law on Investment, if the investor submits a commitment to balance foreign currency sources, a credit institution's written confirmation of balance of the investor's foreign currency account must be enclosed.
- c) The tax authority's certification of the investor's fulfillment of the tax payment obligation specified in Clause 5 Article 60 of the Law on Investment;
- d) The document specifying location of the outward investment project in the case specified in Article 73 of this Decree;
- dd) The document specifying the form of outward investment in the case specified in Article 74 of this Decree.

2. Procedures for issuance of the outward investment registration certificate:

- a) The investor shall declare information on the application for issuance of the outward investment registration certificate on the National Investment Information System and submit 03 sets of application (including 01 original dossier) to the Ministry of Planning and Investment within the next 15 days. The application will be accepted by the Ministry of Planning and Investment if there are sufficient types and quantities of documents;
- b) The Ministry of Planning and Investment shall inspect the validity of the application; If the application is invalid or has to be clarified, the Ministry of Planning and Investment shall notify the investor within 05 working days from the receipt of the application;
- c) If the amount of foreign currency capital transferred overseas is VND 20 billion or more, the Ministry of Planning and Investment shall request the State Bank of Vietnam in writing to provide opinions as prescribed in Clause 3 Article 61 of the Law on Investment. Within 07 working days from the receipt of the written request for opinions, the State Bank of Vietnam shall give the Ministry of Planning and Investment a written response to the conditions of the capital transferred overseas before being issued with the outward investment registration certificate; to the fulfillment of money transfer conditions by the investor; to the borrowing,

grant of loans to the foreign business organization, guarantee offered to the foreign business organization and other concerned issues;

d) If the outward investment specifies that the investor grants a loan to the foreign business organization to execute the project, after being issued with the outward investment registration certificate, the investor must follow procedures for approval for overseas lending in accordance with regulations of law on foreign exchange;

dd) If the outward investment project involves press, radio or television, the Ministry of Planning and Investment shall send a written request for opinions to the Ministry of Information and Communications as prescribed in Clause 2 Article 72 of this Decree. Within 07 working days from the receipt of the written request, the Ministry of Information and Communications shall give a written response to the Ministry of Planning and Investment;

e) Within 15 days from date of receiving the valid application, the Ministry of Planning and Investment shall issue the outward investment registration certificate which specifies the investment project code as prescribed in Article 37 of this Decree and send its copy to the State Bank of Vietnam, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Labor, War Invalids and Social Affairs, relevant ministry, People's Committee of the province or central-affiliated city where investor's headquarters is located or investor's permanent residence is registered, tax authority certifying the investor's fulfillment of tax payment obligation and investor's state ownership representative agency (if any);

g) If the application is invalid or fails to satisfy the conditions for issuance of the outward investment registration certificate, the Ministry of Planning and Investment shall send the investor a written notification of its refusal to issue the outward investment registration certificate and reasons therefor.

#### **Article 79. Applications and procedures for adjustment of outward investment registration certificates of projects not subject to approval for their outward investment guidelines**

1. An application for adjustment of the outward investment registration certificate includes:

a) The documents specified in Clause 3 Article 63 of the Law on Investment.

b) The documents specified in Points d and dd Clause 2 Article 61 of the Law on Investment and Points b, d and dd Clause 1 Article 78 of this Decree related to the adjustments;

c) The document confirming the fulfillment of the guarantee obligation that arises in the case where the outward investment project contains the investor's guarantee to grant a loan to the foreign business organization for project execution.

2. Procedures for issuance of the outward investment registration certificate:

a) The investor shall declare information on the application for issuance of the outward investment registration certificate on the National Investment Information System and submit 03

sets of application (including 01 original dossier) to the Ministry of Planning and Investment within the next 15 days. The application will be accepted by the Ministry of Planning and Investment if there are sufficient types and quantities of documents;

b) The Ministry of Planning and Investment shall inspect the validity of the application; If the application is invalid or has to be clarified, the Ministry of Planning and Investment shall notify the investor within 05 working days from the receipt of the application;

c) If the amount of foreign currency capital transferred overseas is VND 20 billion or more, the Ministry of Planning and Investment shall request the State Bank of Vietnam to in writing to provide opinions as prescribed in Clause 3 Article 61 of the Law on Investment. Within 07 working days from the receipt of the written request for opinions, the State Bank of Vietnam shall give the Ministry of Planning and Investment a written response to the conditions of the capital transferred overseas before being issued with the outward investment registration certificate; to the fulfillment of money transfer conditions by the investor; to the borrowing, grant of loans to the foreign business organization, guarantee offered to the foreign business organization and other concerned issues;

d) If the outward investment specifies that the investor grants a loan to the foreign business organization or gives a guarantee to grant a loan to the foreign business execution, the investor shall follow procedures for approval for overseas lending or fulfill the guarantee obligation that arises in accordance with regulations of law on foreign exchange;

dd) If the outward investment project involves press, radio or television, the Ministry of Planning and Investment shall send a written request for opinions to the Ministry of Information and Communications as prescribed in Clause 2 Article 72 of this Decree. Within 07 working days from the receipt of the written request, the Ministry of Information and Communications shall give a written response to the Ministry of Planning and Investment;

e) Within 15 days from date of receiving the valid application, the Ministry of Planning and Investment shall adjust the outward investment registration certificate and send a copy of the adjusted outward investment registration certificate to the State Bank of Vietnam, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Labor, War Invalids and Social Affairs, relevant ministry, People's Committee of the province or central-affiliated city where investor's headquarters is located or investor's permanent residence is registered, tax authority certifying the investor's fulfillment of tax payment obligation and investor's state ownership representative agency (if any);

g) If the application is invalid or fails to satisfy the conditions, the Ministry of Planning and Investment shall send the investor a written notification of its refusal to adjust the outward investment registration certificate and reasons therefor.

3. Procedures for updating information on an outward investment project on the National Investment Information System:

- a) Within 01 month from the date on which a content of the outward investment project is changed without resulting in the project being subject to the adjustment of the outward investment registration certificate as prescribed in Clause 2 Article 63 of the Law on Investment, the investor shall access the account issued to the outward investment project on the National Investment Information System and update the change;
- b) For the content updated by the investor on the National Investment Information System as prescribed in Point a of this Clause, the Ministry of Planning and Investment shall record such content in the adjusted outward investment registration certificate when the investor adjusts the outward investment registration certificate.

#### **Article 80. Online issuance and adjustment of outward investment registration certificates**

- 1. For an application for issuance or adjustment of the outward investment registration certificate that has an outward investment capital of less than VND 20 billion and does not involve any conditional business line, the investor is entitled to choose between submitting a physical application according to the corresponding procedures specified in Article 78 or 79 hereof or submitting an online application on the National Investment Information System with or without a digital signature.
- 2. Investment project codes, applications and procedures for issuance and adjustment of outward investment registration certificates shall comply with the corresponding regulations set forth in Articles 37 through 40 hereof.

#### **Article 81. Procedures for re-issuance and correction of information on outward investment registration certificates**

Procedures for re-issuance and correction of information on outward investment registration certificates shall comply with the corresponding regulations set forth in Article 41 hereof.

### **Section 4. EXECUTION OF INVESTMENT PROJECTS**

#### **Article 82. Overseas transfer of outward investment capital overseas**

- 1. Every investor is entitled to transfer outward investment capital to conduct investment activities in a foreign country as prescribed in Article 66 of the Law on Investment.
- 2. Every investor is entitled to transfer foreign currency, goods, machinery and equipment overseas before being issued with the outward investment registration certificate to cover the costs of activities that set up their investment project, including:
  - a) Market and investment opportunity research;
  - b) Field survey;
  - c) Document study;

- d) Collection and purchase of documents and information relating to selection of the project;
- dd) Consolidation, assessment, appraisal of the project including selection of a consultant to carry out the assessment and appraisal;
- e) Organization of scientific seminars and conferences;
- g) Establishment and operation of overseas contact offices;
- h) Participation in international bidding, making deposits or other financial guarantees, payment of costs and charges as requested by procuring entity, host country in connection with the conditions for participation in bidding or execution of the project;
- i) Participation in sale, purchase or merger of companies, making deposits or other financial guarantees, payment of costs and charges as requested by sellers or as prescribed by laws of the host country;
- k) Contract negotiation;
- l) Purchase or lease of assets for supporting the setting up of the project overseas.

3. The overseas transfer of foreign currency, goods, machinery and equipment prescribed in Clause 2 of this Article shall comply with regulations of law on foreign exchange, exportation, customs and technology.

4. The limit of foreign currency transfer prescribed in Clause 2 of this Article shall not exceed 5% of the total outward investment capital and not exceed USD 300,000, and shall be included in the total outward investment capital, unless otherwise prescribed by the Government.

5. The State Bank of Vietnam shall elaborate on management of foreign exchange for the overseas transfer of foreign currency for carrying out the activities prescribed in this Article.

6. The transfer of capital in the form of machinery, equipment and goods from and to Vietnam for the execution of outward investment projects must undergo customs procedures according to regulations of law on customs. The Ministry of Finance shall provide detailed instructions on overseas transfer of machinery, equipment and goods for carrying out the activities prescribed in this Article.

### **Article 83. Outward investment reporting**

1. After the outward investment registration certificate is issued, the investor shall be granted an account to access the National Investment Information System for implement periodical reporting regulations.

2. Every investor has the responsibility to send reports on progress of their outward investment project as prescribed in Clauses 3, 4 and 5 Article 73 of the Law on Investment; manage their

account and sufficiently, punctually and accurately update information on the National Investment Information System.

3. In case of any discrepancy between information on the National Investment Information System and information in physical reports, the former shall prevail.

4. Actions against the investor's failure to implement the reporting regulations as prescribed:

a) The Ministry of Planning and Investment shall issue a written warning for the first violation;

b) Impose penalties for administrative violations in accordance with regulations of law on penalties for administrative violations against regulations on planning and investment;

c) Publish violations on the National Investment Information System, web portal of the Ministry of Planning and Investment and other mass media.

#### **Article 84. Financial obligations**

1. Every investor shall discharge all financial obligations related to outward investment projects to the State of Vietnam in accordance with regulations of law on tax.

2. Investors that are state-owned enterprises shall discharge all financial obligations related to outward investment projects to the State of Vietnam in accordance with regulations of law on tax, tax administration, and use of state capital invested in manufacturing and business activities of enterprises.

3. Import and export tax exemption granted to the capital in the form of goods, machinery and equipment transferred overseas to carry out investment activities and from overseas to Vietnam shall comply with regulations of law on import and export tax.

#### **Article 85. Sending Vietnamese workers overseas to work for overseas investment projects**

1. Investors shall only send Vietnamese workers overseas to work for their outward investment projects according to laws of Vietnam, and laws of the host country.

2. Investors must follow all procedures for sending Vietnamese workers overseas to work for outward investment projects; protect legitimate rights of Vietnamese workers working overseas; assume responsibility for handling issues arising from sending Vietnamese workers overseas to work for outward investment projects in accordance with regulations of law on Vietnamese workers working overseas under contracts and other relevant regulations.

#### **Article 86. Termination of outward investment activities**

1. After terminating investment activities, the investor must liquidate their investment project in accordance with laws of the host country.

2. Within 06 months from the date on which the tax finalization report or another equivalent document is available according to laws of the host country in connection with liquidation of the investment project, the investor must repatriate all proceeds from the project liquidation.

3. If the investor wishes to extend the time limit specified in Clause 2 of this Article, at least 15 days prior to the expiration date, the investor shall submit an application form specifying the reasons to the Ministry of Planning and Investment for consideration and decision. Extension shall be granted only once for a period not to exceed 06 months. Within 15 days from the receipt of the application form, the Ministry of Planning and Investment shall give the investor a written response to the extension.

4. Within 60 days from the date of completing the project liquidation and repatriation of proceeds from the liquidation (if any), the investor shall follow procedures for invalidating the outward investment registration certificate as prescribed in Article 87 hereof.

#### **Article 87. Applications and procedures for invalidation of outward investment registration certificates**

1. The investor shall submit 02 sets of the application for invalidation of the outward investment registration certificate (including 01 original dossier). An application includes:

a) An application form for invalidation of the outward investment registration certificate;

b) Originals of issued investment registration certificates;

c) Decision on termination of outward investment project corresponding to the regulations set out in Article 59 of the Law on Investment;

d) Documents proving that the investor has completed the project termination and liquidation, and repatriation of proceeds from the project termination and liquidation as prescribed in Article 85 hereof;

dd) Document about the investor's legal status.

2. The Ministry of Planning and Investment shall inspect the validity of the application. If the application is invalid or has to be clarified, the Ministry of Planning and Investment shall request the investor in writing to complete it.

3. The Ministry of Planning and Investment shall send a written request for opinions to the State Bank of Vietnam about the investor's foreign exchange transactions; compliance with regulations of law on foreign exchange by the investor, violations and imposition of penalties therefor within its power (if any);

4. Within 15 days from the receipt of the valid application, the Ministry of Planning and Investment shall issue an invalidation decision and revoke the outward investment registration certificate and send a copy of the decision to the State Bank of Vietnam, Ministry of Finance,

Ministry of Foreign Affairs, Ministry of Labor, War Invalids and Social Affairs, relevant ministry, People's Committee of the central-affiliated city or province where investor's headquarters is located or investor's permanent residence is registered, tax authority certifying the investor's fulfillment of the tax payment obligation and investor's state ownership representative agency (if any).

5. If the outward investment project is terminated as prescribed in Point d Clause 1 Article 64 of the Law on Investment, prior to the transfer of entire outward investment capital to the foreign investor and the project termination, the investor must notify the State Bank of Vietnam.

6. If the outward investment project is terminated as prescribed in Point dd Clause 1 Article 64 of the Law on Investment but the investor fails to follow procedures for invalidating the outward investment registration certificate, the Ministry of Planning and Investment shall, according to the Law on Investment and this Decree, decide to invalidate the outward investment registration certificate and send the invalidation decision to the investor and regulatory bodies concerned. After the outward investment registration certificate is invalidated, if the investor wishes to continue to execute the outward investment project, such investor shall follow procedures for issuance of the outward investment registration certificate as prescribed by the Law on Investment and this Decree.

7. For a project subject to approval for its outward investment guidelines, the investor and authority deciding the outward investment shall terminate it and notify the authority or person that has the power to approve outward investment guidelines.

## **Chapter VII**

### **INVESTMENT PROMOTION**

#### **Article 88. Contents of investment promotion**

1. Investment potential, market, trend and partner research.
2. Creating images, disseminating and introducing investment environment, policies, potentials, opportunities and matching.
3. Supporting, providing instructions and facilitating investment activities.
4. Building information system and database to serve investment promotion activities.
5. Compiling lists of projects attracting investment.
6. Designing publications and documents to serve investment promotion activities.
7. Providing training in and enhancing capacity for investment promotion.
8. Domestic and international cooperation in investment promotion.



## **Article 89. Investment promotion methods**

1. Investment promotion activities shall be carried out adopting the following methods:

- a) Collecting information, consolidating and considering designing schemes, reports and documents; building information system and database to serve investment promotion activities; building investment web portals and websites;
- b) Organizing survey and research delegations in the country and foreign countries; investment promotion delegation based on each specific theme or partner;
- c) Organizing investment promotion forums, conferences, workshops and seminars in the country and foreign countries;
- d) Holding dialogues between agencies, organizations, enterprises and investors;
- dd) Connecting investors with regulatory bodies, with investors, with organizations and individuals;
- e) Disseminate investment environment, policies and laws through domestic and foreign mass media;
- g) Providing information and instructing investors to follow investment procedures and administrative procedures related to investment;
- h) Consolidating proposals and propositions of investors and assisting in resolving difficulties that arise from investment and business activities.

2. Investment promotion activities may be carried out adopting one or more investment promotion methods depending on the contents and requirements of each activity.

## **Article 90. Coordination in investment promotion activities**

1. Methods for coordinating investment promotion activities:

- a) Arranging investment promotion activities in an effective manner suitable for domestic, international, territorial and local contexts and specific conditions at stated times;
- b) Balancing contents, time, duration, schedule and composition of promotion delegations and funding for investment promotion activities in a practical manner.

2. The Ministry of Planning and Investment acts as an agency in charge of assisting the Government in coordinating investment promotion activities. The Ministry of Planning and Investment has the responsibility to:

- a) instruct other Ministries, ministerial agencies and provincial People's Committees in designing annual promotion programs in conformity with investment promotion plans and National Investment Promotion Program;
- b) coordinate the formulation and execution of the National Investment Promotion Program;
- c) provide guidance on and coordinate investment promotion programs of other Ministries, ministerial agencies and provincial People's Committees.

3. Other Ministries, ministerial agencies and provincial People's Committees have the responsibility to:

- a) coordinate their investment promotion programs;
- b) propose adjustments to the National Investment Promotion Program to the Ministry of Planning and Investment;
- c) regularly review the conduct of investment promotion activities according to the approved programs and update information thereon on the National Investment Promotion Information System.

#### **Article 91. Investment promotion agencies**

1. The Ministry of Planning and Investment acts as an agency assisting the Government in state management of investment promotion activities nationwide.
2. Ministries shall assign units in charge of carrying out investment promotion activities by sectors and industries within their functions and power.
3. Every Department of Planning and Investment acts as an agency in charge of assisting the provincial People's Committee in state management of investment promotion.
4. Depending on specific demands and conditions, every provincial People's Committee shall establish an agency or department in charge of investment promotion within its structure and provide facilities, working conditions, salary and benefits, and cover operating costs. The establishment of an investment promotion agency affiliated to a provincial People's Committee must be agreed upon by the Ministry of Home Affairs and the Ministry of Planning and Investment before requesting the Prime Minister to consider and make a decision as prescribed by law.
5. Overseas agencies in charge of investment promotion:
  - a) Overseas agencies in charge of investment promotion are affiliated to and managed by Vietnam's overseas representative missions;

b) Depending on specific conditions of each area, the Ministry of Planning and Investment shall agree with the Ministry of Foreign Affairs on the number of investment promotion personnel arranged at each mission. If there are 02 full-time investment promotion officials or more in an area, it is required to establish an investment promotion department affiliated to the Vietnam's overseas representative mission;

c) Overseas agencies in charge of investment promotion shall be under professional direction of the Ministry of Planning and Investment and comprehensive direction of Vietnam's overseas representative missions.

## **Article 92. National Investment Promotion Program**

1. The National Investment Promotion Program is a collection of national investment promotion activities carried out in an inter-regional and inter-agency manner by Ministries and provincial People's Committees by using the state budget.

2. Formulation of the National Investment Promotion Program:

a) The National Investment Promotion Program shall be formulated on an annual basis. The Ministry of Planning and Investment shall act as an agency in charge of formulating a National Investment Promotion Program on the basis of proposals of the presiding authority;

b) Before May 30, the presiding authority shall send the proposal for execution of the National Investment Promotion Program of the next year to the Ministry of Planning and Investment in writing and on the National Investment Promotion Information System. The proposals sent after this deadline shall be included in the National Investment Promotion Program of the succeeding year;

c) Before June 30, the Ministry of Planning and Investment shall notify the presiding authority of requests for adjustment or supplementation (if any) in writing and on the National Investment Promotion Information System;

d) Before July 15, the presiding authority shall comply with the requests for adjustment or supplementation (if any) and send a confirmation of compliance with the requests to the Ministry of Planning and Investment and electronically on the National Investment Promotion Information System;

dd) Before August 30, the Ministry of Planning and Investment shall send the intended National Investment Promotion Program of the next year to the Ministry of Finance to seek its opinions about the budget expenditure estimate;

e) Within 20 days from the date on which the Ministry of Finance notifies the budget expenditure estimate, the Ministry of Planning and Investment shall approve the National Investment Promotion Program of the next year and send it to the presiding authority in writing and on the National Investment Promotion Information System;

g) According to the approved National Investment Promotion Program, the investment promotion authority affiliated to the Ministry of Planning and Investment shall sign a contract with the presiding authority for assigning the task of conducting investment promotion activities; advance, pay and settle the financial assistance under the signed contract.

3. Adjustment to the National Investment Promotion Program:

a) If the request for adjustment of an activity of the approved National Investment Promotion Program, the presiding authority shall send a request to the Ministry of Planning and Investment in writing and on the National Investment Promotion Information System specifying the reasons and proposed adjustment plan;

b) Within 15 days from the receipt of the written request, the Ministry of Planning and Investment shall consider deciding to adjust the activity of the approved National Investment Promotion Program; notify relevant authorities in writing and on the National Investment Promotion Information System.

4. The Ministry of Planning and Investment shall provide for forms for formulation and adjustment of the National Investment Promotion Program.

**Article 93. Investment promotion programs of Ministries, ministerial agencies and provincial People's Committees**

1. Provide guidance on formulation of investment promotion programs:

a) The Ministry of Planning and Investment shall formulate an investment promotion program in each period of socio-economic development in order to orienting the investment promotion nationwide;

b) According to specific requirements and conditions, the Ministry of Planning and Investment shall instruct other Ministries, ministerial agencies and provincial People's Committees to formulate annual investment promotion programs.

2. Formulation of investment promotion programs:

a) Before May 30, Ministries, ministerial agencies and provincial People's Committees shall submit intended investment promotion programs of the next year to the Ministry of Planning and Investment in writing and on the National Investment Promotion Information System. The intended investment promotion programs submitted after this deadline shall be included in the investment promotion program of the succeeding year;

b) Before July 30, the Ministry of Planning and Investment shall give its opinions about the investment promotion programs of the next year of Ministries, ministerial agencies and provincial People's Committees in writing and on the National Investment Promotion Information System;

c) Before August 30, on the basis of agreement with the Ministry of Planning and Investment, Ministries, ministerial agencies and provincial People's Committees shall approve investment promotion programs of the next year and submit them to the Ministry of Planning and Investment in writing and on the National Investment Promotion Information System.

3. Based on the execution of the investment promotion programs and specific conditions, after reaching an agreement with the Ministry of Planning and Investment, Ministries, ministerial agencies and provincial People's Committees shall decide to adjust the investment promotion programs; notify the Ministry of Planning and Investment in writing and on the National Investment Promotion Information System.

4. The Ministry of Planning and Investment shall provide for forms for formulation and adjustment of investment promotion programs of Ministries, ministerial agencies and provincial People's Committees.

#### **Article 94. Investment promotion during state high-level external relation activities**

1. For state high-level external relation activities that involve investment promotion activities, presiding authorities shall cooperate with the Ministry of Planning and Investment, Ministry of Foreign Affairs and relevant authorities in formulating investment promotion plans.

2. The presiding authorities shall organize the conduct of investment promotion activities according to plans agreed upon with the Ministry of Planning and Investment, Ministry of Foreign Affairs or agencies assigned to be in charge of organizing state high-level external relation activities.

3. Ministries, provincial People's Committees, agencies, organizations and individuals participating in investment promotion activities within the framework of state high-level external relation activities have the responsibility to:

a) Comply with regulations, internal regulations, requests and guidance of presiding authorities, Ministry of Planning and Investment, Ministry of Foreign Affairs and Ministry of Public Security or agencies in charge of organizing state high-level external relation activities;

b) appoint appropriate representatives to participate in investment promotion activities and assume total responsibility for the appointment.

#### **Article 95. Cooperation between investment promotion and trade, tourism and economic diplomacy promotion**

1. Ministries, ministerial agencies and provincial People's Committees shall preside over carrying out joint investment promotion activities together with trade or tourism or economic diplomacy promotion activities or together with a combination of such activities. These activities require the cooperation and agreement with the Ministry of Planning and Investment on the contents of investment promotion during the process of formulating programs and organizing the execution thereof.

## 2. Contents of cooperation:

- a) Notifying the plan to organize joint trade, tourism and economic diplomacy promotion activities related to investment promotion to the Ministry of Planning and Investment 07 days in advance in writing and through the National Investment Promotion Information System;
- b) Reaching an agreement with the Ministry of Planning and Investment on the contents of investment promotion in joint trade, tourism and economic diplomacy promotion activities.

### **Article 96. Investment promotion activities not funded by state budget**

- 1. Investment promotion activities not funded by state budget shall be carried out by agencies, organizations and individuals in Vietnam and foreign countries by using the funding sources specified in Points b, c and d Clause 1 Article 97 hereof.
- 2. Agencies, organizations, enterprises and individuals carrying out investment promotion activities in foreign countries shall comply with regulations of law of foreign countries and Vietnam.
- 3. Any agency, organization, enterprise or individual carrying out investment promotion activities must send a notification at least 15 days before carrying out the investment promotion activities and notify results thereof to the Department of Planning and Investment at least 15 days after the completion. The notification shall be made in writing and on the National Investment Promotion Information System.

### **Article 97. Funding for investment promotion activities**

- 1. The funding for investment promotion activities shall be covered by:
  - a) State budget;
  - b) contributions of organizations and enterprises participating in the activities;
  - c) donations of domestic and foreign organizations and individuals;
  - d) Other legal funding sources prescribed by law.
- 2. Estimation and allocation of state budget for investment promotion activities with regard to the investment promotion activities of Ministries and ministerial agencies:
  - a) Ministries and ministerial agencies consolidate and send estimates of funding for investment promotion activities after reaching an agreement with the Ministry of Planning and Investment together with the annual budget plans of Ministries, ministerial agencies and Governmental agencies to the Ministry of Finance;

b) Within the state budget and with the agreement of the Ministry of Planning and Investment on the investment promotion activities, the Ministry of Finance shall consider approving and include budget in the annual state budget expenditure estimates of Ministries, ministerial agencies and Governmental agencies to carry out investment promotion activities;

c) Ministries and ministerial agencies shall, according to the budget estimate assigned by the Ministry of Finance, prepare detailed budget estimates of their affiliated units to carry out investment promotion activities.

3. For investment promotion activities of provincial People's Committees, with the Ministry of Planning and Investment's written agreement to carry out investment promotion activities, the provincial People's Committees shall, within local government budget, assign tasks and provide funding to their affiliated units to carry out investment promotion activities. The funding for investment promotion activities shall be included in the annual local government budget estimate.

4. For investment promotion activities carried out on a scheduled basis according to the working programs of leaders of the State and Government, with the agreement of the Ministry of Planning and Investment, the presiding authority shall make an estimate, propose funding and send them to the Ministry of Finance for consideration and decision as prescribed by the Law on State Budget.

5. For the National Investment Promotion Program, the Ministry of Planning and Investment shall preside over and cooperate with the Ministry of Finance in formulating an annual budget estimate plan.

## **Chapter VIII**

### **STATE MANAGEMENT OF INVESTMENT**

#### **Section 1. TASKS AND ENTITLEMENTS OF MINISTRIES, MINISTERIAL AGENCIES, PROVINCIAL PEOPLE'S COMMITTEES AND RELEVANT AUTHORITIES**

##### **Article 98. State management of investment activities in Vietnam**

1. The Ministry of Planning and Investment shall assist the Government in performing uniform state management of investment in Vietnam; perform the tasks and exercise the entitlements related to state management of investment activities as prescribed in Clause 2 Article 69 of the Law on Investment and other tasks and entitlements as prescribed in this Decree and as assigned by the Government and Prime Minister.

2. Ministries and ministerial agencies shall perform the tasks and exercise the entitlements related to state management of investment as prescribed in Clause 3 Article 69 of the Law on Investment and the following tasks and entitlements:

- a) The Ministry of Finance shall cooperate with relevant regulatory bodies in appraising and commenting on issues concerning finance of investment projects and Government guarantees for investment projects subject to approval for investment guidelines by the National Assembly and Prime Minister, and other infrastructure development projects;
- b) The Ministry of Natural Resources and Environment shall preside over and cooperate with relevant regulatory bodies in providing guidance on and inspecting the implementation of regulations on natural resources and environmental protection relating to investment activities; appraising and commenting on issues concerning land and environmental protection of investment projects;
- c) The Ministry of Science and Technology shall preside over and cooperate with relevant regulatory bodies in establishing regulations on investment in science and technology and submitting them to competent authorities for promulgation, instruction, and inspection and inspection of implementation thereof; appraising and commenting on issues concerning science and technology of investment projects subject to approval for their investment guidelines by the National Assembly and Prime Minister;
- d) The Ministry of Construction shall preside over and cooperate with relevant regulatory bodies in establishing regulations on construction of investment projects and submitting them to competent authorities for promulgation, instruction, and inspection of implementation thereof; appraising and commenting on issues concerning state management of construction of investment projects;
- dd) The Ministry of National Defense and Ministry of Public Security shall, within their jurisdiction, formulate and promulgate or request a competent authority to promulgate the documents defining areas that affect national defense and security as prescribed in the Law on Investment, this Decree and law on national defense and security; comment on the satisfaction of requirements for national defense and security assurance as prescribed in this Decree;
- e) The State Bank of Vietnam shall preside over and cooperate with relevant regulatory bodies in establishing regulations on credit and foreign exchange management related to investment activities and submitting them to competent authorities for promulgation, instruction, and inspection and inspection of implementation thereof; commenting on issues concerning credit and foreign exchange management of investment projects subject to approval for their investment guidelines by the National Assembly and Prime Minister;
- g) Other Ministries and ministerial agencies shall perform the tasks and exercise the entitlements specified in Clause 3 Article 69 of the Law on Investment and other tasks and entitlements in accordance with this Decree and relevant law provisions.

### 3. Tasks and entitlements of provincial People's Committees:

- a) Develop plans for attracting sources of investment capital; make and publish the list of local projects calling for investment;



- b) Manage, supervise, provide guidance on and resolve difficulties that arise during the process of carrying out investment activities in their provinces within their power;
- c) Direct, provide guidance on, supervise and inspection the performance of tasks by investment registration authorities during issuance of the investment registration certificate and management of investment activities in their provinces;
- d) Direct investment registration authorities, business registration authorities and land, environment and construction authorities to implement associated procedures to facilitate investment activities by investors;
- dd) Perform the tasks and exercise the entitlements specified in Clause 4 Article 69 of the Law on Investment and other tasks and entitlements in accordance with this Decree and relevant law provisions.

## **Article 99. State management of outward investment activities**

1. The Ministry of Planning and Investment shall perform the tasks and exercise the entitlements related to state management of outward investment activities as prescribed in Clause 2 Article 69 of the Law on Investment and other tasks and entitlements as prescribed in this Decree.

2. Tasks and entitlements of the Ministry of Finance:

- a) Make comments about applications for approval for their outward investment guidelines of projects subject to approval for their outward investment guidelines by the National Assembly and the Prime Minister regarding finance, tax and customs-related issues; make comments about fields under its management regarding difficulties in outward investment facing partially state-owned enterprises at the request of the Prime Minister or the Ministry of Planning and Investment;
- b) Monitor the fulfillment of financial obligations by investors to the Vietnam's state budget; review and assess the efficiency in outward investment by partially state-owned enterprises as prescribed by law;
- c) Comply with regulations on reporting of fulfillment of financial obligations by investors to the State of Vietnam; review and assess the efficiency in use of state capital invested in enterprises making outward investment and the state management of outward investment activities as prescribed in Article 73 of the Law on Investment.

3. Tasks and entitlements of the State Bank of Vietnam:

- a) Promulgate or request competent authorities to promulgate regulations of law, mechanisms and policies on grant of loans for outward investment, and foreign exchange management relating to outward investment activities;

b) Inspect and supervise within its power the transfer of money from and to Vietnam related to outward investment projects;

c) Act as an agency in charge of cooperating with ministries in establishing and requesting competent authorities to promulgate regulations on guidelines and procedures for considering granting approval for overseas lending to business organizations and guarantees for non-residents;

d) Comply with regulations on reporting of transfer of foreign currency from Vietnam abroad (before and after being issued with the outward investment registration certificate) and transfer of foreign currency from foreign countries to Vietnam related to outward investment as prescribed in Article 73 of the Law on Investment.

#### 4. Tasks and entitlements of the Ministry of Foreign Affairs:

a) Preside over and cooperate with the Ministry of Planning and Investment and ministries concerned in establishing and promulgate or request competent authorities to promulgate regulations of law and mechanisms of Vietnamese overseas representative missions' mechanisms for provision of assistance and protection of legitimate rights and interests of Vietnamese investors in the host countries;

b) Comment on outward investment project dossiers at the request of the Prime Minister or the Ministry of Planning and Investment;

c) Direct Vietnamese overseas representative missions to cooperate with relevant agencies in charge in monitoring and supporting investment activities by Vietnamese investors in the host countries when necessary; assist the Ministry of Planning and Investment and competent authorities in verifying information relating to investment activities by Vietnamese investors in areas under their management upon request;

d) Comply with regulations on reporting of Vietnamese overseas representative missions' assistance in Vietnam's investment activities in the host countries as prescribed in Article 73 of the Law on Investment.

#### 5. Tasks and entitlements of the Ministry of Industry and Trade:

a) Preside over and cooperate with the Ministry of Planning and Investment and ministries in establishing and promulgating or requesting competent authorities to promulgate regulations of law, mechanisms and policies on commerce, technology and energy related to outward investment activities;

b) Inspect and supervise commercial, technology and energy activities related to outward investment activities related to outward investment activities;

c) Comply with regulations on reporting of outward investment in the fields of commerce, technology and energy as prescribed in Article 73 of the Law on Investment.

6. Tasks and entitlements of the Ministry of Labor, War Invalids and Social Affairs:

- a) Establish and promulgate or request competent authorities to promulgate regulations of law, mechanisms and policies on management and employment of Vietnamese workers related to outward investment activities;
- b) Comment on the issues in the field of labor related to outward investment activities at the request of the Prime Minister or the Ministry of Planning and Investment;
- c) Inspect and supervise within its power the sending of Vietnamese workers overseas to work for overseas investment projects;
- d) Comply with regulations on reporting of the sending of Vietnamese workers overseas to work for overseas investment projects as prescribed in Article 73 of the Law on Investment.

7. Tasks and entitlements of other ministries and ministerial agencies:

- a) Perform the tasks and exercise the entitlements specified in Clause 3 Article 69 of the Law on Investment and other tasks and entitlements in accordance with this Decree and relevant law provisions;
- b) Comment on the issues in the fields of state management as assigned in relation to outward investment activities at the request of the Prime Minister or the Ministry of Planning and Investment;
- c) Inspect and supervise within its power the issues in the fields of state management as assigned in relation to outward investment activities;
- d) Comply with regulations on reporting of outward investment under its management as prescribed in Article 73 of the Law on Investment.

8. Tasks and entitlements of Vietnam's overseas representative missions:

- a) Cooperate with relevant authorities in collecting information and assisting Vietnamese investors in business investment activities and compliance with regulations of law of the host countries; protecting legitimate rights and interests of Vietnamese investors in foreign countries; assisting, enabling and removing difficulties facing Vietnamese investors during the execution of investment projects in the host countries in accordance with the regulations laid down in the Law on Overseas Representative Missions of the Socialist Republic of Vietnam; assisting the Ministry of Planning and Investment and competent authorities in verifying information relating to business investment activities by Vietnamese investors in areas under their management upon request;
- b) On an annual or ad hoc basis, submit reports on Vietnamese overseas representative missions' assistance in Vietnam's business investment activities to the Ministry of Foreign Affairs in areas

under their management for consolidation and submission to the Ministry of Planning and Investment as prescribed.

## **Article 100. Tasks and entitlements of investment promotion agencies**

### **1. Tasks and entitlements of the Ministry of Planning and Investment:**

- a) Preside over and cooperate with ministries, ministerial agencies and provincial People's Committees in formulating investment promotion orientations, programs and plans; providing guidance on formulation of annual investment promotion programs of ministries, ministerial agencies and provincial People's Committees; consolidate, formulate and execute the National Investment Promotion Program;
- b) Provide guidance on implementation of regulations on provision of information on and reporting of investment promotion activities;
- c) Carry out investment promotion activities of the investment promotion programs specified in Point a of this Clause;
- d) Supervise, review and assess the investment promotion, supervise and inspect the efficiency in investment promotion activities;
- dd) Cooperate with the Ministry of Foreign Affairs and Ministry of Home Affairs in requesting the Prime Minister to order and appoint agencies in charge of investment promotion in foreign countries; perform state management of investment promotion with regard to agencies in charge of investment promotion in foreign countries;
- e) Provide training in investment promotion;
- g) Periodically report to the Prime Minister the status and orientations for investment promotion activities.

### **2. Tasks and entitlements of the Ministry of Finance:**

- a) Preside over and cooperate with the Ministry of Planning and Investment in providing guidance on specific limits on use of funding from state budget and regulations on financial management of investment promotion activities;
- b) Cooperate with the Ministry of Planning and Investment, other Ministries, ministerial agencies and provincial People's Committees in formulating a plan on funding for investment promotion within the National Investment Promotion Program, investment promotion programs of Ministries, ministerial agencies and provincial People's Committees;
- c) Preside over and cooperate with the Ministry of Foreign Affairs and Ministry of Planning and Investment in providing state funding for investment promotion activities of overseas investment promotion units;

d) Preside over and cooperate with the Ministry of Planning and Investment, other Ministries, ministerial agencies and provincial People's Committees in resolving difficulties related to the provision and use of state funding for investment promotion activities;

dd) Provide guidance on estimation, allocation, use and settlement of funding for investment promotion activities;

e) Preside over and cooperate with the Ministry of Planning and Investment in providing guidance on collection and use of costs of registering the national investment promotion information system.

### 3. Tasks and entitlements of the Ministry of Foreign Affairs:

a) Cooperate with the Ministry of Planning and Investment, other Ministries, ministerial agencies and provincial People's Committees in implementing investment promotion programs and activities together with investment promotion activities in external relation;

b) Assist and participate in carrying out investment promotion activities in foreign countries as approved in a notice of the Ministry of Planning and Investment; except for new investment promotion activities, Vietnam's overseas representative missions shall notify and reach an agreement with the Ministry of Planning and Investment prior to carrying out such activities;

c) Preside over and instruct Vietnam's overseas representative missions to manage activities of overseas agencies in charge of investment promotion;

d) Preside over and cooperate with the Ministry of Planning and Investment and Ministry of Home Affairs in requesting the Prime Minister to decide the establishment and payroll of overseas agencies in charge of investment promotion;

dd) At the request of the Ministry of Planning and Investment, decide to appoint officials working at overseas agencies in charge of investment promotion and award them diplomatic titles;

e) Provide sufficient facilities, vehicles, working conditions and funding for overseas agencies in charge of investment promotion.

### 4. Tasks and entitlements of other Ministries, ministerial agencies and provincial People's Committees:

a) Preside over and cooperate with the Ministry of Planning and Investment, Ministries and ministerial agencies concerned in formulating investment promotion programs and plans; providing guidance on formulation of annual investment promotion programs of ministries, ministerial agencies and provincial People's Committees; propose activities that should be included in the National Investment Promotion Program;

b) Carry out investment promotion activities within their power;

c) Cooperate with other Ministries, ministerial agencies and provincial People's Committees in investment promotion activities.

## **Section 2. REGULATIONS ON REPORTING OF INVESTMENT ACTIVITIES, INVESTMENT PROMOTION ACTIVITIES AND OPERATION OF NATIONAL INVESTMENT INFORMATION SYSTEM**

### **Article 101. Contents of reports and reporting period of investment authorities**

1. Reports submitted by investment registration authorities to provincial People's Committees include:

a) Quarterly reports made before the 15th of the first month of the quarter succeeding the reporting quarter, which specify: receipt of applications, issuance, adjustment and revocation of investment registration certificates, and status of the investment projects;

b) Annual reports made before April 10 of the year succeeding the reporting year, which specify: assessment of investment over the whole year, the expected plan for attraction and disbursement of investment capital for the next year and a list of investment projects in which investors are currently interested.

2. Every quarter and every year, the People's Committee of each province shall consolidate reports submitted by investment registration authorities under their management in order to report to the Ministry of Planning and Investment as set out in Clause 1 of this Article after 05 working days from the deadline for investment registration authorities to report.

3. Regulatory bodies shall provide information for the Ministry of Planning and Investment as follows:

a) The Ministry of Finance shall quarterly provide information on issuance, adjustment and revocation of investment registration certificates or equivalent documents of insurers and securities companies; consolidate annual financial statements of foreign-invested business organizations nationwide to make annual reports on norms related to export, import, financial status and amounts payable to state budget of foreign-invested business organizations. The reporting time is prior to the 12th of the first month of the quarter succeeding the reporting quarter in the case of quarterly reports and 31 May of the year succeeding the reporting year;

b) The Ministry of Industry and Trade shall submit quarterly reports on issuance, adjustment of investment registration certificates, termination and business outcomes of foreign investment projects in the field of petroleum exploration and extraction in Vietnam before the 15th of the first month of the quarter succeeding the reporting quarter;

c) The Ministry of Justice shall submit quarterly reports on issuance and adjustment of investment registration certificates, shutdown and business outcomes of branches and law firms before the 15th of the first month of the quarter succeeding the reporting quarter;

d) The State Bank of Vietnam shall submit quarterly reports on issuance and adjustment of investment registration certificates, shutdown and business outcomes of commercial presences in Vietnam of foreign finance companies and foreign credit institutions before the 15th of the first month of the quarter succeeding the reporting quarter;

dd) The Ministry of Labor, War Invalids and Social Affairs shall submit annual reports on registration and licensing of foreign workers in foreign-invested business organizations before April 15 of the year succeeding the reporting year;

e) The Ministry of Science and Technology shall submit annual reports on technology transfer by foreign-invested business organizations before April 15 of the year succeeding the reporting year;

g) Provincial People's Committees shall submit to the Ministry of Planning and Investment and Ministry of Natural Resources and Environment annual reports on allocation and lease of land to and use of land by foreign-invested business organizations before April 15 of the year succeeding the reporting year.

4. The Ministry of Planning and Investment shall annually consolidate and submit reports on nationwide investment to the Prime Minister as set out in Point dd Clause 2 Article 72 of the Law on Investment.

#### **Article 102. Contents of reports and reporting period of business organizations executing investment projects**

1. Business organizations executing investment projects shall submit reports to local investment registration authorities and statistics authorities.

2. Quarterly reports shall be submitted by the 10th of the first month of the quarter succeeding the reporting quarter, which specify: capital, net revenue, export, import, workers, taxes, amounts payable to state budget, use of land and water surface.

3. Each annual report shall be submitted by March 31 of the next year, which specifies: information on the quarterly reports, profit, income of workers, expenditures on and investment in scientific research and technology development, environmental protection, environmental issues resolution, and origins of technologies used.

#### **Article 103. Contents of investment promotion reports and investment promotion reporting period**

1. Ministries and provincial People's Committees shall monitor progress, review and submit reports on investment promotion activities of the National Investment Promotion Program; investment promotion programs of their sectors and with regard to implementation result, completeness and funding on an annual basis before January 31 of the next year.

2. The Ministry of Planning and Investment shall annually consolidate and submit reports on nationwide investment promotion to the Prime Minister in the second quarter of the next year.

#### **Article 104. Reporting methods**

1. Reporting of investment projects:

a) Business organizations executing investment projects shall submit online reports through the National Investment Information System;

b) Investment registration authorities shall submit reports in writing and online on the National Investment Information System.

2. Reporting of investment promotion:

a) Ministries and provincial People's Committees shall submit written reports to the Ministry of Planning and Investment and online reports on the National Investment Promotion Information System;

b) Agencies presiding over investment promotion activities shall submit online reports through the National Investment Information System.

3. The Ministry of Planning and Investment shall provide for report forms, expedite and inspection the implementation of reporting regulations as prescribed in this Decree.

#### **Article 105. Mechanisms for cooperation in management and operation of the National Investment Information System**

1. The Ministry of Planning and Investment shall preside over and cooperate with relevant regulatory bodies in developing and operating the National Investment Information System; provide instructions on its management, operation, and use.

2. Ministries and provincial People's Committees shall update and provide information about investment activities under their management on the National Investment Information System; organize the operation and use of the National Investment Information System in accordance with the Law on Investment, this Decree and relevant regulations.

3. Investment registration authorities shall use the National Investment Information System to receive applications, issue, adjust, revoke investment registration certificates; monitor and assess the execution of investment projects; implement investment reporting regulations and instruct business organizations executing investment projects to use the National Investment Information System in accordance with this Decree.

4. The agency in charge of management and operation of the National Investment Information System and National Enterprise Registration Information System shall exchange information about enterprise registration by foreign-invested business organizations, capital contribution,



purchase of shares/stakes by foreign investors when they follow the procedures specified in Article 63 and Article 66 of this Decree, investment conditions applied to foreign investors, and list of conditional business lines and business investment conditions as prescribed.

5. The agency in charge of management and operation of the National Investment Information System shall consolidate information about investment promotion nationwide; organize the use and provision of information and assist agencies, organizations and enterprises in conducting investment promotion and investment matching activities.

6. The business organizations that execute investment projects shall be given accounts to log in to the National Investment Information System in order to submit periodic reports as prescribed.

7. The Ministry of Planning and Investment shall provide specific instructions on management, operation and use of the National Investment Information System.

## **Chapter IX**

### **IMPLEMENTATION CLAUSE**

#### **Section 1. AMENDMENTS TO SOME DECREES RELATED TO BUSINESS INVESTMENT**

##### **Article 106. Amendments to the Government's Decree No. 46/2014/ND-CP dated May 15, 2014 on land and water surface rents**

Amendments to the Government's Decree No. 46/2014/ND-CP (amended by the Government's Decree No. 135/2016/ND-CP dated September 09, 2016, Decree No. 35/2017/ND-CP dated April 03, 2017 and Decree No. 123/2017/ND-CP dated November 14, 2017:

1. Clause 4 is added to Article 19 as follows (replacing Clause 4 repealed under the Decree No. 35/2017/ND-CP):

“4. With respect to the investment projects specified in Clause 2 Article 20 of the Law on Investment, the Prime Minister shall decide that the duration of exemption from land and water surface rents does not exceed 1.5 times the duration of application of the exemption from land and water surface rents specified in Point d Clause 3 Article 19 of this Decree and does not exceed the duration of the investment projects.”.

2. Clause 2 is added to Article 20 as follows (replacing Clause 2 repealed under the Decree No. 35/2017/ND-CP):

“2. With respect to the investment projects specified in Clause 2 Article 20 of the Law on Investment, the Prime Minister shall decide that the reduction in land does not exceed 1.5 times the reduction in land rents specified in Point a Clause 1 of this Article.”.

**Article 107. Amendments to the Government’s Decree No. 52/2020/ND-CP dated April 27, 2020 on golf course investment and business**

1. Article 10 is amended as follows:

**“Article 10. Procedures for approving investment guidelines, issuing investment registration certificates, approving investors and adjusting golf course projects**

1. The power, applications and procedures for approving investment guidelines, approving investors, issuing investment registration certificates, adjusting projects on approving investors and adjusting golf course investment and business projects shall comply with regulations of law on investment and this Decree.

2. A golf course investment and business project proposal shall consist of the contents required by regulations of law on investment and this Decree, including an explanation for satisfaction of the rules and conditions stated in Articles 3, 5, 6,7 and 8 of this Decree.

3. Regulations of law on investment and this Decree shall apply to the contents of appraisal of a request for approval for investment guidelines and appraisal of adjustments to a golf course investment and business project, including an assessment of the satisfaction of the rules and requirements stated in Articles 3, 5, 6,7 and 8 of this Decree.”.

2. Clause 2 of Article 13 and Clauses 3 and 4 of Article 14 are repealed.

3. Clause 4 of Article 16 is amended as follows:

“4. Approve investment guidelines of golf course projects within their power in accordance with regulations of law on investment; consolidate and assess the approval for of such investment guidelines and the execution of golf course projects within their provinces.”.

**Article 108. Amendments to the Government’s Decree No. 25/2020/ND-CP dated February 28, 2020 on elaboration of some Articles of the Law on Bidding on investor selection**

1. Point b Clause 1 of Article 1 is amended as follows:

“b) Investment projects using land for construction of urban areas; construction of civil works having one or more functions, including commercial housing; office buildings; commercial and services works;”.

2. Clause 4 of Article 4 is amended as follows:

“4. In addition to the responsibility to publish the information specified in Point c Clause 1 of this Article, information about any land-using project whose total estimated cost of project execution (excluding costs of compensation, assistance and relocation, land levy and land rent) is VND 800,000,000,000 or over shall be published in English and Vietnamese language on the website of the provincial People’s Committee (if any).

This Clause does not apply to projects belonging to prohibited business lines in accordance with regulations of law on investment.”.

3. Point a Clause 2 of Article 10 is amended as follows:

“a) The project belongs to a prohibited business line as prescribed by the Law on Investment;”.

4. Article 11 is amended as follows:

**“Article 11. Conditions for determining whether an investment project uses land**

A land-using investment project is subject to investor selection uses land if it satisfies the following conditions:

1. The project is the one specified in Point b Clause 1 Article 1 of this Article but does not use public investment capital to construct works. Projects on construction of urban areas and commercial housing; office buildings; commercial and services works shall be classified in accordance with regulations of law on construction. In the case of a project having multiple functions, the determination of whether the project uses land shall be carried out based on its main work or main work at the highest level if the project has multiple main works in accordance with regulations of law on construction.
2. The project is on the approved list of projects on land that needs expropriating in accordance with regulations of law on land, located in a land area that is currently being managed or used by the State but will be allocated or leased out by the provincial People’s Committee or economic zone management board to the approved investor.
3. The project belongs to a residential housing development program or plan in accordance with regulations of law on housing; an urban development program (if any) in accordance with regulations of law on urban development.
4. The project conforms to the socio-economic development plan or construction planning on a scale of 1/2.000 or 1/5.000 (if any); or the urban zoning planning a scale of 1/2.000 or 1/5.000 as prescribed by law.
5. The project is not qualified to hold a land use right auction in accordance with regulations of law on land.
6. The project does not fall into the case specified in Point b Clause 4 Article 22 and Article 26 of the Law on Bidding.”.

5. Article 12 is amended as follows:

**“Article 12. List of land-using investment projects**

1. The project specified in Article 11 of this Decree shall be incorporated into the list of land-using investment projects. To be specific:

a) For the project subject to approval for its investment guidelines in accordance with regulations of law on investment, the decision on approval for investment guidelines also serves as the decision on approval for the list of land-using investment projects.

According to the decision on approval for investment guidelines under regulations of law on investment, the Department of Planning and Investment shall cooperate with relevant authorities in determining preliminary requirements on the investor's capacity and experience, and submit a report to the President of the provincial People's Committee for approval prior to announcing the list of projects. For the project executed in an economic zone, the economic zone management board shall determine and approve preliminary requirements on the investor's capacity and experience prior to announcing the list of projects.

b) For the project not subject to approval for its investment guidelines in accordance with regulations of law on investment, the compilation and approval of the list of land-using investment projects shall comply with Clauses 2 and 3 of this Article.

2. Compile a list of land-using projects regarding the project not subject to approval for its investment guidelines in accordance with regulations of law on investment:

a) If the project is set up by a specialized agency affiliated to the provincial People's Committee or agency affiliated to the provincial or district-level People's Committee:

The specialized agency affiliated to the provincial People's Committee or agency affiliated to the provincial or district-level People's Committee shall prepare and submit a land-using investment project proposal to the Department of Planning and Investment for consolidation. The proposal shall contain the project's name; objectives; scale; total estimated cost of project execution, investment capital; capital raising plan; investment duration and schedule; information about current use of land in the project location, expected demand for land use (if any); purposes of land; approved planning criteria; language used to publish the list of projects; analysis of socio-economic efficiency of the project, assurance of national defense and security assurance, and sustainable development of the project and preliminary requirements on the investor's capacity and experience.

b) If the project is proposed by an investor:

The investor is entitled to propose to execute an investment project using land not included in the list of land-using investment projects as approved by the President of the provincial People's Committee. The investor shall prepare and submit a project proposal to Department of Planning and Investment for consolidation. The proposal consists of:

- A written request for permission to execute the land-using project, including a commitment to bear all the costs and risks if the proposal is rejected;

- Contents of the project proposal shall contain the project's name; investment objectives; investment scale; total estimated cost of project execution, investment capital; capital raising plan; investment duration and schedule; analysis of socio-economic efficiency of the project, assurance of national defense and security assurance, and sustainable development of the project;
- The proposal for expected demand for land use; information about current use of land in the project location (if any); purposes of land; approved planning criteria;
- Documents about the investor's legal status, capacity and experience;
- Other documents (if any) required to explain the project proposal.

### 3. Approve the list of land-using investment projects:

- a) Within 30 days from the receipt of the project proposal specified in Point a or b Clause 2 of this Article, the Department of Planning and Investment shall cooperate with relevant authorities in compiling the list of land-using investment projects; assessing the satisfaction of the conditions for determining whether an investment project uses land prescribed in Article 11 of this Decree; determine preliminary requirements on the investor's capacity and experience, and submit a report to the President of the provincial People's Committee. Where necessary, the duration of implementation may be extended upon request.
- b) Within 10 days from the receipt of the report, the President of the provincial People's Committee shall consider approving the list of land-using investment projects, including the preliminary requirements on the investor's capacity and experience.

### 4. Announce the list of projects"

- a) According to the decision on approval for investment guidelines under regulations of law on investment or the approved list of land-using investment projects, the Department of Planning and Investment or the economic zone management board (for the project executed in an economic zone) shall publish the list of projects as prescribed in Point c Clause 1, Clause 4 Article 4 and Clause 2 Article 5 of this Decree.
- b) Information to be published includes:
  - Project's name; investment objectives; investment scale; total estimated cost of project execution, investment capital; capital raising plan; investment duration and schedule;
  - Current use of land in the project location, area of land used for project execution; purposes of land; approved planning criteria;
  - Preliminary requirements on the investor's capacity and experience;
  - Deadline for the investor to submit the application for registration of project execution;

- The investor shall submit the application for registration of project execution through the National Bidding Network System;
- Other information (if necessary).”.

6. Article 13 is amended as follows:

**“Article 13. Preparation, submission and preliminary assessment of capacity and experience of investors**

1. Investors shall prepare and submit an application for registration of project execution on the National Bidding Network System according to the information published according to Point b Clause 4 Article 12 of this Decree. The application for registration of project execution shall include the application form; documents about the investors’ legal status, capacity, experience, and other relevant documents (if any).

2. Upon the expiry of the time limit for registration of project execution, the Department of Planning and Investment or economic zone management board (for the project executed in an economic zone) shall carry out preliminary assessment of the capacity and experience of the investors that have submitted applications for registration of project execution on the National Bidding Network System.

3. According to the result of preliminary assessment of capacity and experience, the authority specified in Clause 2 of this Article shall make a submission to the President of the provincial People's Committee or the economic zone management board (for the project executed in an economic zone) for decision to organize the implementation in one of the cases specified in Clauses 4, 5 and 6 of this Article.

4. If two investors or more satisfy preliminary requirements on capacity and experience:

a) The President of the provincial People’s Committee shall issue a decision to carry out competitive bidding as prescribed in Clause 1 or Clause 2 Article 10 of this Decree and assign a specialized agency affiliated to the provincial People’s Committee or the district-level People’s Committee to act as the procuring entity.

b) The head of the economic zone management board shall issue a decision to carry out competitive bidding as prescribed in Clause 1 or Clause 2 Article 10 of this Decree and assign an unit affiliated to the economic zone management board to act as the procuring entity with regard to the project executed in the economic zone.

5. If only one investor carries out the registration and satisfies preliminary requirements on capacity and experience or multiple investors carry out the registration but only one investor satisfies preliminary requirements on capacity and experience, it is required to follow the procedures for investor approval in accordance with regulations of law on investment.

6. Under the competent authority's decision and approval specified in Clauses 4 and 5 of this Article, the Department of Planning and Investment or economic zone management board (for the project executed in an economic zone) shall publish a list of qualified investors on the National Bidding Network System or send a notification of completion of procedures for announcing the list of projects if there is not any investor satisfying preliminary requirements on capacity and experience.”.

7. Article 16 is amended as follows:

a) Clause 1 is amended as follows:

“1. Selection of investors in the projects specified in Point c Clause 1 Article 1 of this Decree shall be carried out as follows:

a) The list of projects (including preliminary requirements on capacity and experience) must be approved and made publicly available on the National Bidding Network System, serving as the basis for determination of investors interested in and submitting applications for registration of project execution.

b) If there are two investors or more satisfying the preliminary requirements on capacity and experience, the bidding shall be held by applying the competitive bidding process, including:

- Preparation for investor selection;
- Organization of investor selection;
- Assessment of the technical proposal; appraisal and approval of the list of technically qualified investors;
- Opening and assessment of the financial - commercial proposal;
- Submission, appraisal, approval and publishing of investor selection results;
- Negotiation, completion and execution of a contract.

c) If only one investor carries out the registration and satisfies preliminary requirements on capacity and experience or multiple investors carry out the registration but only one investor satisfies preliminary requirements on capacity and experience, it is required to follow the procedures for investor approval in accordance with regulations of law on investment.

d) If there is not any investor satisfying preliminary requirements on capacity and experience, it is required complete the procedures for announcing the list of projects.”;

b) Clause 3 is amended as follows:

“3. Regarding the projects specified in Point c Clause 1 Article 1 of this Decree, Ministries, ministerial agencies and Governmental agencies shall, according to special legislation, promulgate or request the Prime Minister to promulgate regulations on compilation, approval and announcement of the list of projects; methods and standards for bid evaluation, proposals and other contents (if any), ensuring competitiveness, fairness, transparency and economic, including the contents.”.

8. Clause 1 of Article 59 is amended as follows:

“1. Rules for contract conclusion

a) The proposed successful bid price (money proposed to be paid to the state budget by the selected investor in the bid package) shall be the value of the signed contract.

b) The costs of project execution and costs of compensation, assistance and relocation proposed by the selected investor in the bid package shall be recorded in the contract; if the change of planning, policy or law affects such costs, regulations of law on investment, construction, land, planning, housing and real estate business, and other relevant regulations of law shall apply.

c) Land levy or land rent payable as determined in accordance with regulation of law on land plus the amount of payment to the state budget as proposed by the selected investor shall be recognized as market price at the time of land allocation or land lease specified in the contract.”.

9. Article 60 is amended as follows:

The phrase “nhà đầu tư” (“investor”) is replaced with “nhà đầu tư trúng thầu hoặc doanh nghiệp dự án do nhà đầu tư trúng thầu thành lập để thực hiện dự án” (“selected investor or project enterprise established by the selected investor to execute a project”), “nhà đầu tư trúng thầu” (“selected investor”) is replaced with “nhà đầu tư trúng thầu hoặc doanh nghiệp dự án do nhà đầu tư trúng thầu thành lập để thực hiện dự án” (“selected investor or project enterprise established by the selected investor to execute a project”).

**Article 109. Amendments to the Government’s Decree No. 96/2016/ND-CP dated July 01, 2016 providing for security and order conditions for a number of conditional business lines**

1. Clause 10 of Article 3, Clause 7 of Article 6, Article 10 and Article 34 are repealed.

2. The phrase “kinh doanh dịch vụ đòi nợ” (“debt collection services”) is removed from Point c Clause 3 of Article 19 and Point a Clause 2 of Article 24.

**Article 110. Amendments to the Government’s Decree No. 82/2018/ND-CP dated May 22, 2018 on management of industrial parks and economic zones**

Clauses 2 and 3 Article 66 of the Government’s Decree No. 82/2018/ND-CP dated May 22, 2018 on management of industrial parks and economic zones are repealed.



**Article 111. Amendments to the Government's Decree No. 11/2013/ND-CP dated January 14, 2013 on management of investment in urban development**

1. Article 29 is amended as follows:

**“Article 29. Collecting appraisal opinions on request for approval for investment guidelines of projects on investment in urban area construction**

1. The approval for investment guidelines of projects on investment in urban area construction shall comply with regulations of law on investment.

2. During the process of appraising a project on investment in urban area construction to approve investment guidelines, the Ministry of Planning and Investment shall seek appraisal opinions of the Ministry of Construction about the contents specified in Clauses 3 and 4 of this Article with respect to the project subject to approval for its investment guidelines by the Prime Minister; the investment registration authority shall seek appraisal opinions of the Department of Construction about the contents specified in Clauses 3 and 4 of this Article with respect to the project subject to approval for its investment guidelines by the provincial People's Committee.

3. Contents about which appraisal opinions are obtained with regard to a project on investment in urban area construction on request for approval for investment guidelines of projects on investment in construction of an urban area with residential housing:

a) Contents about which appraisal opinions are obtained are the same as those for a residential housing construction projects in accordance with regulations of law on housing;

b) Assessment of conformity of the investment project with the urban development objectives and orientations specified in the urban development program (if any) approved by a competent authority. If the urban development program has yet to be approved by a competent authority, assess conformity of the project with the urban development objectives and orientations specified in the approved general planning or provincial planning;

c) Considering the synchronism of the preliminary plan for investment phasing or expected division of component projects (if any) and preliminary plan for investment in construction and management of urban infrastructure inside and outside the project.

4. Contents about which appraisal opinions are obtained with regard to a project on investment in construction of an urban area without residential housing:

a) Assessment of conformity of the investment project with the detailed planning (if any) or zoning planning (if any). If the detailed planning or zoning planning has yet to be approved by a competent authority, assess conformity of the investment project with the general planning;

b) The contents specified in Points b and c Clause 3 of this Article.”.

2. The following Articles and Clauses are repealed: Article 20, Article 21, Article 22, Article 23, Article 24, Article 25, Article 26, Article 27, Article 28, Article 30, Article 33, Clauses 8 and 9 Article 41 and Article 51.

**Article 112. Amendments to the Government's Decree No. 99/2003/ND-CP dated August 28, 2003 on promulgation of hi-tech zone regulations**

1. Point e is added to Clause 1 of Article 9 as follows:

“e) Implement science and technology strategies, plans and programs of hi-tech zones in order to develop hi-tech products of several key industries along the value chain.”.

2. Clause 1 of Article 10 is amended as follows:

“1. “hi-tech zone enterprises” mean those established in accordance with regulations of law and operating in hi-tech zones, including infrastructure development enterprises, hi-tech enterprises, hi-tech services enterprises, hi-tech development companies, livelihood services enterprises, exporting processing enterprises.”.

3. Article 15a is added as follows:

**“Article 15a. Exporting processing enterprises in hi-tech zones**

1. An exporting processing enterprise in a hi-tech zone means an enterprise that is established and operates within an export-processing zone of the hi-tech zone or that specializes in producing hi-tech products for export.

2. In addition to the investment incentives and assistance specified in this Decree, exporting processing enterprises in hi-tech zones are entitled to apply particular regulations applied to export processing enterprises operating within industrial parks and economic zones in accordance with regulations of law on industrial parks and economic zones.

If an enterprise operating in a hi-tech industrial park belonging to a hi-tech zone satisfied the conditions regarding customs inspection and supervision, regulations applicable to non-tariff zones and regulations of law on import and export tax before the effective date of the Decree on elaboration of some Articles of the Law on Investment, it is entitled to apply the same regulations as for export processing enterprises operating in industrial parks and economic zones in accordance with regulations of law on industrial parks and economic zones from the date on which the enterprise satisfies those conditions.”.

4. Clause 2 of Article 35 is amended as follows:

“2. Attract investment and manage investment and construction

a) Formulate and organize implementation of the plan for investment attraction and promotion;

- b) Issue, adjust and revoke investment registration certificates, decisions on approval for investment guidelines and exercise other powers of investment registration authorities in accordance with regulations of the Law on Investment and its guiding documents;
- c) Organize selection of investors in projects according to investor selection regulations promulgated by heads of hi-tech zone management boards on the basis of applying Articles and Clauses of law on bidding and relevant regulations of law. Investors are entitled to select to follow investor approval procedures as prescribed in Point d Clause 7 Article 29 of the Decree on elaboration of some Articles of the Law on Investment 2021, allocated or leased out land by hi-tech zone management boards in accordance with regulations of law on land, and execute projects specified in the decisions on approval for investment guidelines and decisions on investor approval;
- d) Decide the Group B and C investment projects with regard to investment items funded by the state budget with the authorization of high-tech park-managing agencies;
- dd) Organize construction and operation of construction works and technical infrastructure in hi-tech zones.
- e) Cooperate with domestic and foreign organizations, enterprises and individuals in the fields related to investment in construction and development of hi-tech zones;
- g) Inspect, supervise and assess the performance of the tasks specified in investment registration certificates, decisions on approval for investment guidelines of investment projects executed in hi-tech zones.”.

**Article 113. Amendments to the Government’s Decree No. 94/2020/ND-CP dated August 21, 2020 regulating preferential mechanisms and policies for Vietnam National Innovation Center**

Article 8 is amended as follows:

**“Article 8. Acceptance of support, aids, grants and donations**

1. The NIC may receive official development assistance (ODA) grants to perform irregular tasks in accordance with regulations of law.
2. The NIC shall be the party receiving foreign organizations and individuals’ grant aids to Vietnam.

Grant aids to the NIC shall be managed as its legal revenues and not be recorded as the state budget revenues.

Procedures for receiving, managing and using grant aids to the NIC shall comply with regulations of law on management and use of grant aids not in the form of official development

assistance of foreign agencies, organizations, and individuals for Vietnam. The Minister of Planning and Investment shall decide the receipt of grant aids by the NIC.

3. The NIC is entitled to receive the grant aids specified in Clause 2 of this Article and grants and donations from domestic organizations and individuals (including interests on deposited aids and grants) to invest in building facilities, finance recurrent expenditures, support activities of, management and operation by the NIC.

4. The mechanisms specified in this Article shall apply to the grant aids of which the procedures for receipt are being followed by the NIC at the time of entry into force of the Decree on elaboration of the Law on Investment 2020.”.

## **Section 2. TRANSITIONAL CLAUSES**

### **Article 114. Processing of valid applications submitted before the effective date of the Law on Investment**

1. The valid applications specified in Clause 11 Article 77 of the Law on Investment consist of:

a) The documents specified in Clause 11 Article 2 of the Government’s Decree No. 118/2015/ND-CP dated November 12, 2015 (hereinafter referred to as “the Decree No. 118/2015/ND-CP”) received by the Ministry of Planning and Investment and investment registration authorities as prescribed in Clause 1 Article 6 of the Decree No. 118/2015/ND-CP;

b) The documents specified in Clause 3 Article 3 of the Government’s Decree No. 83/2015/ND-CP dated September 25, 2015.

2. Any valid application that is received as prescribed in Clause 1 of this Article and has to be processed according to administrative procedures before January 01, 2021 but has yet to be processed shall continue to be processed in accordance with regulations of the Law on Investment 2014, except for the case specified in Article 115 of this Decree. If the investor requests that the investment procedures be implemented according to the Law on Investment and this Decree, the application shall be processed according to the Law on Investment and this Decree.

3. If an investment project has the valid application in the cases specified in Clauses 1 and 2 of this Article to follow the procedures for decision on investment guidelines or adjustment of investment guidelines by the Prime Minister as prescribed in the Law on Investment 2014 but is now subject to approval for investment guidelines by the provincial People’s Committee as prescribed in the Law on Investment, follow the instructions below:

a) If the project has not had its appraisal organized by the Ministry of Planning and Investment as prescribed in Clause 5 Article 34 of the Law on Investment 2014, the investment registration authority shall send the investor a document providing guidelines for following procedures for approval for investment guidelines by the provincial People’s Committee as prescribed in the Law on Investment and this Decree;

b) If the project is having its appraisal organized by the Ministry of Planning and Investment as prescribed in Clause 5 Article 34 of the Law on Investment 2014 but has yet to prepare an appraisal report to be submitted the Prime Minister for decision on investment guidelines or adjustment of investment guidelines, the Ministry of Planning and Investment shall send project appraisal opinions to the provincial People's Committee to follow the procedures for approval for both investment guidelines and investor or approval for adjustment of the investment guidelines as prescribed in the Law on Investment and this Decree;

c) If the project has had its appraisal report prepared by the Ministry of Planning and Investment and submitted to the Prime Minister for decision on investment guidelines or adjustment of investment guidelines, the Prime Minister shall decide or adjust investment guidelines as prescribed in the Law on Investment 2014 or assign the provincial People's Committee to approve investment guidelines or approve adjustment of investment guidelines as prescribed in the Law on Investment and this Decree.

4. Any valid application that is received as prescribed in Clause 1 of this Article and processed according to administrative procedures after January 01, 2021 shall continue to be processed in accordance with regulations of the Law on Investment and this Decree. The Ministry of Planning and Investment and investment registration authority shall request the investor in writing to submit additional necessary documents or adjust the contents of the submitted application in conformity with the regulations of the Law on Investment and this Decree. The time limit for handling investment procedures in this case begins from the date on which the investor finishes revising or supplementing the application.

5. For an investment project that has followed the procedures for seeking appraisal opinions as prescribed in the Law on Investment 2014 and Decree No. 118/2015/ND-CP, the Ministry of Planning and Investment and investment registration authority are entitled to use the application submitted by the investor and appraisal opinions previously given by the competent authority to prepare an appraisal report and approve or adjust investment guidelines as prescribed in the Law on Investment and this Decree. The Ministry of Planning and Investment and investment registration authority shall decide to request the investor to revise and supplement the application and seek appraisal opinions of competent authorities about the revision or supplementation where necessary.

#### **Article 115. Processing of valid applications for housing projects and projects subject to investor selection submitted before the effective date of the Law on Investment**

1. If a project on investment in construction of urban works, new urban area, commercial housing, commercial and services works or multi-purpose complexes has a valid application submitted by the investor to follow the procedures for decision on investment guidelines as prescribed in the Law on Investment 2014 before April 20, 2020 but has yet to have its investment guidelines decided, follow the instructions below:

a) If the project is determined by a competent authority that it is not subject to investor selection as specified in Point b Clause 1 Article 10 of the Government's Decree No. 30/2015/ND-CP dated March 17, 2015 (hereinafter referred to as "the Decree No. 30/2015/ND-CP"), the

procedures for investment guideline approval shall continue to be followed in accordance with regulations of the Law on Investment 2014. The competent authority shall assume responsibility for determining that the project is not subject to investor selection in accordance with this regulation;

b) If the project is determined by a competent authority that it has to be subject to investor selection but the list of projects has yet to be approved as specified in Clause 1 Article 10 of the Decree No. 30/2015/ND-CP, regulations of the Law on Investment and this Decree shall be complied with.

2. If a project on investment in construction of commercial housing, commercial and services works, multi-purpose works or multi-purpose complexes for commercial purposes has a valid application submitted by the investor to follow the procedures for decision on investment guidelines as prescribed in the Law on Investment 2014 as of April 20, 2020 but has yet to have its investment guidelines decided by January 01, 2021, follow the instructions below:

a) If the project is determined by a competent authority that it fails to satisfy all conditions specified in Article 11 of the Government's Decree No. 25/2020/ND-CP dated February 28, 2020 (hereinafter referred to as "the Decree No. 25/2020/ND-CP"), the procedures for investment guideline approval shall continue to be followed in accordance with regulations of the Law on Investment 2014. The competent authority shall assume responsibility for determining that the project is not subject to investor selection in accordance with this regulation;

b) If the project is determined by a competent authority that it has satisfied all conditions specified in Article 11 of the Government's Decree No. 25/2020/ND-CP but the list of projects has yet to be approved as specified in Clause 3 Article 12 of the Decree No.25/2020/ND-CP, regulations of the Law on Investment and this Decree shall be complied with.

3. If an investment project subject to investor selection in accordance with special legislation and law on private sector involvement has a valid application submitted by the investor to follow the procedures for decision on investment guidelines as prescribed in the Law on Investment 2014 as of April 20, 2020 but has yet to have its investment guidelines decided by January 01, 2021, follow the instructions below:

a) If the project is determined by a competent authority that it is not subject to investor selection in accordance with special legislation and law on private sector involvement, the procedures for investment guideline approval shall continue to be followed in accordance with regulations of the Law on Investment 2014. The competent authority shall assume responsibility for determining that the project is not subject to investor selection in accordance with this regulation;

b) If the project is determined by a competent authority that it has to be subject to investor selection in accordance with special legislation and law on private sector involvement but the list of projects has yet to be announced as specified in Clause 1 Article 16 of the Decree No. 25/2020/ND-CP, regulations of the Law on Investment and this Decree shall be complied with.

4. If a project on investment in construction of residential housing or urban area submitted the application in accordance with regulations of law on housing, urban areas and construction before January 01, 2021, follow the instructions below:

a) In the case where the project whose owner has been identified in accordance with regulations of law in force at the time of project owner identification has submitted an application for investment guideline approval in accordance with regulations of the Law on Housing 2014 but the application has yet to be processed before January 01, 2021, the procedures for investment guideline approval shall continue to be followed in accordance with regulations of the Law on Housing 2014 and it is not required to follow the procedures for investment guideline approval in accordance with regulations of the Law on Investment.

b) In the case where the project whose owner has not been identified has submitted an application for investment guideline approval in accordance with regulations of the Law on Housing 2014 but the application has yet to be processed before January 01, 2021, regulations of the Law on Investment and this Decree shall be complied with.

c) In the case where the project has submitted an application for investment guideline adjustment in accordance with regulations of law on housing, urban areas and construction but the application has yet to be processed before January 01, 2021, the procedures for investment guideline adjustment shall be followed in accordance with regulations of the Law on Investment and this Decree.

d) In the case where the project specified in Point b or c of this Clause has followed the procedures for seeking opinions of relevant authorities in accordance with regulations of law on housing, urban areas and construction, the Ministry of Planning and Investment and investment registration authority are entitled to use the application submitted by the investor and opinions previously given by the competent authority to prepare an appraisal report and approve investment guidelines or approve adjustment of investment guidelines as prescribed in the Law on Investment and this Decree. The Ministry of Planning and Investment and investment registration authority shall decide to request the investor to revise and supplement the application and seek appraisal opinions of competent authorities about the revision or supplementation where necessary.

5. If the investor submitting the application followed the procedures for transferring part or whole of the real estate project in accordance with regulations of law on real estate business before January 01, 2021 and now has to follow the procedures for project transfer in accordance with regulations of the Law on Investment, such investor is entitled to continue to follow the procedures in accordance with regulations of law on real estate business or regulations of the Law on Investment and this Decree. The investor shall send the application receiving authority a notification of its application of legal documents for handling administrative procedures. In case of selecting to follow the investment procedures in accordance with regulations of the Law on Investment and this Decree, the investor shall submit additional necessary documents or adjust the contents of the submitted application in conformity with the regulations of the Law on Investment and this Decree.

## **Article 116. Executing investment projects executed before the effective date of the Law on Investment**

1. Investors are entitled to execute their investment projects according to their investment licenses, certificates of investment incentives, investment certificates, investment registration certificates or other equivalent documents issued by competent authorities before the effective date of the Law on Investment without having to follow the investment guideline procedures in accordance with regulations of the Law on Investment and this Decree, except for the case of adjusting investment projects as prescribed in Clauses 1 and 3 Article 117 of this Article.
2. Investment licenses, certificates of investment incentives, investment certificates, investment registration certificates, outward investment licenses, outward investment certificates or other equivalent documents issued by competent authorities before the effective date of the Law on Investment has the same legal value as the investment registration certificate.
3. The equivalent documents specified in Clause 1 of this Article are documents and decisions issued by competent authorities to decide investment guidelines or permit or approve investment in projects in accordance with regulations of law on investment, land, construction, housing, urban areas, bidding and enterprises in force at the time of promulgating such documents and decisions.
4. Point dd Clause 2 Article 47 of the Law on Investment applies to investors that fail to adhere to their investment license, certificate of investment incentives, investment certificate, investment registration certificate, decision on investment guidelines, decision on investment guideline approval or investment approval in accordance with regulations of law on investment, housing, urban area and construction before the effective date of the Law on Investment.

## **Article 117. Executing investment projects executed before the effective date of the Law on Investment**

1. The investment project specified in Point b, c or d Clause 2 Article 77 of the Law on Investment is not required to follow the procedures for investment guideline approval or investment guideline adjustment upon adjusting the investment project, except for the following cases:
  - a) Change or add a content or objective while the content or objective to be changed or added is subject to approval for investment guidelines specified in Articles 30, 31 and 32 of the Law on Investment;
  - b) Expand the project objective, thereby resulting in the project being subject to approval for its investment guidelines as prescribed in Articles 30, 31 and 32 of the Law on Investment;
  - c) Adjust the investment project with one of the following contents added: request for land allocation or land lease by the State without holding a land use right auction or bidding, receipt of the rights to use land or property on land; request for state's permission for land repurposing, except for the case of allocating land, leasing out land or permitting repurposing of land of



households or individuals that are not required to obtain a written approval of the provincial People's Committee in accordance with regulations of law on land.

2. In the cases mentioned in Points a, b and c Clause 1 of this Article, the investor shall follow the procedures for investment guideline approval according to the corresponding regulations set out in Section 2 Chapter IV of this Decree prior to making such adjustments. In such cases, the investment guideline approving authority shall consider the adjustments to grant approval for investment guidelines.

3. If an investment project is adjusted as specified in Point a Clause 2 Article 77 of the Law on Investment and the adjustment is made in one of the cases mentioned in Points a, b, c, d, dd, e and g Clause 3 Article 41 of the Law on Investment, the investor shall follow the procedures for investment guideline adjustment as follows:

a) The investment guideline approving authority prescribed by the Law on Investment means an authority that has the power to adjust the written decision on investment guidelines, written approval for investment guidelines or written approval for investment guidelines of such investment project, except for the cases in Points b and c of this Clause;

b) In case of adjusting an investment project that is not subject to decision on investment guidelines, approval for investment guidelines or approval for investment by the Prime Minister as prescribed by law before the effective date of the Law on Investment but is now subject to approval for investment guidelines by the Prime Minister as prescribed by the Law on Investment, the Prime Minister shall approve adjustment of the investment guidelines in the case of increasing the area of land used or adding a content or objective subject to approval for investment guidelines as prescribed in Article 31 of the Law on Investment. In addition to the contents subject to investment guideline adjustment approval by the Prime Minister specified in this Point, the provincial People's Committee or industrial park, export-processing zone, hi-tech zone or economic zone management board shall grant approval for investment guidelines according to the Law on Investment and this Decree upon making other adjustments specified in Points a, b, c, d, dd, e and g Clause 3 Article 41 of the Law on Investment;

c) In case of adjusting an investment project with total investment capital of over VND 5,000 billion which is subject to decision on investment guidelines by the Prime Minister as prescribed by the Law on Investment 2014 but has had its investment guidelines approved by the provincial People's Committee or industrial park, export-processing zone, hi-tech zone or economic zone management board as prescribed in Clause 9 Article 31 or Clause 3 Article 32 of the Decree No. 118/2015/ND-CP, the Prime Minister shall approve adjustment of the investment guidelines in the case of increasing the area of land used or adding a content or objective subject to approval for investment guidelines as prescribed in Article 31 of the Law on Investment. In addition to the contents subject to investment guideline adjustment approval by the Prime Minister specified in this Point, the provincial People's Committee or industrial park, export-processing zone, hi-tech zone or economic zone management board shall grant approval for investment guidelines according to the Law on Investment and this Decree upon making other adjustments specified in Points a, b, c, d, dd, e and g Clause 3 Article 41 of the Law on Investment;

d) The investor shall follow the procedures for investment guideline adjustment according to the corresponding regulations set out in Section 4 Chapter IV of this Decree upon making adjusting the contents specified in this Clause, except for the case in Point d Clause 4 of this Article.

4. Regarding an investment project whose investment guidelines are decided or approved or in which the investment is approved by a competent authority in accordance with regulations of law on investment, housing, urban areas and construction before the effective date of the Law on Investment, the project execution schedule shall be adjusted as follows:

a) The schedule adjusted before the effective date of the Law on Investment shall continue to be adjusted according to regulations of the Law on Investment and this Decree but it shall not be extended by more than 24 months as of January 01, 2021 (if the final deadline for adjusting the schedule is specified in the written decision on investment guidelines, written approval for investment guidelines or investment registration certificate issued before January 01, 2021) or by more than 24 months from the final deadline for adjusting the schedule specified in the written decision on investment guidelines, written approval for investment guidelines or investment registration certificate (to regulations of the Law on Investment and this Decree but it shall not be extended by more than 24 months as of January 01, 2021 (if the final deadline for adjusting the schedule is specified in the written decision on investment guidelines, written approval for investment guidelines or investment registration certificate issued after January 01, 2021), except for the cases mentioned in Points a, b, c, d, dd and e Clause 4 Article 41 of the Law on Investment.

a) The schedule that has yet to be adjusted before the effective date of the Law on Investment shall be adjusted according to regulations of the Law on Investment and this Decree but it shall not be extended by more than 24 months as of January 01, 2021 (if the final deadline for adjusting the schedule is specified in the written decision on investment guidelines, written approval for investment guidelines or investment registration certificate issued before January 01, 2021) or by more than 24 months from the final deadline for adjusting the schedule specified in the written decision on investment guidelines, written approval for investment guidelines or investment registration certificate (to regulations of the Law on Investment and this Decree but it shall not be extended by more than 24 months as of January 01, 2021 (if the final deadline for adjusting the schedule is specified in the written decision on investment guidelines, written approval for investment guidelines or investment registration certificate issued after January 01, 2021), except for the cases mentioned in Points a, b, c, d, dd and e Clause 4 Article 41 of the Law on Investment.

c) If the written decision on investment guidelines, written approval for investment guidelines or investment registration certificate does not specify the project execution schedule or execution schedule of stages of the project, the investor is entitled to adjust or approve the investment guidelines to determine the project execution schedule or execution schedule of stages of the project. The power to adjust the investment project is specified in Clause 3 of this Article and the procedures for adjusting the investment guidelines are specified in Section 4 Chapter IV of this Decree.

d) If the project execution schedule is adjusted in one of the cases specified in Points a, b, c and d Clause 4 Article 41 of the Law on Investment, the investor is not required to follow the procedures for approving adjustment of investment guidelines upon extending the schedule by more than 12 months. The investment registration authority shall follow the procedures for adjusting the investment registration certificate as prescribed in Article 47 of this Decree for the project issued with the investment registration certificate.

5. If the investment project adjustment made in a case other than the case specified in Clause 1 or 3 of this Article changes any content of the investment license, certificate of investment incentives, investment certificate, investment registration certificate or another equivalent document issued before the effective date of the Law on Investment, the investor shall follow procedures corresponding to the procedures for adjusting the investment registration certificate as prescribed in Article 47 of this Decree at an investment registration authority to obtain the investment registration certificate. The investment registration certificate shall specify contents of the adjusted investment project and all unchanged and effective contents of the investment project on the investment license, investment certificate, certificate of investment incentives, investment registration certificate or another equivalent document.

6. If an investment license, investment certificate or equivalent document specified in Clause 5 of this Article also contains business registration contents, the investment registration authority shall issue an investment registration certificate to the investor to replace contents of the investment project on the investment license, investment certificate or another equivalent document according to the principle specified in Clause 5 of this Article. The business registration contents on the investment license, investment certificate or equivalent document shall remain effective.

#### **Article 118. Executing investment projects on the list of business lines subject to conditional outward investment under the Law on Investment**

Any investor whose outward investment project has been issued with the outward investment license, outward investment certificate or outward investment registration certificate before the effective date of the Law on Investment and now belongs to a business line subject to conditional outward investment as prescribed in Clause 1 Article 54 of the Law on Investment shall satisfy the conditions specified in Article 72 of this Decree upon changing a Vietnamese investor or increasing outward investment capital.

#### **Article 119. Conduct of investment activities by foreign-invested business organizations established before the effective date of the Law on Investment**

1. A business organization specified in Point a, b or c Clause 1 Article 23 of the Law on Investment is not required to satisfy investment conditions and follow investment procedures in accordance with regulations applicable to foreign investors according to the Law on Investment and this Decree if the establishment of another business organization or investment in the form of capital contribution or purchase of shares or stakes of another business organization or investment in the form of BCC by such business organization is carried out before the effective date of the Law on Investment.

2. From the effective date of the Law on Investment, the business organization that was established before the effective date of the Law on Investment and falls into the cases specified in Points a, b and c Clause 1 Article 23 of the Law on Investment must satisfy the investment conditions and follow investment procedures in accordance with regulations applicable to foreign investors according to the Law on Investment and this Decree upon adjusting the investment project executed before the effective date of the Law on Investment; changing or adding a business line; establishing another business organization; making investment by contributing capital or purchasing shares or stakes of another business organization; making investment in the form of BCC.

3. Upon adjusting an investment project as specified in Clause 2 of this Article, the business organization shall follow procedures for approving or adjusting investment guidelines or issuing or adjusting the investment registration certificate in accordance with the corresponding regulations set out in the Law on Investment and this Decree. The investment registration authority shall only consider the satisfaction of investment conditions with respect to the contents to be adjusted without re-considering contents of the project in progress.

**Article 120. Following procedures for selecting investors by holding land use right auctions before the effective date of the Law on Investment**

1. In the case where a project has had the land use right auction plan approved by a competent authority and the auction has yet to be held in accordance with regulations of law on land before January 01, 2021 or the project is holding the land use right auction in accordance with regulations of law on land and the auction winning result is not available before January 01, 2021, the auction shall be continued and the step specified in Clause 2 or 3 of this Article shall be taken.

2. For the project subject to approval for its investment guidelines by the National Assembly or Prime Minister as prescribed in Articles 30 and 31 of the Law on Investment, the investor winning the auction specified in Clause 1 of this Article shall follow the procedures corresponding to the procedures for approving both investment guidelines and investor applicable to projects subject to approval for their investment guidelines by the National Assembly or Prime Minister as prescribed in this Decree.

3. For the project not subject to approval for its investment guidelines by the National Assembly or Prime Minister as prescribed in Articles 30 and 31 of the Law on Investment, the investor shall follow the procedures for issuance of the investment registration certificate (if any) without having to follow the procedures for investment guideline approval according to regulations of the Law on Investment and this Decree.

**Article 121. Following procedures for selecting investors in the form of bidding before the effective date of the Law on Investment**

1. Regarding a project that has been included in the approved list of projects but not been published on the National Bidding Network System in accordance with regulations of law on bidding regarding investor selection before January 01, 2021, follow the instructions below:

a) For the project subject to approval for its investment guidelines as prescribed by the Law on Investment, follow the procedures for investment guideline approval and other procedures prescribed by the Law on Investment and this Decree;

b) For the project not subject to approval for its investment guidelines as prescribed by the Law on Investment, announce the list of projects in accordance with regulations of law on bidding.

2. Regarding a project that has been included in the approved list of projects and published on the National Bidding Network System in accordance with regulations of law on bidding, follow the instructions below:

a) If the project specified in Point b Clause 1 Article 1 of the Decree No. 25/2020/ND-CP has yet to obtain the result of preliminary assessment of capacity and experience before January 01, 2021, keep carrying out the assessment as prescribed in the Decree No. 25/2020/ND-CP and follow the procedures specified in Clause 3 or 4 of this Article;

b) If the project specified in Point c Clause 1 Article 1 of the Decree No. 25/2020/ND-CP has yet to determine the number of interested investors before January 01, 2021, keep determining the number of interested investors as prescribed in the Decree No. 25/2020/ND-CP and follow the procedures specified in Clause 3 or 4 of this Article;

c) If the project specified in Point b or c Clause 1 Article 1 of the Decree No. 25/2020/ND-CP has received the result of preliminary assessment of capacity and experience or has determined the number of interested investors as prescribed in the Decree No. 25/2020/ND-CP before January 01, 2021, follow the procedures specified in Clause 3 or 4 of this Article.

3. If there is an investor satisfying preliminary requirements on capacity and experience as specified in Point b Clause 3 Article 13 of the Decree No. 25/2020/ND-CP or an interested investor as specified in Point c Clause 1 Article 16 of the Decree No. 25/2020/ND-CP, follow the instructions below:

a) For the project subject to approval for its investment guidelines as prescribed by the Law on Investment, follow the procedures corresponding to the procedures for approving both investment guidelines and investor as prescribed in Articles 31, 32 and 33 of this Decree;

b) For the project not subject to approval for its investment guidelines as prescribed by the Law on Investment, follow the procedures for investor approval as prescribed in Clause 2 Article 30 of this Decree.

4. If there are at least two investors satisfying preliminary requirements on capacity and experience as specified in Point a Clause 3 Article 13 of the Decree No. 25/2020/ND-CP or at least two interested investors as specified in Point b Clause 1 Article 16 of the Decree No. 25/2020/ND-CP, follow the instructions below:

a) For the project subject to approval for its investment guidelines by the Prime Minister as prescribed by the Law on Investment, follow the procedures for investment guideline approval as

prescribed by the Law on Investment and this Decree before organizing investor selection in accordance with regulations of law on bidding;

b) For the project subject to approval for its investment guidelines by the provincial People's Committee as prescribed by the Law on Investment, organize investor selection in accordance with regulations of law on bidding without having to following the procedures for investment guideline approval as prescribed by the Law on Investment and this Decree;

c) For the project not subject to approval for its investment guidelines as prescribed by the Law on Investment, organize investor selection in accordance with regulations of law on bidding;

d) The selected investor is not required to follow the procedures for investor approval as prescribed by the Law on Investment and this Decree.

5. If the project has the prequalification documents, bidding documents or request for proposals issued as prescribed in the Decree No. 30/2015/ND-CP and is in the process of organizing prequalification or investor selection by January 01, 2021, the prequalification or investor selection shall be continued as prescribed in the Decree No. 30/2015/ND-CP without having to follow the procedures for investment guideline approval or investor approval as prescribed by the Law on Investment and this Decree.

6. For the project on investment in housing or urban area construction that has been granted a written approval for its investment guidelines by a competent authority in accordance with regulations of the Law on Housing 2014 before January 01, 2021, which specifies the form of investor selection, it is not required to follow the investment guideline approval as prescribed by the Law on Investment and this Decree. To be specific:

a) If the list of projects has yet to be approved, approve additional preliminary requirements on capacity and experience before announcing the list of projects without having to approve the list of projects in accordance with regulations of law on bidding;

b) The cases related to investor selection in accordance with the corresponding regulations laid down in Clauses 1 and 2 of this Article. The investor executing the investment project specified in Point a Clause 3 of this Article shall follow the procedures for investor approval as prescribed in Clause 2 Article 30 of this Decree.

## **Article 122. Execution of other projects under Building - Transfer (BT) contracts**

1. If a BT project contract specifies that another project must follow the procedures for investment guideline decision, investment guideline approval or investment approval in accordance with regulations of law on investment, housing, urban areas and construction but the investor fails to do so by January 01, 2021, it is required to follow the procedures for approval for both investment guidelines and investor without holding a land use right auction or bidding to select investors according to the Law on Investment and this Decree; if the investor has followed the aforesaid procedures but the procedures have yet to be handled, the regulations set out in Article 114 or Point a Clause 4 Article 115 of this Decree shall apply.

2. If the BT project contract does not specify that another project must follow the procedures for investment guideline decision, investment guideline approval or investment approval in accordance with regulations of law on investment, housing, urban areas and construction but the investor wishes to do so and has submitted a valid application but it has not been processed by January 01, 2021, the regulations set out in Article 114 or Point a Clause 4 Article 115 of this Decree shall apply; if an application has yet to be submitted, follow the procedures for approval for both investment guidelines and investor without holding a land use right auction or bidding to select investors according to the Law on Investment and this Decree.

3. Except for the case specified in Clauses 1 and 2 of this Article, if the BT project is eligible for transition in accordance with regulations of law on public - private partnership investment but another project has yet to follow the procedures for investment guideline decision, investment guideline approval or investment approval in accordance with regulations of law on investment, housing, urban areas and construction before January 01, 2021 and the investor wishes to do so, it is required to follow the procedures for approval for both investment guidelines and investor without holding a land use right auction or bidding to select investors according to the Law on Investment and this Decree.

#### **Article 123. Guaranteeing investment project execution with respect to investment projects executed before the effective date of the Law on Investment**

1. Any investor signing a deposit agreement with an investment registration authority before the effective date of the Law on Investment is entitled to execute their investment project under the signed agreement.

2. If the investor requests a change of the form of guarantee for project execution to apply the guarantee for deposit payment obligation according to the Law on Investment and this Decree or requests adjustment of the conditions for refund of the deposit amount agreed upon with the investment registration authority to adjust the signed deposit agreement in conformity with the Law on Investment and this Decree.

3. Only the obligations to be fulfilled after the effective date of this Decree may be adjusted under the deposit agreement as specified in Clause 2 of this Article. If the investor violates the obligation to execute the project, such investor is not allowed to make a request for change of the form of guarantee for project execution or adjustment of the conditions for refund of deposit amount until the violation is dealt with. The deposit amount refunded or not refunded before the date of adjusting the deposit agreement may be adjusted under the deposit agreement as specified in this Clause.

4. If the investor has yet to sign the deposit agreement in accordance with regulations of law on investment before the effective date of the Law on Investment and this Decree, it is required to comply with regulations on guaranteeing project execution under the Law on Investment and this Decree.

5. If the adjustment to the project objective or schedule for project execution or repurposing of land of the investment project specified in Clause 4 Article 77 of the Law on Investment results

in the project being required to pay a deposit or obtain a guarantee for deposit payment obligation to guarantee project execution according to the Law on Investment and this Decree, the investor is required to pay a deposit or obtain a bank guarantee for deposit payment obligation under the Law on Investment and this Decree for the project's part subject to adjustment.

**Article 124. Adjustment to projects with a commitment to transfer assets without reimbursement to the State of Vietnam or to a Vietnamese party**

1. For an investment project in which the foreign investor makes a commitment to transfer their assets without reimbursement to the State of Vietnam or to a Vietnamese party (hereinafter referred to as “project with a commitment to transfer assets without reimbursement”), after the expiry of the project duration specified in the investment license, investment certificate or investment registration certificate, the foreign investor (in the case where the foreign investor makes investment in the form of BCC) or the foreign-invested business organization has the obligation to transfer assets without reimbursement in their status quo and normal operational condition to the State of Vietnam or to a Vietnamese party that is a state-owned enterprise.

2. The project with a commitment to transfer assets without reimbursement shall not be considered to remove the conditions for transfer of assets without reimbursement as committed under Clause 1 of this Article and contents of the project with a commitment to transfer assets without reimbursement are not allowed to be adjusted resulting in change of the conditions for transfer of such assets, except for the cases in Clauses 3 and 4 of this Article.

3. If land is transferred slowly to the Vietnamese Party being a state-owned enterprise (hereinafter referred to as “the Vietnamese Party”) to contribute capital in the form of land use rights, the time of slow transfer of land shall not be included in the duration of the project with a commitment to transfer assets without reimbursement.

4. If the Vietnamese Party being a state-owned enterprise transfers whole or part of the stakes in the foreign-invested enterprise, the value of the transferred stakes of such enterprise shall be determined by holding a public auction to apply the highest offer price to the Foreign Party. If the Foreign Party does not purchase or fully purchase the stakes at that highest offer price, the stakes of the Vietnamese Party shall be sold to an organization or individual paying the highest offer price.

Conditions and procedures for transferring part or whole of the stakes of the Vietnamese Party being a state-owned enterprise shall comply with regulations of law on management and use of state capital invested in manufacturing and business activities of enterprises and law on enterprises.

5. The adjustment to the project with a commitment to transfer assets without reimbursement specified in Clauses 3 and 4 of this Article shall be approved by the Prime Minister. The investor shall follow the project adjustment procedures in accordance with the corresponding regulations set forth in Section 4 Chapter IV of this Decree.



## **Article 125. Settlement of assets after transfer thereof without reimbursement to the State of Vietnam or to a Vietnamese party**

1. The establishment of public ownership and management of assets of projects with a commitment to transfer assets without reimbursement (hereinafter referred to as “the transferred assets”) to the State of Vietnam after the expiry of the project duration according to regulations of law on management and use of public property.
2. If the transferee is a wholly state-owned enterprise, the settlement of transferred assets shall be decided by its state ownership representative agency according to regulations of law on management and use of state capital invested in manufacturing and business activities of enterprises.
3. If the transferee is an equitized state-owned enterprise, the assets shall be transferred to the state shareholder or the State of Vietnam if the State no longer has any stakes in the enterprise. The settlement of assets transferred in this case shall comply with the corresponding regulations laid down in Clauses 1 and 2 of this Article.
4. After the expiry of the land use term, the settlement of the land use rights shall comply with regulations of law on land.

## **Article 126. Organization and operation of enterprises issued with the investment license and investment certificate (also the business registration certificate)**

1. Every enterprise operating under an investment license may continue to be organized and operate according to such investment license and its charter. For the contents not specified in the investment license and the enterprise’s charter, every enterprise shall comply with regulations of the Law on Enterprises, Law on Investment and relevant laws according to the following principles:
  - a) Regulations applied to single-member limited liability companies also apply to any wholly foreign-owned enterprise owned by a single foreign investor;
  - b) Regulations applied to multi-member limited liability companies also apply to any joint-venture or wholly foreign-owned enterprise owned by two foreign investors or more;
  - c) Regulations applied to joint-stock companies also apply to foreign-invested joint-stock companies established under the Government's Decree No. 38/2003/ND-CP dated April 15, 2003 on conversion of foreign-invested companies into joint-stock companies.
2. Every enterprise operating under an investment certificate (also the business registration certificate) may continue to be organized and operate in accordance with such investment certificate (also the business registration certificate) and its charter. For the contents not specified in the investment certificate (also the business registration certificate) and the enterprise’s charter, the enterprise shall comply with regulations of the Law on Enterprises, Law on Investment and relevant laws.

## **Article 127. Replacement of investment registration certificates and enterprise registration certificates**

1. Every investor whose project is granted an investment license, certificate of investment incentives, investment certificate or an equivalent document before the effective date of the Law on Investment may replace it with an investment registration certificate as follows:

a) Each investor shall submit 01 set of application for replacement of the investment registration certificate to the investment registration authority, which consists of a written request for replacement of the investment registration certificate and copy of the investment license, certificate of investment incentives, investment certificate or equivalent document;

b) The investment registration authority shall issue the investment registration certificate to the investor within 03 working days from the day on which the application specified in Point a of this Clause is received. The investment registration certificate shall re-record of the investment project in the investment license, certificate of investment incentives, investment certificate or equivalent document. The business registration contents on the investment license, certificate of investment incentives or equivalent document shall remain effective.

2. Every enterprise operating under an investment license or investment certificate (also business registration certificate) or an equivalent document (hereinafter referred to as “certificate”) granted before the effective date of the Law on Investment is entitled to keep operating according to such certificate without having to follow the procedures for replacing it with an enterprise registration certificate.

3. Any investor that wishes to replace their investment registration certificate or enterprise registration certificate with an investment license or investment certificate (also the business registration certificate) or an equivalent document shall follow the procedures below:

a) Replace the enterprise registration certificate as set out in Clause 2 of this Article;

b) Replace the investment registration certificate as set out in Clause 1 of this Article (the application for replacement of an investment registration certificate includes a copy of the enterprise registration certificate granted in accordance with Clause 2 of this Article and documents specified in Point a Clause 1 of this Article).

4. The enterprise granted the enterprise registration certificate as set out in Clause 2 and Clause 3 of this Article is entitled to keep inheriting all rights and obligations written on the investment license or investment certificate (also the business registration certificate) or an equivalent document from the day on which the enterprise registration certificate is granted, which contains rights and obligations to the investment project; the investor specified in the investment license or investment certificate (also the business registration certificate) or an equivalent document have the same rights and obligations to the project as those of the enterprise’s partners or shareholders.

5. Upon the expiry of the project duration or termination of the project, the enterprise operating under an investment license or investment certificate (also the business registration certificate) or an equivalent document shall follow the procedures for terminating the project according to the Law on Investment and this Decree without having to shut down the enterprise, unless otherwise prescribed by law.

**Article 128. Changing business registration contents on an investment license or investment certificate (also the business registration certificate)**

1. An enterprise operating under an investment license or investment certificate (also the business registration certificate) or an equivalent document shall change business registration contents at a business registration authority in accordance with regulations of law on enterprises.
2. In case of adjustment of both business registration contents and contents of the project, the business organization shall follow procedures for adjusting business registration contents at a business registration authority in order to obtain an enterprise registration certificate as set out in Clause 1 of this Article. After an enterprise registration certificate is granted, the business organization shall adjust contents of the project at an investment registration authority in order to obtain the investment registration certificate as set out in Article 62 of this Decree.
3. In case of adjustment to contents of registration of a branch or representative office of an enterprise operating under an investment license or investment certificate (also the business registration certificate) or an equivalent document granted before the effective date of the Law on Investment, the enterprise shall follow procedures in accordance with the corresponding regulations of law on enterprises.

**Article 129. Suspension, shutdown, re-organization and dissolution of enterprises operating under investment licenses or investment certificates (also business registration certificates)**

1. An enterprise operating under an investment license or investment certificate (also the business registration certificate) shall follow procedures for suspension, shutdown, re-organization or dissolution at a business registration authority.
2. Documentation and procedures for suspension, shutdown, re-organization or dissolution of enterprises operating under an investment license or investment certificate (also the business registration certificate) shall comply with regulations of law on enterprises.

**Article 130. Implementation of investment promotion programs and activities**

Any 2021 investment promotion program or activity that is being developed and implemented under the Prime Minister's Decision on promulgation of regulations on state management of investment promotion activities and Prime Minister's Decision on promulgation of regulations on development and implementation of the National Investment Promotion Program shall continue to be implemented according to these Decisions.

**Section 3. IMPLEMENTATION CLAUSE**

### **Article 131. Effect**

1. This Decree comes into force from the date on which it is signed.
2. The following Decrees and regulation shall cease to have effect from the effective date of the Law on Investment:
  - a) Government's Decree No. 118/2015/ND-CP dated November 12, 2015;
  - b) Government's Decree No. 37/2020/ND-CP dated March 30, 2020;
  - c) Government's Decree No. 83/2015/ND-CP dated September 25, 2015;
  - d) Government's Decree No. 104/2007/ND-CP dated June 14, 2007;
  - dd) Government's Decree No. 69/2016/ND-CP dated July 01, 2016;
  - e) Government's Decree No. 79/2016/ND-CP dated July 01, 2016;
  - g) Article 2 of the Decree No. 100/2018/ND-CP dated July 16, 2018.

### **Article 132. Responsibility for implementation**

1. The Ministry of Planning and Investment shall elaborate and provide guidance on implementation of the Articles and Clauses assigned in the Law on Investment and this Decree.
2. Ministries and ministerial agencies, within their jurisdiction, shall:
  - a) request the Government to consider repealing, amending or adding business investment conditions applied to conditional business lines repealed, amended or added under the Law on Investment;
  - b) request the Government to consider laying down, amending or adding conditions applied to business lines subject to conditional outward investment under the Law on Investment;
  - c) request the Government to consider promulgating, amending or adding other Decrees related to business investment to guarantee the implementation of the Law on Investment and this Decree.
3. Ministers, heads of ministerial agencies, heads of Governmental agencies, Presidents of People's Committees of provinces and central-affiliated cities shall, within their jurisdiction, provide guidelines and implement this Decree.

**ON BEHALF OF THE GOVERNMENT**

**THE PRIME MINISTER**

**Nguyen Xuan Phuc**

**APPENDIX I**

**NEGATIVE LIST FOR MARKET ACCESS**

**A. BUSINESS LINES WITH PROHIBITED MARKET ACCESS**

1. Trade in goods and services on the list of goods and services under state monopoly.
2. Press activities and collection of news in any shape or form.
3. Catching or harvesting marine life.
4. Investigation and security services.
5. Administrative and judicial services, including judicial assessment services, bailiff services, property auction services, notary services, official receiver's services.
6. Guest worker services.
7. Investment in construction of cemeteries for transfer of land use right and infrastructure thereon.
8. Direct collection of garbage from households.
9. Public survey services.
10. Blasting services.
11. Manufacture, sale of weapons, explosive materials and combat gears.
12. Import, dismantlement of used seagoing ships.
13. Public postal services.
14. Merchanting trade of goods.
15. Temporary import for re-export of goods.

16. Exercise of rights to export, import distribute goods on the list of goods to which foreign investors and foreign-invested business organizations do not have the right to export, import or distribute.
17. Collection, purchase, handling of public property at armed force units.
18. Manufacture of military equipment or materials; trade in military equipment, military weapons, specialized equipment and vehicles exclusively for used by the military and the police, specialized equipment and parts thereof, manufacture technology thereof;
19. Industrial property representative services and intellectual property assessment services.
20. Services that involve establishment, operation, sustainment and maintenance of maritime signals, water zones, water areas, public navigable channels and maritime routes; survey of water zones, water areas, public navigable channels and maritime routes serving the maritime announcements; survey, development and publishing nautical charts for water bodies, seaports, navigable channels and maritime routes; development and publishing of marine safety publications.
21. Maritime safety services in water zones, water areas and public navigable channels; electronic maritime information services.
22. Services that involve inspection (inspection and testing) and issuance of certificates to vehicles (including systems, assembled parts, devices and parts of vehicles); inspection and issuance of certificates of technical safety and environmental safety to vehicles, specialized equipment, containers, equipment for packaging dangerous goods used in transport; inspection and issuance of certificates of technical safety and environmental safety to vehicles and equipment used for exploration, extraction and transport of petroleum at sea; occupational safety inspection of equipment subject to strict occupational safety requirements on vehicles and equipment used for exploration, extraction and transport of petroleum at sea; fishing vessel inspection and registration services.
23. Services that involve survey, assessment and harvest of natural forests (including logging, hunting, trapping wild and rare animals, management of gene pools of plants, domestic animals and microorganisms used in agriculture.
24. Research or use of genetic resources of new domestic animals before evaluation by the Ministry of Agriculture and Rural Development.
25. Travel services, except international travel services for inbound tourists.

## **B. BUSINESS LINES WITH RESTRICTED MARKET ACCESS**

1. Manufacture and distribution of media products, including video recordings.

2. Manufacture, distribution, broadcasting of TV programs, stage performances and cinematic works.
3. Provision of audio and television broadcasting services.
4. Insurance; banking, securities trading and relevant services.
5. Postal and telecommunications services.
6. Advertising services.
7. Printing and publishing services.
8. Geodesy and cartography services.
9. Aerial photography services.
10. Education services.
11. Survey, extraction and processing of natural resources, minerals and petroleum.
12. Hydropower, offshore wind power and nuclear power.
13. Transport of goods and passengers by rail, air, road, river, sea, pipeline.
14. Fisheries.
15. Forestry and hunting.
16. Betting and casino business.
17. Security services.
18. Construction, operation and management of river ports, seaports and airports.
19. Real estate business.
20. Legal services.
21. Veterinary services.
22. Trade in goods and activities directly related to trade in goods of foreign service providers in Vietnam.
23. Technical analysis and inspection services.

24. Tourism services.
25. Health and social services.
26. Sports and entertainment services.
27. Paper production.
28. Manufacture of vehicles with more than 29 seats.
29. Development and operation of traditional markets.
30. Operation of Goods Exchanges
31. LCL consolidation services.
32. Audit, accounting and tax services.
33. Valuation services; valuation of enterprises serving equitization.
34. Services relevant to agriculture, forestry, aquaculture.
35. Manufacture of airplanes.
36. Manufacture of locomotives and railway carriages.
37. Manufacture, sale tobacco products, tobacco ingredients, equipment for tobacco industry.
38. Publisher's activities.
39. Building and repair of seagoing ships.
40. Waste collection services, environmental monitoring services.
41. Commercial arbitration services, arbitration mediation services
42. Logistics services.
43. Coastal transport services.
44. Farming, manufacture or processing of rare and valuable plants, breeding of rare, valuable wild animals and processing thereof, including live animals and their products;
45. Manufacture of building materials.
46. Construction and relevant technical services.



47. Motorcycle assembly.
48. Services relevant to sports, fine art, performing art, fashion show, beauty pageant and other entertainment activities.
49. Auxiliary services for air transport; ground services at airports; catering services on aircraft; navigation information services, air navigation and control services, meteorological services.
50. Shipping agencies; towing services
51. Services relevant to cultural heritages, copyrights and related rights, photography, video recording, audio recording, art exhibitions, festivals, libraries, museums;
52. Services relevant to tourism promotion and advertising.
53. Representation, recruitment, scheduling, management services for artists and athletes.
54. Family-related services.
55. E-commerce activities.
56. Cemetery business, cemetery services and funeral services.
57. Aerial application.
58. Marine pilotage;
59. Business lines in which investment is under pilot mechanisms of the National Assembly, Standing committee of the National Assembly, the Government or the Prime Minister.

## **APPENDIX II**

### **LIST OF BUSINESS LINES ELIGIBLE FOR INVESTMENT INCENTIVES**

#### **A. BUSINESS LINES ELIGIBLE FOR SPECIAL INVESTMENT INCENTIVES**

##### **I. HIGH TECHNOLOGIES, INFORMATION TECHNOLOGY, SUPPORTING INDUSTRIES**

1. Application of high technologies on the list of high technologies prioritized for development under decisions of the Prime Minister.
2. Manufacture of products on the list of hi-tech products encouraged for development under decisions of the Prime Minister.

3. Manufacture of products on the list of SUPPORTING industry products prioritized for development under regulations of the Government on development of supporting industries.
4. Incubation of high technology, incubation of hi-tech enterprises; venture capital investment in development of high technology; application, research and development of high technology; manufacture of biotechnology products; training hi-tech manpower; provision of hi-tech services.
5. Production of software products, digital products, key IT products, software services under information technology laws; production of network security products and provision of network security services under cyber security laws; production of products derived from technological advances under science and technology laws.
6. Production of renewable energy, clean energy, waste-to-energy processes.
7. Production of composite materials, light building materials, rare and valuable materials.
8. Manufacture of products on the list of key mechanical products under decisions of the Prime Minister.

## **II. AGRICULTURE**

1. Planting, cultivation, protection and development of forests; development of production forests in empty lands and hills; planting big timber forests and conversion of small timber forests into big timber forests; development of non-timber forest products, restoration of natural forests.
2. Cultivation, treatment, preservation of agriculture, forestry, aquaculture products, processing of non-timber forest products.
3. Production, propagation and crossbreeding of plants, domestic animals, aquatic breeds, development of hi-tech plants for forestry.
4. Salt production, harvesting and refining.
5. Offshore fishing using advanced equipment and methods; fishing logistics services; construction of fishing vessel building facilities and building fishing vessels.
6. Marine rescue services.
7. Research, manufacture of biotechnology food products.
8. Manufacture of sawmill products; manufacture of artificial planks, including: plywood, joinery planks, MDF.

## **III. ENVIRONMENTAL PROTECTION, INFRASTRUCTURE INSTRUCTIONS**

1. Concentrated collection, treatment, recycling, reuse of wastes.
2. Construction, operation of infrastructure in industrial zones, export processing zones, hi-tech zones, dedicated areas in economic zones.
3. Investment in development of water plants, power plants, water supply and drainage systems; bridges, roads, infrastructure, railway industry and transport; airports, seaports, inland ports; aerodromes, terminals and other especially important infrastructural works decided by the Prime Minister.
4. Development of public transportation in urban areas.
5. Investment in construction, management and operation of markets in rural areas.
6. Investment in development, operation and management of infrastructural works of industrial complexes.

#### **IV. CULTURE, SOCIETY, SPORTS, HEALTH**

1. Construction of social housing and relocation housing.
2. Investment in epidemic control facilities
3. Research into preparation technology, biotechnology for production of new medicines, new veterinary medicines, vaccines, veterinary biologics.
4. Production of medicinal ingredients, major medicines, essential medicines, medicines for prevention and treatment of sexually transmitted diseases, biologics, herbal medicines, oriental medicines; medicines facing patent expiration; application of advanced technologies and biotechnology to manufacture of medicines for human use following international GMP standards; manufacture of primary packaging of medicines.
5. Investment in methadone production facilities.
6. Investment in high-performance sport training facilities and sport training facilities for people with disabilities; construction of sports facilities with equipment suitable for international competition; sport facilities for professional training and competition.
7. Investment in geriatrics centers, psychiatry centers, centers for treatment of patients infected with Agent Orange; care centers for elderly people, people with disability, orphans, homeless children.
8. Investment in treatment – education - social labor centers; smoking cessation centers; HIV/AIDS treatment centers; public and private drug rehabilitation centers; district-level drug addiction treatment consulting centers.

9. Investment in national museums, ethnic culture houses; ethnic art performance troupes; theaters, film studios, film production facilities; fine art – photography exhibition centers; manufacture and repair of traditional musical instruments; maintenance, preservation of ethnic culture museums and art schools; facilities and villages for introduction and development of traditional trades; investment in traditional art performance; investment in Vietnam National Library, public libraries of provinces and important libraries.

10. Investment in facilities for protection of sex workers from gender-based violence in communities.

## **B. BUSINESS LINES ELIGIBLE FOR INVESTMENT INCENTIVES**

### **I. SCIENCE AND TECHNOLOGY, ELECTRONICS, MECHANICS, MATERIAL PRODUCTION, INFORMATION TECHNOLOGY**

1. Investment in research and development.

2. Manufacture of steel billets from iron ore, high-grade steel, alloys.

3. Manufacture of coke, activated carbon.

4. Manufacture of energy-saving products.

5. Manufacture of oil, pharmaceutical chemistry, base chemicals and rubber.

6. Manufacture of products with added value of at least 30% (according to instructions of the Ministry of Planning and Investment).

7. Manufacture of motor vehicles and parts thereof; shipbuilding.

8. Manufacture of electronic components and parts not listed in Part A of this Appendix.

9. Manufacture of power tools, equipment, parts, machines serving agriculture, forestry, aquaculture, salt production, food processing machines, irrigation equipment not listed in Part A of this Appendix.

10. Manufacture of asbestos substitute materials.

11. Manufacture of light unburnt building materials (mass density smaller than 1000 kg/m<sup>3</sup>).

12. Investment in power generation from exhaust gas of building material factories for in order to save energy and protect the environment.

13. Manufacture of artificial ground sand as substitute for natural sand.

14. Investment in treatment, use of refuse from thermal power plants, chemical fertilizer factories and metallurgical plants as building materials.

15. Investment in treatment and use of domestic wastes as fuel for manufacture of building materials.

16. Investment in manufacture of equipment and spare parts in production of cement, glass, tiles, refractory materials; investment in manufacture of building materials as substitutes for building materials manufactured with obsolete technology.

17. Manufacture of environment-friendly vehicles.

18. Manufacture of diesel-powered locomotives; cargo carriages with payload capacity of at least 30 tonnes; high-grade passenger carriages capable of 100 km/hour speed; parts of railroad locomotives and carriages.

19. Manufacture and processing of minerals for use as building materials.

20. Manufacture and sale of products obtained from research findings of science and technology enterprises.

## **II. AGRICULTURE**

1. Cultivation, harvesting and processing of herbs; protection, reservation of genetic resources and rare, valuable indigenous herbs.

2. Manufacture, processing of animal feeds and aquatic feeds.

3. Technological services relevant to seed farming, breeding, aquaculture, protection of plants and domestic animals.

4. Construction, renovation, upgrade of slaughterhouses; industrial preservation, processing of poultry and cattle, wholesale markets, domestic animal and husbandry product auction centers.

5. Construction, development of concentrated material areas serving processing industry.

6. Harvesting marine life.

7. Investment in manufacture of biological crop protection chemicals, manufacture of organic fertilizers; scientific research and transfer of technology for development of organic fertilizers.

8. Cultivation, processing of agriculture, forestry, aquaculture products in the form of product chain; Cultivation, processing of agriculture, forestry, aquaculture products in the form of organic agriculture.

9. Manufacture of handicrafts, products made of bamboo, rattan, ceramics, glass, textile and garment, threads, woven and sewn products.

10. Scientific research and development of agricultural technology.

11. Maintaining domestic animal breeds, preservation of genetic resources of rare, valuable and indigenous domestic animals.

### **III. ENVIRONMENTAL PROTECTION, INFRASTRUCTURE INSTRUCTIONS**

1. Construction, development of industrial complex infrastructure.

2. Construction of apartment buildings for workers in industrial zones, export processing zones, hi-tech zones, economic zones; construction of dormitories for students and housing for beneficiaries of incentive policies; investment in construction of functional urban areas (including kindergartens, schools, hospitals) for workers.

3. Response to oil spill, landslide, failure of river banks, coasts, reservoirs and other environmental emergencies; application of technology to minimization of greenhouse gas.

4. Investment in goods exhibition centers, logistics centers, ICDs, warehouses, supermarkets, shopping malls.

5. Manufacture, supply of equipment for environmental monitoring, on-site domestic waste treatment environment-friendly products and services that are granted Vietnam's Ecology Label in accordance with environmental protection laws.

6. Investment in technology incubation centers, science and technology enterprises in accordance with technology laws.

7. Investment in innovation, research and development centers.

8. Concentrated treatment of domestic waste with designed capacity of at least 2.500 m<sup>3</sup>/24 hours in Class IV urban areas or above.

9. Collection, transport, concentrated treatment of conventional solid wastes.

10. Treatment and co-incineration of hazardous wastes.

11. Restoration of polluted public areas.

12. Response to oil spills, chemical emergencies and other environmental emergencies.

13. Construction of environmental protection infrastructure in industrial zones, industrial complexes and trade villages.

14. Relocation, repurposing of facilities causing serious environment pollution.
15. Environmental monitoring.
16. Investment in construction of cemeteries, crematories.
17. Assessment of environmental damage; assessment of environmental health; environmental assessment of imported scraps, goods, equipment, technology.
18. Production of environmental protection applications granted patents by the State.
19. Manufacture of environment-friendly products that are granted Vietnam Green Label by the Ministry of Natural Resources and Environment; products from recycling, treatment of solid wastes (domestic, industrial hazardous wastes) by waste treatment facilities.
20. Production of gasoline, diesel fuels and bio-fuels granted certificates of conformity; bio-coals; wind power, solar power, tidal power, thermal power and other renewable energies.
21. Manufacture, import of specialized equipment and vehicles for collection, transport, treatment of wastes; equipment for automatic and continuous monitoring of wastewater and exhaust gas; equipment for measuring, sampling and analysis of environment; production or renewable energies; environment pollution control; response to environmental emergencies.
22. Manufacture activities, business operation, services of environment-friendly facilities granted Vietnam Green Label by the Ministry of Natural Resources and Environment.
23. Manufacture of water-saving products, equipment and technology.

#### **IV. EDUCATION, CULTURE, SOCIETY, SPORTS, HEALTH**

1. Investment in infrastructure of educational institutions, vocational education institutions; investment in development of non-public preschool, primary and secondary education educational institutions, and vocational education institutions.
2. Manufacture of medical devices, construction of warehouses for preservation of pharmaceuticals and medicines for human use in preparation for disasters and dangerous epidemics.
3. Manufacture of medicinal ingredients, crop protection chemicals and pesticides; prevention and treatment of diseases in animals and aquatic organisms.
4. Manufacture of veterinary medicines and ingredients thereof; preservation of veterinary medicines; manufacture of veterinary equipment.

5. Investment in facilities for biology testing, evaluation of bioavailability of drugs; pharmaceutical facilities satisfying good manufacturing practice, good storage practice, good clinical practice standards.
6. Investment in research into scientific foundations of oriental and traditional remedies, and establishment of standards for clinical trial of oriental and traditional remedies.
7. Investment in sports centers, training facilities, stadiums, swimming pools; facilities for manufacture, fabrication, repair of sports equipment.
8. Investment in district-level libraries, specialized libraries, university libraries, libraries of educational institutions, public libraries, private libraries serving communities and development of reading culture serving lifelong learning.
9. Investment in development of vocational education quality assessment organization and manufacture of vocational education equipment.

## **V. OTHER BUSINESS LINES**

1. Operations of people's credit funds and microfinance institutions.
2. Publishing of electronic publications.
3. Investment in distribution chains of small and medium enterprises (SMEs); investment in incubation facilities for SMEs; investment in facilities providing technical assistance for SMEs; investment in co-working spaces for SMEs and startups in accordance with regulations of law on assistance for SMEs.
4. Investment in startups.

## **APPENDIX III**

### **LIST OF AREAS ELIGIBLE FOR INVESTMENT INCENTIVES**

| <b>No.</b> | <b>Proving</b> | <b>Extremely disadvantaged areas</b>                 | <b>Disadvantaged areas</b> |
|------------|----------------|--|----------------------------|
| 1          | Bac Kan        | All districts, district-level towns and Bac Kan city |                            |
| 2          | Cao Bang       | All districts and Cao Bang city                      |                            |
| 3          | Ha Giang       | All districts and Ha Giang city                      |                            |
| 4          | Lai Chau       | All districts and Lai Chau city                      |                            |



|    |             |  |   |
|----|-------------|--|---|
| 5  | Son La      | All districts and Son La city  |   |
| 6  | Dien Bien   | All districts, district-level towns and Dien Bien City   |   |
| 7  | Lao Cai     | All districts and Sapa town  | Lao Cai city  |
| 8  | Tuyen Quang | Na Hang, Chiem Hoa, Lam Binh districts   | Ham Yen, Son Duong, Yen Son districts and Tuyen Quang city                                      |
| 9  | Bac Giang   | Son Dong district  | Luc Ngan, Luc Nam, Yen The, Hiep Hoa district   |
| 10 | Hoa Binh    | Da Bac, Mai Chau districts   | Kim boi, Luong Son, Lac thuy, Tan Lac, Cao Phong, Lac Son, Yen Thuy districts and Hoa Binh city |
| 11 | Lang Son    | Binh Gia, Dinh Lap, Cao Loc, Loc Binh, Trang Dinh, Van Lang, Van Quan, Bac Son, Chi Lang, Huu Lung districts |   |
| 12 | Phu Tho     | Thanh Son, Tan Son, Yen Lap districts  | Doan Hung, Ha Hoa, Phu Ninh, Thanh Ba, Tam Ngong, Cam Khe districts                             |
| 13 | Thai Nguyen | Vo Nhai, Dinh hoa, Dai Tu, Phu Luong, Dong Hy districts  | Phu Binh district, Pho Yen town   |
| 14 | Yen Bai     | Luc Yen, Mu Cang Chai, Tram Tau districts  | Tran Yen, Van Chan, Van Yen, Yen Binh districts, Nghia Lo town                                  |
| 15 | Quang Ninh  | Ba Che, Binh Lieu, Coto districts and other islands in the province  | Van Don, Tien Yen, Hai Ha, Dam Ha districts   |
| 16 | Hai Phong   | Bach Long Vy, Cat Hai islands  |   |
| 17 | Ha Nam      |  | Ly Nhan, Thanh Liem, Binh Luc districts   |
| 18 | Nam Dinh    |  | Giao Thuy, Xuan Truong, Hai Hau, Nghia Hung districts   |
| 19 | Thai Binh   |  | Thai Thuy, Tien Hai districts   |
| 20 | Ninh Binh   |  | Nho Quan, Gia Vien, Kim Son, Tam Diep, Yen Mo districts   |
| 21 | Thanh Hoa   | Muong Lat, Quan Hoa, Quan Son, Ba Thuoc, Lang Chanh, Thuong  | Thach Thanh, Nong Cong districts  |

|    |                |   |  |
|----|----------------|---|--|
|    |                | Xuan, Cam Thuy, Ngoc Lac, Nhu Thanh, Nhu Xuan districts   |  |
| 22 | Nghe An        | Ky Son, Tuong Duong, Con Cuong, Que Phong, Quy Hop, Quy Chau, Anh Son districts   | Tan Ky, Nghia Dan, Thanh Chuong districts and Thai Hoa town  |
| 23 | Ha Tinh        | Huong Khe, Huong Son, Vu Quang, Loc Ha, Ky Anh districts  | Duc Tho, Nghi Xuan, Thach Ha, Cam Xuyen, Can Loc districts and Ky Anh town   |
| 24 | Quang Binh     | Tuyen Hoa, Minh Hoa, Bo Trach districts   | Other districts and Ba Don town  |
| 25 | Quang Tri      | Huong Hoa, Da Krong districts, Con Co island and other islands in the province  | Other districts  |
| 26 | Thua Thien Hue | A Luoi, Nam Dong districts  | Phong Dien, Quang Dien, Phu Loc, Phu Van districts and Huong Tra town  |
| 27 | Da Nang        | Hoang Sa Archipelago  |  |
| 28 | Quang Nam      | Dong Giang, Tay Giang, Nam Giang, Phuoc Son, Bac Tra My, Nam Tra My, Hiep Duc, Tien Phuoc, Nui Thanh (Tam Son, Tam Thanh, Tam My Dong, Tam My Tay, Tam Tra, Tam Hai communes), Nong Son, Thang Binh (Binh Lanh, Binh Tri, Binh Dinh Bac, Binh Dinh Nam, Binh Quy, Binh Phu, Binh Chanh, Binh Que communes) districts and Cu Lao Cham island | Dai Loc, Que Son, Phu Ninh, Duy Xuyen (Duy Chau, Duy Hoa, Duy Phu, Duy Son, Duy Tan, Duy Thu, Duy Trinh, Duy Trung communes) Nui Thanh (Tam Xuan I, Tam Xuan II, Tam Anh Bac, Tam Anh Nam communes), Thang Binh (Binh Nguyen, Binh Tu, Binh An, Binh Trung communes) districts |
| 29 | Quang Ngai     | Ba To, Tra Dong, Son tay, Son Ha, Minh Long, Binh Son, Son Tinh districts and Ly Son island   | Nghia Hand district  |
| 30 | Binh Dinh      | An Lao, Vinh Thanh, Van Canh, Phu Cat, Tay Son, Hoai An, Phu My districts   | Tuy Phuoc district   |
| 31 | Phu Yen        | Song Hinh, Dong Xuan, Son Hoa, Phu Hoa, Tay Hoa districts   | Song Cau, Dong Hoa towns, Tuy An district  |
| 32 | Khanh Hoa      | Khanh Vinh, Khanh Son districts, Truong Sa Archipelago and other  | Van Ninh, Dien Khanh, Cam Lam districts, Ninh Hoa town,  |

|    |                   |   |   |
|----|-------------------|---|---|
|    |                   | islands in the province   | Cam Ranh city   |
| 33 | Ninh Thuan        | All districts   | Phan Rang – Thap Cham city  |
| 34 | Binh Thuan        | Phu Quy district  | Bac Binh, Tuy Phong, Duc Linh, Tanh Linh, Ham Thuan Bac, Ham Thuan Nam, Ham Tan districts       |
| 35 | Dak Lak           | All districts and Buon Ho town                                      | Buon Ma Thuot city  |
| 36 | Gia Lai           | All districts and district-level towns                              | Pleiku city   |
| 37 | Kon Tum           | All districts and district-level cities                             |   |
| 38 | Dak Nong          | All districts and district-level towns                              |   |
| 39 | Lam Dong          | All districts   | Bao Loc city  |
| 40 | Ba Ria – Vung Tau | Con Dao district  | Phu My, Chau Duc, Xuyen Loc towns   |
| 41 | Tay Ninh          | Tan Bien, Tan Chau, Chau Thanh, Ben Cau districts                   | Duong Minh Chau, Go Dau, Hoa Thanh districts and Trang Bang town                                |
| 42 | Binh Phuoc        | Loc Ninh, Bu Dang, Bu Dop, Bu Gia Map, Phu Rieng districts          | Dong Phu, Chon Thanh, Hon Quan districts, Binh Long, Phuoc Long towns                           |
| 43 | Long An           | Duc hue, Moc Hoa, Vinh Hung, Tan Hung districts                     | Kien Tuong town; Tan Thanh, Duc Hoa, Thanh Hoa districts  |
| 44 | Tien Giang        | Tan Phuoc, Tan Phu Dong districts                                   | Go Cong Dong, Go Cong Tay districts   |
| 45 | Ben Tre           | Thanh Phu, Ba Tri, Binh Dai districts                               | Other districts   |
| 46 | Tra Vinh          | Chau Thanh, Tra Cu districts  | Cau Ngang, Cau Ke, Tieu Can, Duyen Hai districts, Duyen Hai town, Cang Long town, Tra Vinh city |
| 47 | Dong Thap         | Hong Ngu, Tan Hong, Tam Nong, Thap Muoi districts and Hong Ngu town | Other districts   |
| 48 | Vinh Long         |   | Tra On, Binh Tan, Vung Liem, Mang Thit, Tam Binh districts                                      |
| 49 | Soc Trang         | All districts, Vinh Chau and Nga                                    | Soc Trang city  |

|    |            |   |   |
|----|------------|---|---|
|    |            | Nam towns   |   |
| 50 | Hau Giang  | All districts, Long My town and Nga Bay City  | Vi Thanh city   |
| 51 | An Giang   | An Phu, Tri Ton, Thoai Son, Tinh Bien districts and Tan Chau town   | Chau Doc city and other districts   |
| 52 | Bac Lieu   | All districts and district-level towns  | Bac Lieu city   |
| 53 | Ca Mau     | All districts and islands in the province   | Ca Mau city   |
| 54 | Kien Giang | Ha Tien town, all districts and islands in the province   | Rach Gia city   |
| 55 |            | Economic zones, hi-tech zones (including concentrated information technology zones established under regulations of the Government) | Industrial zones, export processing zones, industrial complexes established under regulations of the Government |

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